



**CITY COUNCIL AGENDA**  
**April 7, 2015**

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**Ken Smith, Mayor ~ At-Large**  
**Michael McEachern, Vice-Mayor ~ Ward 4**  
**Richard Russell, Council Member ~ Ward 1**  
**John Alberts, Council Member ~ Ward 2**  
**Donna Yanda, Council Member ~ Ward 3**  
**Grayson Bottom, City Manager**

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Yukon City Council / Yukon Municipal Authority Work Session  
Conference Room - Centennial Building - 12 South 5<sup>th</sup> Street  
April 7, 2015 – 6:00 p.m.

**1. Discussion of Rural Residential Code Requirements – Mitch Hort**

# City Council - Municipal Authority Agendas

April 7, 2015 - 7:00 p.m.

Council Chambers - Centennial Building

12 South Fifth Street, Yukon, Oklahoma

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The City of Yukon strives to accommodate the needs of all citizens, including those who may be disabled. If you would like to attend this Council meeting but find it difficult to do so because of a disability or architectural barrier, please contact City Hall at 354-1895. We will make a sincere attempt to resolve the problem. If you require a sign-language interpreter at the meeting, please call or notify City Hall, 500 West Main, by noon, April 6, 2015.

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**Invocation: Pastor Thomas Buckley, Judah Worship Center**

**Flag Salute:**

**Roll Call:** Ken Smith, Mayor  
Michael McEachern, Vice Mayor  
John Alberts, Council Member  
Richard Russell, Council Member  
Donna Yanda, Council Member

## **Presentations and Proclamations**

“National Telecommunicator Week”

“Vietnam Veterans Recognition Week”

## **Visitors**

**(Recess as Yukon City Council and Reconvene as Yukon Municipal Authority)**

### **1A. YMA Consent Docket**

This item is placed on the agenda so the Yukon Municipal Authority, by unanimous consent, can designate those routine items they wish to be approved by one motion. If an item does not meet with the approval of all Authority Members, that item will be heard in regular order.

**The City Manager recommends a motion to approve:**

- A) The minutes of the regular meeting of March 17, 2015**
- B) Payment of material claims in the amount of \$158,225.40**

**ACTION** \_\_\_\_\_

**(Adjourn as YMA and Reconvene as Yukon City Council)**

**1. Consent Docket**

This item is placed on the agenda so the City Council, by unanimous consent, can designate those routine items they wish to be approved by one motion. If an item does not meet with the approval of all Council Members, that item will be heard in regular order.

**The City Manager recommends a motion that will approve:**

- A) The minutes of the regular meeting of March 17, 2015**
- B) Payment of material claims in the amount of \$414,339.91**
- C) An agreement with the Yukon Soccer Club for use of Ranchwood and Taylor Park from March 11, 2015 to December 31, 2015**
- D) Designating the items on the attached list from the Technology Department as surplus and authorizing their sale, donation or trade**
- E) Setting the date for the next regular Council meeting for April 21, 2015, 7:00 p.m., in the Council Chambers of the Centennial Building, 12 S. Fifth St.**

**ACTION**\_\_\_\_\_

- 2. Consider extending the 2014 Snow and Ice Plowing and Removal Services Contract, with Schwarz Paving Company, Inc., for one additional year, at the original bid item unit price, as recommended by the Public Works Director**

**ACTION**\_\_\_\_\_

- 3. Consider approving Resolution No. 2015-04, a Resolution of the City Council of the City of Yukon approving an amended and restated Trust Indenture for the Oklahoma Municipal Retirement Fund; providing amendments to the Trust to authorize daily valuations and daily accounting for assets within the Master Defined Contribution Plans administered by Oklahoma Municipal Retirement Fund; providing for daily valuation of participant accounts in the Defined Contribution Plans administered by Oklahoma Municipal Retirement Fund and providing procedures and rules for accounting of such assets; providing for effective date of amended and restated Trust Indenture and continuing existing Trust as amended in full force and effect**

**ACTION**\_\_\_\_\_

- 4. Consider authorizing the City Engineer to advertise and receive bids for the 2013 CDBG Small Cities Set Aside Year 2013 Roadway, Sanitary Sewer and Waterline Replacement Project Contract**

**ACTION**\_\_\_\_\_

5. **Consider authorizing the City Manager to acknowledge two amended agreements between Public Facilities Investment Corporation, LLC (PFIC) and Olsson Associates, to replace the January 6, 2015 agreement with PFIC, for Investigative Services prior to construction in the amount of \$126,600.00; and for Total Design in Engineering Fees in the amount of \$567,300.00 plus expenses, for the Yukon Athletic Complex, as requested by the City Manager**

**ACTION** \_\_\_\_\_

6. **Consider authorizing the City Manager to acknowledge an agreement between Public Facilities Investment Corporation, LLC (PFIC) and Olsson Associates, replacing a previous agreement with PFIC and HKS, Inc., for Master Planning Services, in the amount of \$37,800.00, for the Yukon Athletic Complex, as requested by the City Manager**

**ACTION** \_\_\_\_\_

7. **City Manager's Report – Information items only**
  - A. **Storm Damage Report**
  - B. **Health Center Parkway Update**
8. **New Business**
9. **Council Discussion**
10. **Adjournment**



## PROCLAMATION

**WHEREAS**, in 1991 Congressional resolution named the second full week in April of every year, National Telecommunicator Week; and

**WHEREAS**, emergencies can occur at anytime or any place and require the assistance of police, fire or emergency medical services; and

**WHEREAS**, 9-1-1 professionals regularly meet the challenges of extremely stressful situations with calmness, efficiency, and accuracy; and

**WHEREAS**, Public Safety Dispatchers are the "heart of public safety," providing assistance before any other emergency services arrive on scene;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Yukon declares the week of April 12-18, 2015 as

### **“National Telecommunicator Week “**

in honor of the men and women whose diligence and professionalism keep our region's citizens and emergency responders safe.

Given under my hand and Seal of the City of Yukon this 7<sup>th</sup> day of April, 2015.

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Ken Smith, Mayor

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Douglas A. Shivers, City Clerk



## PROCLAMATION

Whereas, this year marks the 40<sup>th</sup> anniversary of the end of American involvement in the Vietnam conflict; and,

Whereas, thousands of brave Americans served our country in this conflict with courage, honor and valor; and

Whereas, more than 58,000 individuals made the ultimate sacrifice in Vietnam and thousands more were wounded in combat; and

Whereas, many Americans are still missing and unaccounted for from the Vietnam conflict, and their families, friends and fellow veterans still endure uncertainty concerning their fate;

Now, **Therefore I**, Ken Smith by virtue of the authority vested in me as Mayor of the City of Yukon, Oklahoma do hereby proclaim the week of April 18 through 25 as

### **“Vietnam Veterans Recognition Week”**

And encourage all citizens to honor and thank our Vietnam Veterans for all they have given in service to this country, and to remember the heroes whose names are listed on the Vietnam Veterans Memorial Wall in Washington, D.C., and those who are or were missing in action or prisoners of war.

Given under my hand and Seal of the City of Yukon this 7<sup>th</sup> day of April, 2015.

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Ken Smith, Mayor

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Douglas A. Shivers, City Clerk

**Yukon Municipal Authority Minutes  
March 17, 2015**

ROLL CALL: (Present) Ken Smith, Chairman  
John Alberts, Trustee  
Michael McEachern, Vice Chairman  
Richard Russell, Trustee  
Donna Yanda, Trustee

(Recess as Yukon City Council and Reconvene as Yukon Municipal Authority)

**1A. YMA Consent Docket**

This item is placed on the agenda so the Yukon Municipal Authority, by unanimous consent, can designate those routine items they wish to be approved by one motion. If an item does not meet with the approval of all Authority Members, that item will be heard in regular order.

**The City Manager recommends a motion to approve:**

- A) The minutes of the regular meeting of March 3, 2015**
- B) Payment of material claims in the amount of \$30,555.86**

The motion to approve the YMA Consent Docket, consisting of the approval of the minutes of the regular meeting of March 3, 2015; and payment of material claims in the amount of \$30,555.86, was made by Trustee McEachern and seconded by Trustee Russell.

**The vote:**

**AYES: Russell, Smith, McEachern, Yanda, Alberts**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

**2A. Consider authorizing the City Attorney to negotiate a contract with the Yukon Chamber of Commerce for the Sale of 13,770 square feet of property located 150 feet south of Highway 66 with 125 feet of frontage on the East side of Yukon Parkway (156 S Yukon Parkway), including an easement for access to and maintenance of the City sign**

The motion to authorize the City Attorney to negotiate a contract with the Yukon Chamber of Commerce for the Sale of 13,770 square feet of property located 150 feet south of Highway 66 with 125 feet of frontage on the East side of Yukon Parkway (156 S Yukon Parkway), including an easement for access to and maintenance of the City sign, as recommended by the Public Works Director, was made by Council Member Alberts and seconded by Council Member Yanda.

Mayor Smith thinks this will be an awesome move for the Chamber of Commerce.

**The vote:**

**AYES: Yanda, Smith, Alberts, McEachern, Russell**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

(Adjourn as YMA and Reconvene as Yukon City Council)

EXHIBIT A  
YUKON MUNICIPAL AUTHORITY  
(Yukon, Oklahoma)  
SALES TAX AND UTILITY SYSTEM REVENUE BONDS  
SERIES 2013

PAYMENT REQUISITION  
YUKON MUNICIPAL AUTHORITY  
CONSTRUCTION FUND  
Project Account

TO: Bank of Oklahoma, N.A., Trustee  
FROM: Yukon Municipal Authority  
DATE:

Pursuant to the provisions of the General Bond Indenture dated June 1, 1996, and Supplemented by the Supplemental Bond Indenture dated March 1, 2013 by and between Yukon Municipal Authority and Bank of Oklahoma, N.A., Oklahoma, as Trustee, you are directed to pay Creditor from the Construction Fund of said Authority as indicated below, the amounts shown for the purposes set forth in this Requisition.

Brewer Construction Oklahoma, LLC 82-8818-16-1  
CREDITOR TRUST NO.

ITEM	ITEM NO.
<u>3/25/15</u>	<u>\$129,475.90</u>
PURPOSE	AMOUNT

AUTHORIZATION AND CERTIFICATE OF GENERAL MANAGER

With reference to the above requisition, the undersigned certifies:  
The above requisition is approved.

Each obligation therein has been properly incurred and is now due and unpaid and that insofar as such obligation was incurred for work, materials, equipment or supplies, such work was actually performed, and such materials, equipment or supplies were actually installed or delivered to or for the Project as evidenced by the certificate of the supervising architect or engineer or other appropriate certification.

Those obligations in the stated amounts have been incurred by the Authority and that each item is a proper charge against the Yukon Municipal Authority Construction Fund and has not been paid.

That there has not been filed with or served upon the Yukon Municipal Authority notice of any lien, right to lien, or attachment upon, or claim affecting the right to receive payment of, any of the monies payable to any of the persons, firms, or corporations named in such requisition, which has not been of such obligation.

That such requisition contains no item representing payment on account of any retained percentages which Yukon Municipal Authority is at the date of such certificate entitled to retain.

YUKON MUNICIPAL AUTHORITY

Date

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

Date Paid \_\_\_\_\_

Authorized Officer

\_\_\_\_\_  
Chairman or Vice Chairman

Attest:

\_\_\_\_\_  
Secretary

Submit in triplicate: 1 to Bank, 1 to General Manager, 1 to City



March 26, 2015

Grayson Bottom  
City Manager  
City of Yukon  
P.O. Box 850500  
Yukon, OK 73085

**Re: Prairie West Blvd  
Water, Sanitary Sewer, Storm Sewer and Paving  
Estimate #6**

Dear Mr. Bottom:

Please find attached Brewer Construction Oklahoma, LLC, Yukon Claim #2015-9 for the above referenced project in an amount of \$129,475.90 for which we recommend payment.

Should you have any questions, please contact me at 405-752-1122.

Respectfully Submitted,

Robbie Williams, P.E.

RW/jh

Attachment

cc: Larry Mitchell, YEDA  
Arnold Adams, Yukon PWD  
J.I. Johnson, Yukon City Treasurer  
File E232

**Brewer Construction Oklahoma, LLC**

1501 SW 8th

P.O. Box 82457 - Oklahoma City, OK 73148-0457

405-787-9968

Fax: 405-495-8972

March 25th, 2015

City Of Yukon  
 C/O Triad Design Group  
 Attn: Robbie Williams P.E.  
 3020 N.W. 149th, Street  
 Oklahoma City Okla. 73134

RE: Prairie West Blvd. & Health Center Pkwy.  
 Water, Sewer Storm Sewer & Paving

Yukon Claim # 2015 - 9

Estimate # 6

Waterline Description	Planned Quantity	Current Quantity's	Previous Quantity's	Total Quantity's	Unit Bid Price	Unit Bid Total
ODOT Type A Agg Base	236 Ton	0	343.33	343.33	\$ 37.50	\$ 12,874.88
Trenching 0-10'	1419 L.F.	0	1424	1424	\$ 16.00	\$ 22,784.00
6" Gate Valve & Box	3 Ea.	0	3	3	\$ 882.00	\$ 2,646.00
8" Gate Valve & Box	2 Ea.	0	2	2	\$ 1,275.00	\$ 2,550.00
12" Gate Valve & Box	1 Ea.	0	1	1	\$ 2,250.00	\$ 2,250.00
6" Waterline C-900	15 L.F.	0	9	9	\$ 19.50	\$ 175.50
8" Waterline C-900	192 L.F.	0	192	192	\$ 26.00	\$ 4,992.00
12" Waterline C-900	1212 L.F.	0	1220	1220	\$ 38.50	\$ 46,970.00
Ductile Iron Fittings	1023 Lbs.	0	1108	1108	\$ 7.30	\$ 8,088.40
6" PVC Mega Lugs	9 Ea.	0	12	12	\$ 86.00	\$ 1,032.00
8" PVC Mega Lugs	8 Ea.	4	4	4	\$ 110.00	\$ 440.00
12" PVC Mega Lugs	22 Ea.	0	20	20	\$ 195.00	\$ 3,900.00
12" Tapping Sleeve Valve & Tap	1 Ea.	0	1	1	\$ 4,350.00	\$ 4,350.00

Fire Hydrant Complete	3 Ea.	0	3	3	2,880.00	\$	8,640.00
Testing & Disinfection	1419 L.F.	0	0	0	1.80	\$	-
2" Air Vacuum Release Valve	1 Ea.	0	1	1	1,866.00	\$	1,866.00
Solid Slab Sodding 200sy +	473 S.Y.	0	0	0	2.25	\$	-
Washed River Sand	635 Ton	0	475.07	475.07	16.00	\$	7,601.12
Sanitary Sewer						\$	-
ODOT Type A Agg Base	1141 Ton	0	1437.98	1437.98	37.50	\$	53,924.25
Trenching 0 - 10'	1172 L.F.	0	1228	1228	16.00	\$	19,648.00
Trenching 10 - 15'	280 L.F.	0	346	346	24.00	\$	8,304.00
4' Dia. Manhole	5 Ea.	0	5	5	1,250.00	\$	6,250.00
8" Sanitary Sewer Pipe	1462 L.F.	0	1574	1574	18.50	\$	29,119.00
Extra Depth Manhole	20 V.F.	0	15.5	15.5	120.00	\$	1,860.00
Sanitary Sewer Testing	1462 L.F.	0	0	0	1.10	\$	-
12" Steel Casing By Trenching	80 L.F.	0	92	92	50.00	\$	4,600.00
Solid Slab Sod 200sy +	813 S.Y.	0	0	0	2.25	\$	-
Storm Sewer & Paving						\$	-
Unclassified Excavation	5964 C.Y.	0	4500	4500	17.00	\$	76,500.00
Select Borrow	3743 C.Y.	0	0	0	20.00	\$	-
Silt Fence	11227 L.F.	0	2457	2457	2.40	\$	5,896.80
Lime	274 Ton	0	0	0	120.00	\$	-
6" Lime Treated Subgrade	25342 S.Y.	0	0	0	4.40	\$	-
Type A Agg Base	993 Ton	726.95	46.97	773.92	31.50	\$	24,378.48
6" PC Concrete Paving ( Dowelled )	11119 S.Y.	0	0	0	40.00	\$	-
1" Add'l 6" PC Concrete Paving	22238 S.Y.	0	0	0	10.50	\$	-
Structural Excavation Unclassified	23 C.Y.	5	18	23	17.00	\$	391.00
3500 PSI Concrete	102 C.Y.	18	68	86	450.00	\$	38,700.00
Flowable Fill	11 C.Y.	0	0	0	125.00	\$	-
Reinforcing Steel	77884 Lbs.	610	8100	8710	1.25	\$	10,887.50
Type 1 Plain Rip Rap	3 C.Y.	0	0	0	58.00	\$	-
6" Integral Curb	377 L.F.	0	0	0	8.00	\$	-
8" Integral Curb	6599 L.F.	0	0	0	10.00	\$	-
4" Sidewalk	1230 S.Y.	0	0	0	42.00	\$	-
Handicap Ramp	129 S.Y.	0	0	0	220.00	\$	-
Driveway	128.5 S.Y.	0	0	0	72.00	\$	-
Concrete Pavement Removal	2808 S.Y.	0	2808	2808	7.50	\$	21,060.00
Curb Removal	2371 L.F.	0	2371	2371	8.80	\$	20,864.80
Saw Cutting	259 L.F.	0	259	259	6.75	\$	1,748.25

CICI Des 2-0	2 Ea.	0 \$	2,090.00	\$	-
CICI Des 2-1	6 Ea.	2 \$	2,790.00	\$	5,580.00
CICI Des 2-2	2 Ea.	2 \$	3,250.00	\$	6,500.00
18" RCP 22x13 Equivalent	516 L.F.	72 \$	56.00	\$	4,032.00
24" RCP 28x18 Equivalent	280 L.F.	224 \$	69.00	\$	15,456.00
30" PVC Sewer Pipe 36x22 Equiv.	244 L.F.	244 \$	90.00	\$	21,960.00
36" RCP 43x26 Equivalent	316 L.F.	316 \$	105.00	\$	33,180.00
6" Sewer Pipe	648 L.F.	0 \$	16.50	\$	-
Crushed Rock 1 1/2"	566 Ton	98.22 \$	31.50	\$	3,093.93
Washed River Sand	350 Ton	0 \$	15.00	\$	-
Trenching 0 -10'	3577 L.F.	856 \$	16.00	\$	13,696.00
2" PVC Sch. 80	1493 L.F.	0 \$	6.00	\$	-
3" Steel Handrail	7 L.F.	0 \$	86.25	\$	-
Okla. Registered Surveyor	41 Hrs.	32 \$	110.00	\$	3,520.00
Traffic Control	1 L.S.	0.4 \$	1,400.00	\$	560.00
<b>Extra Work No Pay Items</b>			<b>Total Completed</b>	<b>\$</b>	<b>562,869.91</b>
ODEQ Permit	1 L.S.	1 \$	2,400.00	\$	2,400.00
Mail Box Remove & Replace	4 Ea.	1.5 \$	600.00	\$	900.00
Colored & Stamped Concrete	2275 L.F.	0 \$	16.00	\$	-
				<b>\$</b>	<b>3,300.00</b>

Total Completed	\$	566,169.91
Less 5 % Retainage	\$	(28,308.50)
Less Previously Paid	\$	(408,385.51)
<b>Total Due Estimate # 6</b>	<b>\$</b>	<b>129,475.90</b>

*VORNS*

Thank You  
Brewer Construction of Oklahoma LLC



Kevin Brewer

EXHIBIT A  
 YUKON MUNICIPAL AUTHORITY  
 (Yukon, Oklahoma)  
 SALES TAX AND UTILITY SYSTEM REVENUE BONDS  
 SERIES 2013

PAYMENT REQUISITION  
 YUKON MUNICIPAL AUTHORITY  
 CONSTRUCTION FUND  
 Project Account

TO: Bank of Oklahoma, N.A., Trustee  
 FROM: Yukon Municipal Authority  
 DATE:

Pursuant to the provisions of the General Bond Indenture dated June 1, 1996, and Supplemented by the Supplemental Bond Indenture dated March 1, 2013 by and between Yukon Municipal Authority and Bank of Oklahoma, N.A., Oklahoma, as Trustee, you are directed to pay Creditor from the Construction Fund of said Authority as indicated below, the amounts shown for the purposes set forth in this Requisition.

<i>Triad Design Group</i>	82-8818-16-1
CREDITOR	TRUST NO.

ITEM		ITEM NO.
<i>3/31/15</i>	<i>Prairie West Boulevard</i>	<i>\$ 466.97</i>
DATE	PURPOSE	AMOUNT

AUTHORIZATION AND CERTIFICATE OF GENERAL MANAGER

With reference to the above requisition, the undersigned certifies:  
 The above requisition is approved.

Each obligation therein has been properly incurred and is now due and unpaid and that insofar as such obligation was incurred for work, materials, equipment or supplies, such work was actually performed, and such materials, equipment or supplies were actually installed or delivered to or for the Project as evidenced by the certificate of the supervising architect or engineer or other appropriate certification.

Those obligations in the stated amounts have been incurred by the Authority and that each item is a proper charge against the Yukon Municipal Authority Construction Fund and has not been paid.

That there has not been filed with or served upon the Yukon Municipal Authority notice of any lien, right to lien, or attachment upon, or claim affecting the right to receive payment of, any of the monies payable to any of the persons, firms, or corporations named in such requisition, which has not been of such obligation.

That such requisition contains no item representing payment on account of any retained percentages which Yukon Municipal Authority is at the date of such certificate entitled to retain.

YUKON MUNICIPAL AUTHORITY

Date

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

Date Paid \_\_\_\_\_

Authorized Officer

Submit in triplicate: 1 to Bank, 1 to General Manager, 1 to City

\_\_\_\_\_  
 Chairman or Vice Chairman

Attest:

\_\_\_\_\_  
 Secretary



City of Yukon  
Attn: J.I. Johnson  
P. O. Box 850500  
Yukon, Oklahoma 73085

Invoice No. 9242  
Project No. E095.00  
Date: March 31, 2015  
CIT220

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*Re: Yukon City Engineer*

*Architectural and Engineering Services through March 25, 2015*

Health Center Parkway Extension (Prairie West Boulevard)

Engineer	4.50 Hrs.	x	\$97.66 =	\$439.47
Construction Observation	0.50 Hrs.	x	\$55.00 =	\$27.50

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Amount Due: \$466.97

DESCRIPTION City of Yukon  
P.O. Box 850500  
Yukon, Oklahoma 73085

Yukon City Engineer  
Health Center Parkway Extension  
Prairie West Boulevard

STATE OF OKLAHOMA SS  
COUNTY OF OKLAHOMA

The undersigned (architect, contractor, supplier, or engineer) of lawful age, being first duly sworn on oath, says that this invoice or claim is truth and correct.

Affiant further states that the (work, services, or materials) as shown by this invoice or claim have been (completed, or supplied) in accordance with the plans, specifications, orders, or requests furnished the affiant. Affiant further states that (s)he has made no payment directly or indirectly to any elected official, officer, or employee of the State of Oklahoma, any county or local subdivision of the state, of money or any other things of value to obtain payment.

Wanda Wang  
Architect, Supplier, Contractor, Engineer

Subscribed and sworn to before me this

1st day of April, 2015

Mary J. Johnston  
Notary Public (or Clerk or Judge)



My Commission Expires: May 25, 2017

EXHIBIT A  
 YUKON MUNICIPAL AUTHORITY  
 (Yukon, Oklahoma)  
 SALES TAX AND UTILITY SYSTEM REVENUE BONDS  
 SERIES 2013

PAYMENT REQUISITION  
 YUKON MUNICIPAL AUTHORITY  
 CONSTRUCTION FUND  
 Project Account

TO: Bank of Oklahoma, N.A., Trustee  
 FROM: Yukon Municipal Authority  
 DATE:

Pursuant to the provisions of the General Bond Indenture dated June 1, 1996, and Supplemented by the Supplemental Bond Indenture dated March 1, 2013 by and between Yukon Municipal Authority and Bank of Oklahoma, N.A., Oklahoma, as Trustee, you are directed to pay Creditor from the Construction Fund of said Authority as indicated below, the amounts shown for the purposes set forth in this Requisition.

<u>Triad Design Group</u>	82-8818-16-1
CREDITOR	TRUST NO.

ITEM		ITEM NO.
<u>4/1/15</u>	<u>Downtown Revitalization</u>	<u>\$2,407.53</u>
DATE	PURPOSE	AMOUNT

AUTHORIZATION AND CERTIFICATE OF GENERAL MANAGER

With reference to the above requisition, the undersigned certifies:  
 The above requisition is approved.

Each obligation therein has been properly incurred and is now due and unpaid and that insofar as such obligation was incurred for work, materials, equipment or supplies, such work was actually performed, and such materials, equipment or supplies were actually installed or delivered to or for the Project as evidenced by the certificate of the supervising architect or engineer or other appropriate certification.

Those obligations in the stated amounts have been incurred by the Authority and that each item is a proper charge against the Yukon Municipal Authority Construction Fund and has not been paid.

That there has not been filed with or served upon the Yukon Municipal Authority notice of any lien, right to lien, or attachment upon, or claim affecting the right to receive payment of, any of the monies payable to any of the persons, firms, or corporations named in such requisition, which has not been of such obligation.

That such requisition contains no item representing payment on account of any retained percentages which Yukon Municipal Authority is at the date of such certificate entitled to retain.

YUKON MUNICIPAL AUTHORITY

Date

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

Date Paid \_\_\_\_\_

Authorized Officer

Submit in triplicate: 1 to Bank, 1 to General Manager, 1 to City

\_\_\_\_\_  
 Chairman or Vice Chairman

Attest:

\_\_\_\_\_  
 Secretary



City of Yukon  
Attn: City Treasurer  
Mr. J.I. Johnson  
P. O. Box 850500  
Yukon, Oklahoma 73085

Invoice No. 9247  
Project No. E259.00  
Statement #: 1  
Date: April 1, 2015  
CIT220

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*Re: Yukon Downtown Revitalization*

*Architectural and Engineering Services through March 25, 2015*

Sr. Engineer	2.00	Hrs.	x	\$144.22	=	288.44
Engineer	23.50	Hrs.	x	\$78.87	=	1853.45
Technician	4.00	Hrs.	x	\$66.41	=	265.64

-----  
Amount Due: **\$2,407.53**

DESCRIPTION City of Yukon  
P.O. Box 850500  
Yukon, Oklahoma 73085

Yukon Downtown Revitalization

STATE OF OKLAHOMA

SS

COUNTY OF OKLAHOMA

The undersigned (architect, contractor, supplier, or engineer) of lawful age, being first duly sworn on oath, says that this invoice or claim is truth and correct. Affiant further states that the (work, services, or materials) as shown by this invoice or claim have been (completed, or supplied) in accordance with the plans, specifications, orders, or requests furnished the affiant. Affiant further states that (s)he has made no payment directly or indirectly to any elected official, officer, or employee of the State of Oklahoma, any county or local subdivision of the state, of money or any other things of value to obtain payment.

  
Architect, Supplier, Contractor, Engineer

Subscribed and sworn to before me this

1st day of April, 2015



  
Notary Public (or Clerk or Judge)

#01008156

My Commission Expires: May 25, 2017

EXHIBIT A  
 YUKON MUNICIPAL AUTHORITY  
 (Yukon, Oklahoma)  
 SALES TAX AND UTILITY SYSTEM REVENUE BONDS  
 SERIES 2013

PAYMENT REQUISITION  
 YUKON MUNICIPAL AUTHORITY  
 CONSTRUCTION FUND  
 Project Account

TO: Bank of Oklahoma, N.A., Trustee  
 FROM: Yukon Municipal Authority  
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<u>Triad Design Group</u>	82-8818-16-1
CREDITOR	TRUST NO.

ITEM		ITEM NO.
<u>4/2/15</u>	<u>Frisco Water Tower</u>	<u>\$25,875.00</u>
DATE	PURPOSE	AMOUNT

AUTHORIZATION AND CERTIFICATE OF GENERAL MANAGER

With reference to the above requisition, the undersigned certifies:  
 The above requisition is approved.

~. Each obligation therein has been properly incurred and is now due and unpaid and that insofar as such obligation was incurred for work, materials, equipment or supplies, such work was actually performed, and such materials, equipment or supplies were actually installed or delivered to or for the Project as evidenced by the certificate of the supervising architect or engineer or other appropriate certification.

Those obligations in the stated amounts have been incurred by the Authority and that each item is a proper charge against the Yukon Municipal Authority Construction Fund and has not been paid.

That there has not been filed with or served upon the Yukon Municipal Authority notice of any lien, right to lien, or attachment upon, or claim affecting the right to receive payment of, any of the monies payable to any of the persons, firms, or corporations named in such requisition, which has not been of such obligation.

That such requisition contains no item representing payment on account of any retained percentages which Yukon Municipal Authority is at the date of such certificate entitled to retain.

YUKON MUNICIPAL AUTHORITY

Date

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

Date Paid \_\_\_\_\_

Authorized Officer

Submit in triplicate: 1 to Bank, 1 to General Manager, 1 to City

\_\_\_\_\_  
 Chairman or Vice Chairman

Attest:

\_\_\_\_\_  
 Secretary



City of Yukon  
 Attn: J.I. Johnson  
 P. O. Box 850500  
 Yukon, Oklahoma 73085

Invoice No. 9256  
 Project No. E245.00  
 Statement No. 7  
 Date: April 2, 2015  
 CIT220

-----  
 Re: Frisco Water Tower and 12" Waterline Distribution Project

Estimated Construction Cost:		\$4,500,000.00
Estimated Fee:	5.11%	\$230,000.00
Updated Environmental Assessment/ Categorical Exclusion		\$56,500.00
Additional Services: R/W Acquisition / Right-of-Entry:		\$20,000.00
	<b>Total Fee</b>	<b>\$306,500.00</b>

Architectural and Engineering Services through March 25, 2015

Survey (25%) (\$57,500.00)

Completed to Date: \$57,500.00 x 100% = \$57,500.00

Preliminary Plans (50%) (\$57,500.00)

Completed to Date: \$57,500.00 x 100% = \$57,500.00

Final Plans (95%) (\$103,500.00)

Completed to Date: \$103,500.00 x 60% = \$62,100.00

As-Built Plans (5%) (\$11,500.00)

Completed to Date: \$11,500.00 x 0% = \$0.00

Environmental Assessment/Categorical Exclusion (\$56,500.00)

Completed to Date: \$56,500.00 x 90% = \$50,850.00

R/W Acquisition/Right-of-Entry (\$20,000.00)

Completed to Date: \$20,000.00 x 0% = \$0.00

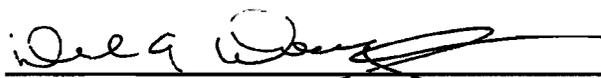
	<u>\$227,950.00</u>
Less Previous Billing	<u>202,075.00</u>
Amount Due	\$25,875.00

DESCRIPTION City of Yukon  
P.O. Box 850500  
Yukon, Oklahoma 73085

Frisco Water Tower and  
12" Waterline Distribution Project

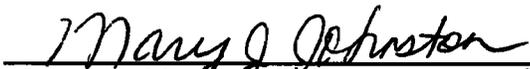
STATE OF OKLAHOMA SS  
COUNTY OF OKLAHOMA

The undersigned (architect, contractor, supplier, or engineer) of lawful age, being first duly sworn on oath, says that this invoice or claim is truth and correct. Affiant further states that the (work, services, or materials) as shown by this invoice or claim have been (completed, or supplied) in accordance with the plans, specifications, orders, or requests furnished the affiant. Affiant further states that (s)he has made no payment directly or indirectly to any elected official, officer, or employee of the State of Oklahoma, any county or local subdivision of the state, of money or any other things of value to obtain payment.

  
\_\_\_\_\_  
Architect, Supplier, Contractor, Engineer

Subscribed and sworn to before me this

2nd Day of April, 2015

  
\_\_\_\_\_  
Notary Public (or Clerk or Judge)



My Commission Expires: March 13, 2016

**Yukon City Council Minutes  
March 17, 2015**

The Yukon City Council met in regular session March 17, 2015 at 7:00 p.m. in the Council Chambers of the Centennial Building, 12 South Fifth Street, Yukon, Oklahoma.

The invocation was given by Pastor Mike Sparks, Church of Christ South Yukon. The flag salute was given in unison.

ROLL CALL: (Present)      Ken Smith, Mayor  
                                      Michael McEachern, Vice Mayor  
                                      John Alberts, Council Member  
                                      Richard Russell, Council Member  
                                      Donna Yanda, Council Member

**OTHERS PRESENT:**

Grayson Bottom, City Manager	Doug Shivers, City Clerk
Mike Segler, City Attorney	Robbie Williams, City Engineer
Tammy DeSpain, Assistant City Manager	Dana Deckard, Admin. Coordinator
Arnold Adams, Public Works Director	Candy Schwarz, Court Clerk
Gary Cooper, Information Technology Dir.	Larry Mitchell, Economic Dev. Director
Mitchell Hort, Development Services Dir.	Bill Stover, Sanitation Director
Jenna Roberson, Public Info. Officer	Amy Phillips, Economic Development
Sara Schieman, Librarian	Mitch Hoskins, Police Department

**Presentations and Proclamations**

There were no Presentations or Proclamations.

**Visitors**

John Knuppel, 410 Oak, stated the Yukon Historical Society would like to invite everyone to celebrate Yukon's 124<sup>th</sup> Birthday on March 28. Yukon was established March 28, 1891. Mr. Knuppel thanked Tammy, Dana, Arnold and the Street Department for the signs. Mr. Knuppel stated the Czechs are getting ready for their 50<sup>th</sup> Anniversary.

(Recess as Yukon City Council and Reconvene as Yukon Municipal Authority)

**1A. YMA Consent Docket**

This item is placed on the agenda so the Yukon Municipal Authority, by unanimous consent, can designate those routine items they wish to be approved by one motion. If an item does not meet with the approval of all Authority Members, that item will be heard in regular order.

**The City Manager recommends a motion to approve:**

- A) The minutes of the regular meeting of March 3, 2015**
- B) Payment of material claims in the amount of \$30,555.86**

The motion to approve the YMA Consent Docket, consisting of the approval of the minutes of the regular meeting of March 3, 2015; and payment of material claims in the amount of \$30,555.86, was made by Trustee McEachern and seconded by Trustee Russell.

**The vote:****AYES: McEachern, Smith, Russell, Yanda, Alberts****NAYS: None****VOTE: 5-0****MOTION CARRIED****2A. Consider authorizing the City Attorney to negotiate a contract with the Yukon Chamber of Commerce for the Sale of 13,770 square feet of property located 150 feet south of Highway 66 with 125 feet of frontage on the East side of Yukon Parkway (156 S Yukon Parkway), including an easement for access to and maintenance of the City sign**

The motion to authorize the City Attorney to negotiate a contract with the Yukon Chamber of Commerce for the Sale of 13,770 square feet of property located 150 feet south of Highway 66 with 125 feet of frontage on the East side of Yukon Parkway (156 S Yukon Parkway), including an easement for access to and maintenance of the City sign, was made by Council Member Alberts and seconded by Council Member Yanda.

Mayor Smith thinks this will be an awesome move for the Chamber of Commerce.

**The vote:****AYES: Yanda, Smith, Alberts, McEachern, Russell****NAYS: None****VOTE: 5-0****MOTION CARRIED**

(Adjourn as YMA and Reconvene as Yukon City Council)

**1. Consent Docket**

This item is placed on the agenda so the City Council, by unanimous consent, can designate those routine items they wish to be approved by one motion. If an item does not meet with the approval of all Council Members, that item will be heard in regular order.

**The City Manager recommends a motion that will approve:**

- A) The minutes of the regular meeting of March 3, 2015**
- B) Payment of material claims in the amount of \$430,544.22**
- C) Designating the items on the attached list from the Technology Department as surplus and authorizing their sale, donation or trade**
- D) Accepting Oklahoma Department of Environmental Quality Permit No. SL000009150146 for the construction of approximately 590 linear feet of eight (8) inch sewer line and appurtenances to serve the City of Yukon Bounce Academy Gymnasium Sewer Line Extension Project, Canadian County, Oklahoma**
- E) Setting the date for the next regular Council meeting for April 7, 2015, 7:00 p.m., in the Council Chambers of the Centennial Building, 12 S. Fifth St.**

The motion to approve the Consent Docket, consisting of the approval of the minutes of the regular meeting of March 3, 2015; Payment of material claims in the amount of \$430,544.22; Designating the items on the attached list from the Technology Department as surplus and authorizing their sale, donation or trade; Accepting Oklahoma Department of Environmental Quality Permit No. SL000009150146 for the construction of approximately 590 linear feet of eight (8) inch sewer line and appurtenances to serve the City of Yukon Bounce Academy Gymnasium Sewer Line Extension Project, Canadian County, Oklahoma; Setting the date for the next regular Council meeting for April 7, 2015, 7:00 p.m., in the Council Chambers of the Centennial Building, 12 S. Fifth St., was made by Council Member McEachern and seconded by Council Member Russell.

**The vote:**

**AYES: Alberts, McEachern, Yanda, Russell, Smith**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 2. Consider authorizing the City Attorney to negotiate a contract with the Yukon Chamber of Commerce for the Sale of 13,770 square feet of property located 150 feet south of Highway 66 with 125 feet of frontage on the East side of Yukon Parkway (156 S Yukon Parkway), including an easement for access to and maintenance of the City sign**

The motion to authorize the City Attorney to negotiate a contract with the Yukon Chamber of Commerce for the Sale of 13,770 square feet of property located 150 feet south of Highway 66 with 125 feet of frontage on the East side of Yukon Parkway (156 S Yukon Parkway), including an easement for access to and maintenance of the City sign, was made by Council Member Yanda and seconded by Council Member Alberts.

**The vote:**

**AYES: Russell, Alberts, Smith, Yanda, McEachern**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 3. Consider authorizing an expenditure of funds in an amount not to exceed \$57,973.00, for a Hydro Excavator from Vermeer, to be paid from the Water/Wastewater Capital Improvement Fund, as recommended by the Public Works Director**

The motion to authorize an expenditure of funds in an amount not to exceed \$57,973.00, for a Hydro Excavator from Vermeer, to be paid from the Water/Wastewater Capital Improvement Fund, as recommended by the Public Works Director, was made by Council Member Russell and seconded by Council Member McEachern.

**The vote:**

**AYES: Smith, Russell, Alberts, McEachern, Yanda**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 4. Consider authorizing an expenditure of funds in an amount not to exceed \$43,101.15, for repair of 380 square yards of road at the intersection of Cornwell and Dianna, to be paid from the Streets Capital Improvement Fund, as recommended by the Public Works Director**

The motion to authorize an expenditure of funds in an amount not to exceed \$43,101.15, for repair of 380 square yards of road at the intersection of Cornwell and Dianna, to be paid from the Streets Capital Improvement Fund, as recommended by the Public Works Director, was made by Council Member McEachern and seconded by Council Member Alberts.

**The vote:**

**AYES: McEachern, Russell, Yanda, Alberts, Smith**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

5. **Consider approving Ordinance No. 1311, an Ordinance which provides amendment to the Code of Ordinances of the City of Yukon, Oklahoma by amending Section 1-7 to provide for Court Cost in the amount of thirty dollars (\$30.00) and a fine not to exceed the amount of two hundred dollars (\$200.00) for a Traffic Offense unless otherwise allowed by State Law; and Declaring an Emergency**

The motion to approve Ordinance No. 1311, an Ordinance which provides amendment to the Code of Ordinances of the City of Yukon, Oklahoma by amending Section 1-7 to provide for Court Cost in the amount of thirty dollars (\$30.00) and a fine not to exceed the amount of two hundred dollars (\$200.00) for a Traffic Offense unless otherwise allowed by State Law; and Declaring an Emergency, was made by Council Member Yanda and seconded by Council Member Alberts.

**The vote:**

**AYES: Yanda, Alberts, McEachern, Smith, Russell**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 5a. **Consider approving the Emergency Clause of Ordinance No. 1311**

The motion to approve the Emergency Clause of Ordinance No. 1311, was made by Council Member Russell and seconded by Council Member McEachern.

**The vote:**

**AYES: Smith, McEachern, Russell, Yanda, Alberts**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

6. **Consider approving Ordinance No. 1312, an Ordinance which provides amendment to the Code of Ordinances of the City of Yukon, Oklahoma by amending certain Sections by adding new definitions, clarifying and providing for procedures for Municipal Court, and providing applicable fines and punishment for violations of the Code of Ordinances; and Declaring an Emergency**

The motion to approve Ordinance No. 1312, an Ordinance which provides amendment to the Code of Ordinances of the City of Yukon, Oklahoma by amending certain Sections by adding new definitions, clarifying and providing for procedures for Municipal Court, and providing applicable fines and punishment for violations of the Code of Ordinances; and Declaring an Emergency, was made by Council Member McEachern and seconded by Council Member Russell.

**The vote:**

**AYES: Russell, Smith, Alberts, Yanda, McEachern**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 6a. **Consider approving the Emergency Clause of Ordinance No. 1312**

The motion to approve the Emergency Clause of Ordinance No. 1312, was made by Council Member Alberts and seconded by Council Member Yanda.

**The vote:**

**AYES: Alberts, Yanda, Russell, McEachern, Smith**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 7. Consider approving Ordinance No. 1313, an Ordinance which provides amendment to the Code of Ordinances of the City of Yukon Oklahoma by amending certain sections to provide for clarification of violations and assessment of fines; and Declaring an Emergency**

The motion to approve Ordinance No. 1313, an Ordinance which provides amendment to the Code of Ordinances of the City of Yukon Oklahoma by amending certain sections to provide for clarification of violations and assessment of fines; and Declaring an Emergency, was made by Council Member McEachern and seconded by Council Member Russell.

**The vote:**

**AYES: Russell, Alberts, Smith, Yanda, McEachern**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 7a. Consider approving the Emergency Clause of Ordinance No. 1313**

The motion to approve the Emergency Clause of Ordinance No. 1313, was made by Council Member Russell and seconded by Council Member Yanda.

**The vote:**

**AYES: Yanda, McEachern, Russell, Smith, Alberts**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 8. Consider approving Ordinance No. 1314, an Ordinance which provides amendment to the Code of Ordinances of the City of Yukon, Oklahoma by removing and/or amending certain sections to provide for clarification of violations and assessment of fines; and Declaring an Emergency**

The motion to approve Ordinance No. 1314, an Ordinance which provides amendment to the Code of Ordinances of the City of Yukon, Oklahoma by removing and/or amending certain sections to provide for clarification of violations and assessment of fines; and Declaring an Emergency, was made by Council Member McEachern and seconded by Council Member Russell.

**The vote:**

**AYES: McEachern, Smith, Yanda, Alberts, Russell**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 8a. Consider approving the Emergency Clause of Ordinance No. 1314**

The motion to approve the Emergency Clause of Ordinance No. 1314, was made by Council Member McEachern and seconded by Council Member Yanda.

**The vote:****AYES: Smith, Alberts, Russell, McEachern, Yanda****NAYS: None****VOTE: 5-0****MOTION CARRIED**

- 9. Consider approving Ordinance No. 1315, an Ordinance adopting the SmartCode; establishing the SmartCode (SC) District regulations for land use; SmartCode regulations to be mandatory within the Urban Gateway overlay Supplemental District unless specifically exempted or unless contiguous developable land area, by ownership, does not meet minimum size requirements for community scale plans; SmartCode regulations to be optional for all remaining development areas within the City of Yukon; repealing conflicting ordinances and resolutions; providing for severability and Declaring an Emergency**

The motion to approve Ordinance No. 1315, an Ordinance adopting the SmartCode; establishing the SmartCode (SC) District regulations for land use; SmartCode regulations to be mandatory within the Urban Gateway overlay Supplemental District unless specifically exempted or unless contiguous developable land area, by ownership, does not meet minimum size requirements for community scale plans; SmartCode regulations to be optional for all remaining development areas within the City of Yukon; repealing conflicting ordinances and resolutions; providing for severability and Declaring an Emergency, was made by Council Member Alberts and seconded by Council Member McEachern.

Council Member Alberts requested an explanation of the SmartCode, as to inform the community. Sam Day, Butzer Gardner Architects, stated they surveyed the community last summer. The results showed the community favored a Mixed Use (higher density/walkable neighborhood) development. Current zoning does not allow for this. SmartCode will. It emphasizes regulating the exterior and placement of buildings. It gives more flexibility for use of buildings and controls intensity. Council Member Alberts asked if it would be received well by Developers. Mr. Day stated it encourages the right kind of developers and discourages the kind we don't want. It offers many opportunities for builders. Council Member Alberts asked what the short term versus long term benefits were. Mr. Day stated it reduces infrastructure cost due to density and less auto traffic. He noted the overall experience counts for shoppers. Mayor Smith stated there is City input. Council Member McEachern asked where it was currently being used. Mr. Day stated it started at Seaside, Florida in the 1980's. There are many usages in Texas and one in Tulsa in the Pearl District. It is similar to the type of zoning in downtown areas. Mayor Smith stated we have been provided with information and would be happy to share. Council Member McEachern stated it would be wise to look at.

**The vote:****AYES: Alberts, Russell, Yanda, Smith, McEachern****NAYS: None****VOTE: 5-0****MOTION CARRIED****9a. Consider approving the Emergency Clause of Ordinance No. 1315**

The motion to approve the Emergency Clause of Ordinance No. 1315, was made by Council Member Alberts and seconded by Council Member Yanda.

**The vote:****AYES: Russell, Alberts, McEachern, Smith, Yanda****NAYS: None****VOTE: 5-0****MOTION CARRIED**

- 10. Consider approving Ordinance No. 1316, an Ordinance providing amendment to the Code of Ordinances of the City of Yukon, Oklahoma by amending Appendix A – Zoning Ordinance, Sections 201.1, 401.3, 404.1, 406.1 to provide for consistency with the City of Yukon SmartCode; and enacting new Section 607 and new Section 608, providing for the creation of a new Urban Gateway overlay Supplemental District and providing for new zoning designations corresponding with the City of Yukon SmartCode transects; establishing boundaries for the Urban Gateway overlay supplemental District; providing for severability and Declaring an Emergency**

The motion to approve Ordinance No. 1316, an Ordinance providing amendment to the Code of Ordinances of the City of Yukon, Oklahoma by amending Appendix A – Zoning Ordinance, Sections 201.1, 401.3, 404.1, 406.1 to provide for consistency with the City of Yukon SmartCode; and enacting new Section 607 and new Section 608, providing for the creation of a new Urban Gateway overlay Supplemental District and providing for new zoning designations corresponding with the City of Yukon SmartCode transects; establishing boundaries for the Urban Gateway overlay supplemental District; providing for severability and Declaring an Emergency, was made by Council Member McEachern and seconded by Council Member Alberts.

Council Member McEachern wanted clarification on areas covered by SmartCode. Mr. Mitchell stated there are two ordinances. One applies to the Community and one sets boundaries. SmartCode is mandatory in the TIF District and optional elsewhere. There has already been some interest in using it outside the TIF District. Council Member McEachern asked if there will be any conflict with using them both. Mr. Mitchell stated he does not believe so. We have been working on this for the last 5 months. He believes it will be a benefit.

**The vote:**

**AYES: McEachern, Yanda, Smith, Russell, Alberts**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 10a. Consider approving the Emergency Clause of Ordinance No. 1316**

The motion to approve the Emergency Clause of Ordinance No. 1316, was made by Council Member Russell and seconded by Council Member Yanda.

**The vote:**

**AYES: Yanda, Alberts, McEachern, Russell, Smith**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

- 11. Consider approving the Scrivener Error correction, to the recordation information numbers on the Utility Easement that serves Frisco Ridge Phase II, as recommended by the Development Services Director**

The motion to approve the Scrivener Error correction, to the recordation information numbers on the Utility Easement that serves Frisco Ridge Phase II, as recommended by the Development Services Director, was made by Council Member McEachern and seconded by Council Member Russell.

**The vote:**

**AYES: Russell, McEachern, Smith, Yanda, Alberts**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

**12. City Manager's Report – Information items only**

- A. Sales Tax Report**
- B. Events Report**
- C. Sanitation Notice**

Mr. Bottom complimented the Council for passing SmartCode. It's the first significant SmartCode placed in Oklahoma. It governs the last piece of commercially developable property within our community. Yukon will reap benefits for years.

Mr. Bottom stated Sales Tax is up 12.39% for month and 4.38% for year. Good news. On time reporting last month, would have made us a \$2 million month.

Fish Out and Pancake Breakfast were very successful. March 26 is Taste of Yukon. Get there early, it is a great event. 20-plus local restaurants will be there. Tickets are \$10 in advance, \$12 at the door and \$5 for Children 10 and under.

Spring Clean-up will be until March 28. Place your bags at the curb; they must weigh less than 50lbs each. April 18 is Big Junk and Recycle Event at 501 Ash. Save the date. Mr. Bottom has been in discussion with the Sanitation Director for the piece of equipment for curbside Big Trash pickup. Hopefully, it will be a lead into curbside recycling.

**13. New Business - None****14. Council Discussion**

Council Member McEachern thanked Larry Mitchell and Butzer Gardner. He also thanked Candy for her work on ordinances. He wishes all a Happy Saint Patrick's Day!

Council Member Russell had nothing at this time.

Council Member Yanda was disappointed with the recent voter turnout. She encourages everyone to get involved.

Council Member Alberts concurs with Council Member Yanda. Council Member Alberts received compliments for Ranchwood Soccer Field improvements and was asked to pass them on to the Council. There is lots of good citizen involvement. He thanked Mr. Mitchell for SmartCode. He appreciates the hard work. Please share information, so community can see the vision. Long-time benefits will outlast anyone in this room. Great to hear tax is up, shop local.

Mayor Smith stated Happy Saint Patrick's Day. April 18 is "Welcome Home Veterans" celebration. Mayor Smith is hoping for a good contract for Chamber of Commerce sale of land.

**15. Consider a motion to recess as the Yukon City Council and convene into Executive Session, to discuss a pending investigation, litigation, or proceeding with the City Attorney, as provided for in 25 OS 2003, Section 307 (B) (4)**

The motion to recess as the Yukon City Council and convene into Executive Session, to discuss a pending investigation, litigation, or proceeding with the City Attorney, as provided for in 25 OS 2003, Section 307 (B) (4), was made by Council Member McEachern and seconded by Council Member Russell.

Mayor Smith invited Mr. Bottom to Executive Session.

**The vote:**

**AYES: Smith, Alberts, Russell, Yanda, McEachern**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

**16. Consider a motion to adjourn from Executive Session and reconvene as Yukon City Council**

The motion to adjourn from Executive Session and reconvene as Yukon City Council, was made by Council Member McEachern and seconded by Council Member Russell.

**The vote:**

**AYES: Alberts, McEachern, Yanda, Smith, Russell**

**NAYS: None**

**VOTE: 5-0**

**MOTION CARRIED**

Mayor Smith then read the minutes of the Executive Session, stating, "While in Executive Session, only the items on the agenda were discussed, no action was taken and no votes were cast."

**17. Adjournment**

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**Ken Smith, Mayor**

---

**Doug Shivers, City Clerk**



RECAP OF CLAIMS

FUND #			
01	General Fund Claims	\$	117,502.82
36	Sales Tax Claims		120,716.24
64	Special Revenue Fund		12,241.48
70	Water & Sewer Enterprise		132,686.65
71	Sanitation Enterprise		27,436.99
73	Storm Water Enterprise		1,914.60
74	Grant Fund		1,841.13
			<hr/>
		\$	414,339.91
			<hr/> <hr/>

The above foregoing claims have been passed and approved this 7th day of April 2015 by the Yukon City Council.

\_\_\_\_\_  
Doug Shivers, City Clerk

\_\_\_\_\_  
Ken Smith, Mayor

FUND: 01 - General Fund

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 101		LEGISLATIVE				
15-61083	01-00101	City of Yukon (BankOne)ADM	Memorial Flowers	3/2015	MWTrophy 75390	120.00
15-61084	01-00101	City of Yukon (BankOne)ADM	Branding Items	2/2015	Moisant 21575012	897.65
15-61486	01-00101	City of Yukon (BankOne)ADM	Sponsorship-Integris Gala	4/2015	Integris 04-10-15	1,000.00
15-61538	01-05386	Capitol Decisions	Prof Services-Mar'15	3/2015	8599	7,500.00
			expense retainer	3/2015	8608	500.00
15-61556	01-50700	Triad Design Group	A/E Srvcs-03/25/15	3/2015	9241	2,037.55
15-61557	01-50700	Triad Design Group	Eng Srvcs-CDBG	4/2015	9246	3,090.00
15-61554	01-55855	Verizon Wireless	Service Feb23-Mar07	3/2015	9741852308	81.02
15-61162	01-62200	Yukon Chamber of Commerce	Sponsorship-Golf Tourn	3/2015	9860	600.00
15-61555	01-62200	Yukon Chamber of Commerce	Contract Srvcs-AP15	3/2015	9866	1,500.00
15-61558	01-62900	Yukon Review Inc.	display ad-SpringStormPre	3/2015	YR85320	756.00
15-61559	01-62900	Yukon Review Inc.	legal ad-BoardAdjust	3/2015	YR85355	17.50
			legal ad-Ord #1311	3/2015	YR85377	27.45
			legal ad-Ord #1312	3/2015	YR85378	25.95
			legal ad-Ord #1313	3/2015	YR85379	23.70
			legal ad-Ord #1314	3/2015	YR85380	24.00
			legal ad-Ord #1315	3/2015	YR85381	27.15
			legal ad-Ord #1316	3/2015	YR85382	29.10
			legal ad-BoardAdjust	3/2015	YR85544	19.75
15-61560	01-62900	Yukon Review Inc.	display ad-SmokeDetectors	3/2015	YR85489	756.00
15-61561	01-62900	Yukon Review Inc.	display ad-SpringStroll	3/2015	YR85553	600.00
DEPARTMENT TOTAL:						19,632.82
DEPARTMENT: 102		ADMINISTRATION				
15-60632	01-00101	City of Yukon (BankOne)ADM	Lunch Expenses	3/2015	Louies 03-17-15	34.83
15-61553	01-47660	Shred-it USA LLC	Doc.destruction	3/2015	9405195908	9.13
15-61198	01-48373	Southwestern Stationery and	Business Cards	2/2015	37179A	103.34
15-59821	01-62200	Yukon Chamber of Commerce	Chamber Lunches	3/2015	9848	12.00
DEPARTMENT TOTAL:						159.30
DEPARTMENT: 104		FINANCE				
15-61553	01-47660	Shred-it USA LLC	Doc.destruction	3/2015	9405195908	4.57
DEPARTMENT TOTAL:						4.57

FUND: 01 - General Fund

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 105 CITY CLERK						
			Doc.destruction	3/2015	9405195908	4.57
DEPARTMENT TOTAL:						4.57
DEPARTMENT: 106 FIRE DEPARTMENT						
15-61064	01-00105	City of Yukon (BankOne)FD	Andrews-polo,fleece,tshir	3/2015	S&S Textiles 39530	287.10
15-61193	01-00105	City of Yukon (BankOne)FD	Walls-shoes,glasses	3/2015	Hoka 11394230	163.28
			Walls-shoes,glasses	3/2015	Oakley 138310913	114.92
			tax refund	3/2015	Deckers 11394230	13.28-
			tax refund	3/2015	Deckers 11394236	13.28-
15-61194	01-00105	City of Yukon (BankOne)FD	Sisk-shoes	3/2015	Hoka 11394236	163.28
15-61258	01-00105	City of Yukon (BankOne)FD	IAFC membership dues	3/2015	IAFC 224293	239.00
15-61260	01-00105	City of Yukon (BankOne)FD	safety glasses	3/2015	Oakley 138310915	203.46
15-61261	01-00105	City of Yukon (BankOne)FD	Andrews-socks	3/2015	Galls 3820368-1	73.90
15-61263	01-00105	City of Yukon (BankOne)FD	bracket for BC vehicle	3/2015	Amazon 03-11-15	43.75
15-61307	01-00105	City of Yukon (BankOne)FD	Active 911 app for ipad	3/2015	Active 50575	132.00
15-61315	01-00105	City of Yukon (BankOne)FD	Long - shoes	3/2015	Hoka 11394241	163.28
			tax refund	3/2015	Deckers 11394241	13.28-
15-61334	01-00105	City of Yukon (BankOne)FD	Samples- Blk shoes	3/2015	Hoka 11412004	163.28
15-61336	01-00105	City of Yukon (BankOne)FD	USA & OK State Flag Pic	3/2015	Mainstreet 129971	258.00
15-61337	01-00105	City of Yukon (BankOne)FD	Chainsaw for truck	3/2015	GillesBros 9586	432.88
15-61380	01-00105	City of Yukon (BankOne)FD	ballast/lights for St 1	3/2015	Locke 25323386-00	215.40
15-61262	01-05395	Casco Industries, Inc.	pants,boots	3/2015	153532	203.00
15-61381	01-05395	Casco Industries, Inc.	Pappe - station	3/2015	153425	120.00
15-60675	01-07862	Cummins Southern Plains	maint agreement renewal	3/2015	020-78553	2,167.00
			maint agreemt-ST 2	3/2015	020-78549	777.00
15-61098	01-13020	FX Technologies	light bar for BC	3/2015	137	1,145.00
15-61342	01-39963	Pitney Bowes Purchase Power	Fire Dept	3/2015	03-31-15	100.00
DEPARTMENT TOTAL:						7,125.69
DEPARTMENT: 107 POLICE DEPARTMENT						
15-58304	01-00111	City of Yukon (BankOne)PD	light bulbs	3/2015	Locke 25287977-00	142.40
15-60381	01-00111	City of Yukon (BankOne)PD	tape recorder	3/2015	Amazon 03-13-15	380.00
15-61185	01-00111	City of Yukon (BankOne)PD	prisoner meals	3/2015	Walmart 02605	89.76
15-61230	01-00111	City of Yukon (BankOne)PD	tactical holster	3/2015	CopsPlus 630415	167.55
15-61244	01-00111	City of Yukon (BankOne)PD	evidence bags	3/2015	TeelTech P8449	565.00
15-61184	01-30600	Lowe's Companies, Inc.	trash cans-store dog food	3/2015	09288	146.22
15-61234	01-30600	Lowe's Companies, Inc.	freezer for AC	3/2015	77026	567.15
15-61301	01-30600	Lowe's Companies, Inc.	weed killer	3/2015	15377	9.47
15-61342	01-39963	Pitney Bowes Purchase Power	Police Dept	3/2015	03-31-15	400.00
15-60942	01-41440	ProStar Service-Oklahoma	coffee service	3/2015	138224	65.05
15-61186	01-46940	Sam's Club Direct-G.E.Capit	Prisoner breakfast	3/2015	2156	458.58
15-61187	01-46940	Sam's Club Direct-G.E.Capit	Cleaning supplies AC	3/2015	2157A	125.24
15-60839	01-48410	Special Ops Uniforms, Inc	Stilley shirts	3/2015	229329	166.47
15-61040	01-90116	Acorn Food Services	Frame meals-DTI Training	2/2015	106	324.00
DEPARTMENT TOTAL:						3,606.89

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P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 108 STREET DEPARTMENT						
15-57903	01-00180	City of Yukon (BankOne)PW	emulsion for patcher	3/2015	VanceBros. 075598	569.25
			emulsion for patcher	3/2015	VanceBros. 075568	528.00
15-60786	01-00180	City of Yukon (BankOne)PW	traffic counter	3/2015	CTC 35156	1,295.00
15-61068	01-00180	City of Yukon (BankOne)PW	clamps for banners	3/2015	Locke 25307060-00	180.35
15-61312	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50700156	66.00
15-61330	01-00180	City of Yukon (BankOne)PW	led lights for signals	3/2015	Gades 0065910-IN	508.00
15-61389	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50701300	65.99
15-61492	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50702433	65.89
15-60488	01-04477	Brewer Construction Oklahom	road repair	3/2015	2015-11	2,038.98
15-60040	01-09525	Dolese Bros. Company	screened fill sand	3/2015	AG15023638	603.47
			screened fill sand	3/2015	AG15024198	298.82
15-61447	01-30600	Lowe's Companies, Inc.	trash bags	3/2015	02500	56.92
15-61468	01-30600	Lowe's Companies, Inc.	storage containers	3/2015	08946	62.64
15-61442	01-47670	SignalTek, Inc.	signa light repairs	3/2015	10477	2,306.07
			maint fee for mar 15	3/2015	10477	775.00
15-61177	01-90200	Bill Frank's Trucking	rock salt	3/2015	79282	4,004.80
DEPARTMENT TOTAL:						13,425.18
DEPARTMENT: 109 MUNICIPAL COURT						
15-61303	01-00106	City of Yukon (BankOne)CRT	Office Supplies	3/2015	Staples 7133263919	56.99
15-61304	01-00106	City of Yukon (BankOne)CRT	Postage Stamps	3/2015	USPS 186	49.00
15-61343	01-00106	City of Yukon (BankOne)CRT	Postage	3/2015	USPS 287	9.08
			Postage	3/2015	USPS 287	25.96
15-61224	01-06860	Consolidated Business Solut	Court minute Forms	3/2015	17951	150.00
DEPARTMENT TOTAL:						291.03
DEPARTMENT: 110 EMERGENCY MANAGEMENT						
15-61382	01-00125	City of Yukon (BankOne)EM	Office Supplies	3/2015	Staples 01288	24.48
15-61436	01-00125	City of Yukon (BankOne)EM	Postage/Comm.Event	3/2015	USPS 273	98.00
15-61402	01-17510	Grimes Electric, LLC	Troubleshoot	2/2015	3067	400.00
			Control Board	2/2015	3067	1,975.00
			Drivers	2/2015	3067	400.00
			Driver	2/2015	3067	850.00
			Drivers	2/2015	3067	400.00
			Drivers replaced	2/2015	3067	1,700.00
15-61383	01-70045	Lori Adams	reimb meal-CGA Conf	3/2015	03-10-15	25.11
			reimb meal-CGA Conf	3/2015	03-10-15	18.19
15-61403	01-70045	Lori Adams	Reimb Mileage-GrantWritin	3/2015	03-05-15	71.68
DEPARTMENT TOTAL:						5,962.46

FUND: 01 - General Fund

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 111		TECHNOLOGY				
15-61226	01-00123	City of Yukon (BankOne)TEC	iPhone 5 Cable	3/2015	Amazon 03-09-15	44.90
15-61320	01-00123	City of Yukon (BankOne)TEC	Lithuim Batteries	3/2015	BatteryJunc 750772	40.33
15-61325	01-00123	City of Yukon (BankOne)TEC	Coax cable	3/2015	RadioShack 3-16-15	20.99
15-61360	01-00123	City of Yukon (BankOne)TEC	3 Drawer Cart	3/2015	Walmart 03008	9.97
			Paint	3/2015	Walmart 03008	26.97
			Paint Tray	3/2015	Walmart 03008	5.72
			Paint brushes	3/2015	Walmart 03008	3.97
			Rollers	3/2015	Walmart 03008	7.34
			Roller Frame	3/2015	Walmart 03008	3.94
15-61376	01-00123	City of Yukon (BankOne)TEC	Mob Phone Srvc-Feb15	3/2015	Verizon 9741852303	5,294.56
15-61377	01-00123	City of Yukon (BankOne)TEC	Connection Card Plan	3/2015	Sprint 03-12-15	75.00
15-61378	01-00123	City of Yukon (BankOne)TEC	Memory	3/2015	CDW-G TG40030	95.74
15-61415	01-00123	City of Yukon (BankOne)TEC	iPad ServiceFE'15	3/2015	Verizon 9741852306	384.78
15-61416	01-00123	City of Yukon (BankOne)TEC	iPad ServiceFE'15	3/2015	Verizon 9741852307	294.60
15-61464	01-00123	City of Yukon (BankOne)TEC	Internet/Cable Srvc	3/2015	Cox 03-07-15	2,470.62
15-61480	01-00123	City of Yukon (BankOne)TEC	Cyber Microphone	3/2015	CDW-G TK69577	38.94
			Microsoft LifeCam	3/2015	CDW-G TK69577	76.06
			Tripp Lite USB Cable	3/2015	CDW-G TK69577	28.63
			C2G Stereo Audio Cab	3/2015	CDW-G TK69577	9.54
15-61481	01-00123	City of Yukon (BankOne)TEC	HP Ink	3/2015	Quill 2739086	241.99
			HP Ink	3/2015	Quill 2741108	147.98
15-61537	01-01050	Assoc of Central OK Govt	Lang.Line Usage NV14	12/2014	2029	94.50
15-61326	01-27720	Kronos, Inc.	Sft Usage Fee	3/2015	10929089	773.10
15-61328	01-48885	Superior Office Systems	Copier Rental Charge	3/2015	7899	825.00
			Per Page Copy Charge	3/2015	7899	253.76
15-61327	01-51740	Tyler Technologies, Inc.	System Managment Srvc	4/2015	025-119532	578.81
15-61359	01-51740	Tyler Technologies, Inc.	Custom Export UB&Court	4/2015	025-119037	449.25
15-61531	01-72890	Rhonda Massey	MileageReimb-MR'15	3/2015	Mar '15	16.68
15-61530	01-90101	Absolute Data Shredding	Hard Drive Destruction	3/2015	7013	330.00
			Tapes Destruction	3/2015	7013	30.00
15-61319	01-90306	Carte Design, LLC	Online City Map Renewal	3/2015	1058	1,140.00
DEPARTMENT TOTAL:						13,813.67

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P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 112 DEVELOPMENT SERVICES						
15-60584	01-00107	City of Yukon (BankOne)CMD	Motel & Meals OCEA Conf	3/2015	Hilton 305	122.60
			Motel & Meals OCEA Conf	3/2015	Cheddars 030615	30.00
15-60996	01-00107	City of Yukon (BankOne)CMD	NECA Publication	3/2015	NECA 03-17-15	120.00
15-61092	01-00107	City of Yukon (BankOne)CMD	IAEI Inspector-Hort	3/2015	IAEI 03-13-15	286.00
15-61298	01-00107	City of Yukon (BankOne)CMD	Office Supplies	3/2015	Staples 7133717825	97.85
15-61299	01-00107	City of Yukon (BankOne)CMD	Flood Plain Lunch	3/2015	Gaylas 561528	52.07
15-61318	01-00107	City of Yukon (BankOne)CMD	Gatorade/Water	3/2015	Lowes 02685	67.49
15-61324	01-00107	City of Yukon (BankOne)CMD	2012 Bldg Code Book	3/2015	Amazon 03-24-15	138.24
15-61342	01-39963	Pitney Bowes Purchase PowerDev	Services	3/2015	03-31-15	625.00
15-61440	01-47660	Shred-it USA LLC	document destruction	3/2015	9405204236	9.01
15-61437	01-75350	Ken Silk	Reimburse turnpike fee	3/2015	03-05-15	5.25
DEPARTMENT TOTAL:						1,553.51
DEPARTMENT: 113 LIBRARY						
15-61123	01-00108	City of Yukon (BankOne)LIB	Postage for ILL & Overdue	3/2015	USPS 252	45.50
DEPARTMENT TOTAL:						45.50
DEPARTMENT: 114 PROPERTY MAINTENANCE						
15-61094	01-00112	City of Yukon (BankOne)PROP	First Aid Supplies	3/2015	FirstAidEx 36101	85.95
15-61321	01-00112	City of Yukon (BankOne)PROP	Keys for Transit Van	2/2015	JoeCooper 77312Y	69.95
15-61341	01-00112	City of Yukon (BankOne)PROP	Light Bulbs	3/2015	Locke 25348907-00	46.53
15-61404	01-00112	City of Yukon (BankOne)PROP	Bathroom Faucets	3/2015	Locke 25380094-00	187.07
15-61312	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50700156	30.27
15-61389	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50701300	30.27
15-61492	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50702433	30.27
15-61202	01-01033	Action Lock & Safe	change locks,keys-Library	2/2015	F75024	425.00
15-61540	01-06750	Clearwater Enterprises, LLC	SrvvcCity Bldgs-02/15	3/2015	84761502	2,068.63
15-61485	01-36715	OK Dept of Labor	Boiler Inspection 2015	3/2015	535821	50.00
15-61541	01-37200	OK Gas & Electric	Srvc-Comb.Bill-Feb15	3/2015	03/12/15	28,891.21
15-61542	01-37200	OK Gas & Electric	Service-550SYukonPkw	3/2015	03/11/15 550SYukon	411.29
15-61543	01-37200	OK Gas & Electric	Service-951 Industrial	3/2015	03/13/15 951 Indus	152.28
15-61544	01-37200	OK Gas & Electric	Service-334 Elm	3/2015	03-23-15 334 Elm	370.31
15-61545	01-37200	OK Gas & Electric	Service-501 Ash-SecLight	3/2015	03-26-15 501 Ash	69.51
15-61546	01-37600	OK Natural Gas Co	Service-100 S Ranchw	3/2015	03/09/15 100 S Ran	1,142.17
15-61547	01-37600	OK Natural Gas Co	Service-1000 E Main	3/2015	03/09/15 1000 E Ma	1,920.60
15-61548	01-37600	OK Natural Gas Co	Service-4900 WagnerWay	3/2015	03/09/15 4900Wagne	27.53
15-61549	01-37600	OK Natural Gas Co	Service-951 Industri	3/2015	03/09/15 951 Indus	290.94
15-61550	01-37600	OK Natural Gas Co	TranspChrg-1035 Indu	3/2015	03/13/15 1035 Indu	273.27
15-61551	01-37600	OK Natural Gas Co	TranspChrg-501 Ash	3/2015	03/13/15 501 Ash	322.20
DEPARTMENT TOTAL:						36,895.25

FUND: 01 - General Fund

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 115		HUMAN RESOURCES				
15-61309	01-00117	City of Yukon (BankOne)HR	Safety Lunch Supplies	3/2015	HobLob 03-11-15	14.17
15-61311	01-00117	City of Yukon (BankOne)HR	donuts-UP Train Safety	3/2015	DaylightDo 3-12-15	26.00
15-61388	01-01005	5 Star Compliance Testing,	Rapid drug test	2/2015	649	35.00
			Rapid drug test	2/2015	657	35.00
			Rapid drug test	2/2015	658	35.00
			Rapid drug test	2/2015	661	35.00
			Rapid drug test	2/2015	662	35.00
			Rapid drug test	2/2015	665	35.00
			Rapid drug test	2/2015	673	35.00
			Rapid drug test	2/2015	685	35.00
			Non DOT Random	2/2015	687	35.00
15-61367	01-22550	International Public Manage	Agency Membership	4/2015	INV-06315-K9X1J2	315.00
15-61366	01-37470	OK Municipal League	Library Assoc Ad	3/2015	056105	10.00
15-61553	01-47660	Shred-it USA LLC	Doc.destruction	3/2015	9405195908	9.14
15-61308	01-53450	United Linen - Uniform Re	Safety Lunch Linen	3/2015	S1807195	148.50
15-61365	01-91406	National Safety Council	Membership-NSC	1/2015	01-23-15	676.00
DEPARTMENT TOTAL:						1,513.81
DEPARTMENT: 116		PARK ADMINISTRATION				
15-59549	01-00110	City of Yukon (BankOne)REC	event supplies	2/2015	HobLob 02-28-15	84.46
			event supplies	3/2015	HobLob 03-11-15	16.47
			event supplies	3/2015	A&BWhole 27703	57.15
15-60431	01-00110	City of Yukon (BankOne)REC	office Supplies	3/2015	Safco 19932	55.17
			office Supplies	3/2015	Walmart 04616A	18.69
			office Supplies	3/2015	Staples 03077	256.64
			credit supplies	3/2015	Staples 04597	49.98-
15-60999	01-00110	City of Yukon (BankOne)REC	Supplies for fish out	3/2015	Walmart 00183	98.21
			Supplies for fish out	3/2015	Walmart 09094	24.33
15-61006	01-00110	City of Yukon (BankOne)REC	banner material	3/2015	Staples 01543	186.51
			banner material	3/2015	Staples 00783	207.42
			banner material	3/2015	Staples 02543	78.97
15-61044	01-00110	City of Yukon (BankOne)REC	Senior Games awards	2/2015	Crown 05376016	1,797.81
15-61048	01-00110	City of Yukon (BankOne)REC	ad for Spring issue	3/2015	Amerikidz 2015-1	435.00
15-61049	01-00110	City of Yukon (BankOne)REC	FOC Lunch	3/2015	FatDaddys 03-05-15	60.00
15-61175	01-00110	City of Yukon (BankOne)REC	copy paper	3/2015	DigiMARIN748989DMW	617.11
15-61251	01-00110	City of Yukon (BankOne)REC	shirts for taste of yukon	3/2015	SkisTees 03-18-15	729.00
15-61253	01-00110	City of Yukon (BankOne)REC	Taste of Yukon supplies	3/2015	PartyGala 03-21-15	64.48
			Taste of Yukon supplies	3/2015	Walmart 09839	6.65
15-61373	01-00110	City of Yukon (BankOne)REC	Music Cord for shuttles	3/2015	Walmart 04617	36.55
15-60430	01-07390	Crosslands A & A Rent-All	Sporta potties	7/2014	2213-1	105.00
			porta potties	11/2014	11277A-7	63.00
			porta potties	11/2014	11280B-7	63.00
			porta potties	12/2014	12790C-7	63.00
			porta potties	12/2014	13568-7	244.00
15-61316	01-25500	JVH Marketing	wearing apparel	3/2015	33015	400.00
15-59766	01-32660	Mobile Mini, Inc.	Mobile Mini Christmas	10/2014	111437887	95.00
15-61342	01-39963	Pitney Bowes Purchase Power	Park Admin	3/2015	03-31-15	875.00

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P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 116 PARK ADMINISTRATION						
15-60820	01-46940	Sam's Club Direct-G.E.Capitevent	supplies/candy	3/2015	4633	98.68
15-61252	01-46940	Sam's Club Direct-G.E.Capitchocolate	corner	3/2015	4631	102.36
15-60043	01-47660	Shred-it USA LLC	document shredding	3/2015	9405204226	9.01
15-61198	01-48373	Southwestern Stationery and	Business Cards	2/2015	37179A	103.33
15-61255	01-53450	United Linen - Uniform Re	Linens for Taste of Yukon	3/2015	S1811315	70.40
DEPARTMENT TOTAL:						7,072.42
DEPARTMENT: 117 PARK MAINTENANCE						
15-61204	01-00110	City of Yukon (BankOne)REC	Parts for chainsaw	3/2015	Maxwell 425934	15.26
			Parts for chainsaw	3/2015	Whitton 1506183	30.90
15-61205	01-00110	City of Yukon (BankOne)REC	parts for sprayer	3/2015	Wylie 252069	11.80
			parts for sprayer	3/2015	GillesBros 9450	75.21
15-61368	01-00110	City of Yukon (BankOne)REC	flower pots CTP	3/2015	Seasonal 19270	450.00
15-61428	01-00110	City of Yukon (BankOne)REC	repair wiley sprayer	3/2015	Wylie 0252897	123.86
15-61459	01-00110	City of Yukon (BankOne)REC	hose for chemical sprayer	3/2015	Napa 595587	174.80
			hose for chemical sprayer	3/2015	Locke 25353721-00	8.16
15-61312	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50700156	32.54
15-61389	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50701300	32.54
15-61492	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50702433	32.54
15-61357	01-06381	City of Yukon-Petty Cash	Worden Turnpike Toll	3/2015	Turnpike Mar '15	11.05
15-61294	01-30600	Lowe's Companies, Inc.	Parts for sprayer	3/2015	02687	56.88
15-61346	01-30600	Lowe's Companies, Inc.	supplies to set Statues	3/2015	02237	20.50
			supplies to set Statues	3/2015	02688	11.97
			supplies to set Statues	3/2015	01784A	44.28
			supplies to set Statues	3/2015	10756	55.34
			supplies to set Statues	3/2015	01514	28.47
DEPARTMENT TOTAL:						1,216.10
DEPARTMENT: 118 RECREATION FACILITIES						
15-60729	01-00110	City of Yukon (BankOne)REC	Spring Break Camp items	3/2015	Walmart 07252	172.85
15-60818	01-00110	City of Yukon (BankOne)REC	T-shirts soccer league	3/2015	SkisTees 03-18-15	512.00
15-60868	01-00110	City of Yukon (BankOne)REC	YCC Family camp night	3/2015	Walmart 06865	115.58
15-60928	01-00110	City of Yukon (BankOne)REC	Bunco supplies	3/2015	Walmart 06903	98.67
15-60929	01-00110	City of Yukon (BankOne)REC	Locke Supply	3/2015	Locke 25251509-00	61.98
15-60930	01-00110	City of Yukon (BankOne)REC	Parent night out	3/2015	Walmart 01131	73.73
15-61047	01-00110	City of Yukon (BankOne)REC	Scripts for play	3/2015	SamFrench 10098567	137.62
			Scripts for play	3/2015	DollarTree 3-11-15	10.00
15-61128	01-00110	City of Yukon (BankOne)REC	dishwasher repair	3/2015	Winnelson 28769200	44.24
15-61147	01-00110	City of Yukon (BankOne)REC	new chair rack	12/2015	McCourt 12-03-15	203.20
15-61182	01-00110	City of Yukon (BankOne)REC	picture printer film	3/2015	ImagSpec 0311001	109.00
15-61296	01-00110	City of Yukon (BankOne)REC	replace broken BB goal	3/2015	BSN 96786931	271.43
15-61348	01-00110	City of Yukon (BankOne)REC	lunches	3/2015	Walmart 04341A	7.90
			lunches	3/2015	Walmart 04340	24.27
15-61425	01-00110	City of Yukon (BankOne)REC	hose for water pump	3/2015	ICM OK803564PW	350.00
15-61430	01-00110	City of Yukon (BankOne)REC	Birthday dinner	3/2015	Walmart 01176	17.52
			Birthday dinner	3/2015	Walmart 04950	46.88

FUND: 01 - General Fund

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 118		RECREATION FACILITIES				
15-61433	01-00110	City of Yukon (BankOne)REC	Stereo weight room YCC	3/2015	Crutchfie 41501055	299.99
15-61461	01-00110	City of Yukon (BankOne)REC	light bulbs & ballasts	3/2015	Locke 25454276-00	403.35
15-61316	01-25500	JVH Marketing	wearing apparel	3/2015	33015	522.00
15-61207	01-30600	Lowe's Companies, Inc.	tools for centers	3/2015	01423	177.39
			tools for centers	3/2015	02841	5.38
			tools for centers	3/2015	01758C	352.60
15-61424	01-30600	Lowe's Companies, Inc.	freezer/microwave pool	3/2015	78345	734.34
15-61342	01-39963	Pitney Bowes Purchase Power	Rec Fac	3/2015	03-31-15	185.00
15-60815	01-46940	Sam's Club Direct-G.E.Capit	Girls lock in supplies	3/2015	5147	102.78
15-61317	01-46940	Sam's Club Direct-G.E.Capit		3/2015	4632	46.86
15-61374	01-46940	Sam's Club Direct-G.E.Capit	Birthday dinner	3/2015	4898	43.49
15-61462	01-90210	Joe Boucherie	entertainment	3/2015	03-25-15	50.00
DEPARTMENT TOTAL:						5,180.05
FUND TOTAL:						117,502.82

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 501 SALES TAX CAPITAL IMPROV						
15-60994	01-00110	City of Yukon (BankOne)REC	new branded banners	3/2015	Signs2Go 16215	720.00
			new branded banners	3/2015	Signs2Go 16182	324.00
			new branded banners	3/2015	Signs2Go 16260	261.00
			new branded banners	3/2015	Ace 874111	34.42
15-61236	01-00111	City of Yukon (BankOne)PD	shields and bags	3/2015	Galls 3799177	3,976.80
			shields and bags	3/2015	Galls 3802281	296.00
15-61246	01-00111	City of Yukon (BankOne)PD	remotes for target system	3/2015	Elite 15-1457	550.00
15-61012	01-00112	City of Yukon (BankOne)PROP	Supplies for new sign	2/2015	Locke 25173414-00	1,436.67
			Supplies for new sign	2/2015	Locke 25216092-00	83.47
15-61361	01-00123	City of Yukon (BankOne)TEC	Canon DR-C130 Scanner	3/2015	Staples 01139	490.61
15-61489	01-00123	City of Yukon (BankOne)TEC	iPad	3/2015	Verizon 03-23-15	529.99
15-60334	01-00136	City of Yukon (BankOne)ED	Main St booth merchandise	3/2015	AAA 1312	104.00
15-60590	01-00136	City of Yukon (BankOne)ED	MS business welcome gift	3/2015	YukonTrophy 315171	76.20
15-60747	01-00136	City of Yukon (BankOne)ED	Main St. promo. supplies	3/2015	GreenChile 10041	66.00
			Main St. promo. supplies	3/2015	Ace 03-24-15	6.69
			Main St. promo. supplies	3/2015	Party 03-23-15	69.00
			Main St. promo. supplies	3/2015	Staples 00876	58.76
			Main St. promo. supplies	3/2015	Staples 00925	77.00
15-61210	01-00180	City of Yukon (BankOne)PW	meter installations	3/2015	HDSupply D711933	2,053.04
15-61313	01-00180	City of Yukon (BankOne)PW	2" fitting	3/2015	HDSupply D652061	174.00
15-61351	01-00180	City of Yukon (BankOne)PW	10" tap saddle	3/2015	OKContr 0538292	55.00
15-61180	01-04475	Brewer Construction Co.	fill in baby pool	3/2015	2015-12	8,527.50
15-61181	01-04475	Brewer Construction Co.	repave YCC	3/2015	2015-13	1,758.00
15-60777	01-04477	Brewer Construction Oklahom	Road and Guttering	3/2015	2015-10	13,695.20
15-61082	01-05395	Casco Industries, Inc.	Andrews - bunker boots	3/2015	153426	345.00
15-61188	01-05490	CDW Government Inc.	HP Wkstn and NIC	3/2015	SZ24956	1,064.49
15-61511	01-05490	CDW Government Inc.	Acer monitor	3/2015	TM09809	795.30
15-60570	01-30600	Lowe's Companies, Inc.	Main St booth supplies	3/2015	02300	56.99
15-60770	01-30680	Luther Sign Company	new street markers	3/2015	10180	822.65
15-61149	01-33740	NAFECO Inc.	repair bunker gear	2/2015	771253	102.75
15-61552	01-37640	Olsson Associates	ProfSrvcs-YukonAthleticCo	3/2015	227290	21,231.69
15-61264	01-44395	Recorded Books, LLC	DVD Standing Order	2/2015	6577948	211.77
15-58903	01-51740	Tyler Technologies, Inc.	3rd Party Print Interface	3/2015	025-119579	2,500.00
15-61409	01-55901	Vermeer Great Plains	Hydro excavator	3/2015	E00254	57,973.00
DEPARTMENT TOTAL:						120,526.99

FUND: 36 - ST Capital Improvement

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 502		ECONOMIC DEVELOPMENT				
15-61305	01-00136	City of Yukon (BankOne)ED	Yukon Review subscription	3/2015	YukonRevie 3-11-15	45.00
15-61435	01-00136	City of Yukon (BankOne)ED	travel exp OKC ChambLunch	3/2015	Republic 03-09-15	8.00
15-61342	01-39963	Pitney Bowes Purchase PowerEcon Dev		3/2015	03-31-15	50.00
15-61401	01-73080	Larry Mitchell	Reimb mileage- IQC C	3/2015	03-23-15	43.70
15-61306	01-73735	Amy Phillips	mil. reimbursement	3/2015	03-11-15	28.75
15-61375	01-73735	Amy Phillips	Reimb mileage-FarmMrktCon	3/2015	03-16-15	13.80
					DEPARTMENT TOTAL:	189.25
					FUND TOTAL:	120,716.24

FUND: 64 - Special Revenue

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 117      ** INVALID DEPARTMENT **						
15-60638	01-1	Market Source	kitchen items DRC	3/2015	M 03-17-15	6,675.64
						DEPARTMENT TOTAL:
						6,675.64
DEPARTMENT: 123      SPECIAL EVENT REVENUE						
15-60665	01-00101	City of Yukon (BankOne)ADM	Christmas Supplies	1/2015	Peacock 89158	88.50
			charged wrong account	2/2015	JoeCooper 77312YA	69.95-
15-61201	01-00101	City of Yukon (BankOne)ADM	Christmas Displays	1/2015	Winterland 57041	2,525.00
15-61340	01-00101	City of Yukon (BankOne)ADM	Christmas Supplies & Deco	2/2015	Peacock 90993	162.84
15-61406	01-01040	Action Safety	Traffic Control-CIP	1/2015	00191865A	1,690.00
15-60341	01-63050	Yukon Trophy & Awards, Inc.	Signage for the new train	3/2015	1214326	700.00
						DEPARTMENT TOTAL:
						5,096.39
DEPARTMENT: 142      INSURANCE REIMBURSEMENTS						
15-61510	01-00123	City of Yukon (BankOne)TEC	Replacement crack Screen	3/2015	JumpTronic 2057	98.10
						DEPARTMENT TOTAL:
						98.10
DEPARTMENT: 144      LIBRARY STATE AID						
15-61266	01-00108	City of Yukon (BankOne)LIB	Postage for ILL and stamp	3/2015	USPS 344	51.68
						DEPARTMENT TOTAL:
						51.68
DEPARTMENT: 167      POLICE DEPT SPECIAL REVEN						
15-60735	01-00111	City of Yukon (BankOne)PD	Henderson/Carrol training	3/2015	LoneStar 6806	53.67
			Henderson/Carrol training	3/2015	OliveGarden 423	38.00
			Henderson/Carrol training	3/2015	OsageHotel 03-6-15	166.00
15-60762	01-36300	OK Board of Tests	intoxylizer certification	2/2015	3557	62.00
						DEPARTMENT TOTAL:
						319.67
						FUND TOTAL:
						12,241.48

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 201 WATER DISTRIBUTION						
15-60187	01-00180	City of Yukon (BankOne)PW	cng for vehicles	3/2015	OnCue 03-18-15	29.16
			cng for vehicles	3/2015	Loves 93577	14.31
15-60494	01-00180	City of Yukon (BankOne)PW	parts to repair vehicles	3/2015	Napa 595218	11.69
15-60749	01-00180	City of Yukon (BankOne)PW	tap saddles	3/2015	HDSupply D555580	548.92
15-61091	01-00180	City of Yukon (BankOne)PW	hand cleaner	3/2015	Classic 439650	108.90
15-61136	01-00180	City of Yukon (BankOne)PW	parts to repair vehicles	3/2015	OCT K71793	100.80
			parts to repair vehicles	3/2015	J&REquip 27847	114.34
15-61155	01-00180	City of Yukon (BankOne)PW	green spray paint	3/2015	ICM OK816547PW	39.60
			blue spray paint	3/2015	ICM OK816547PW	79.20
15-61293	01-00180	City of Yukon (BankOne)PW	parts for water line repa	3/2015	HDSupply D667529	1,251.20
15-61312	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50700156	46.09
15-61331	01-00180	City of Yukon (BankOne)PW	paint, brushes, thinner	3/2015	Ace 874126	125.91
15-61349	01-00180	City of Yukon (BankOne)PW	gravel	3/2015	Dolese 03-13-15	42.46
15-61350	01-00180	City of Yukon (BankOne)PW	3/4" meters	3/2015	HDSupply D711908	900.00
15-61389	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50701300	46.09
15-61492	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50702433	46.09
15-57906	01-09525	Dolese Bros. Company	concrete, gravel	3/2015	RM15012049	142.00
15-61272	01-39550	Paul Penley Oil Company,	Inunleaded fuel	3/2015	0108101-IN	456.20
			diesel fuel	3/2015	0108101-IN	88.22
15-61491	01-39550	Paul Penley Oil Company,	Inunleaded fuel	3/2015	0108503-IN	406.09
			diesel fuel	3/2015	0108503-IN	245.71
15-61342	01-39963	Pitney Bowes Purchase Power	Water Dist	3/2015	03-31-15	25.00
15-61556	01-50700	Triad Design Group	Eng Srvcs-03/25/15	3/2015	9241	476.27
DEPARTMENT TOTAL:						5,344.25
DEPARTMENT: 202 UTILITY BILLING						
15-61413	01-00123	City of Yukon (BankOne)TEC	MR Phone Srvcs-FE'15	3/2015	Verizon 9741852304	169.95
15-61078	01-00170	City of Yukon (BankOne)UB	Custom Payment Stamps	3/2015	Xstamper 181188	167.50
			Ink Refill Cartridge	3/2015	Xstamper 181188	5.95
15-61228	01-00170	City of Yukon (BankOne)UB	office supplies	3/2015	Staples 7133338735	51.54
15-61384	01-00170	City of Yukon (BankOne)UB	Chll It Water Bottle	3/2015	Cooper 12699970	51.50
			Chill Its towels	3/2015	Cooper 12699970	46.30
			Chill Its Bandana	3/2015	Cooper 12699970	18.65
			Chill Its Hat	3/2015	Cooper 12699970	26.60
			UPS shipping	3/2015	Cooper 12699970	17.35
15-61473	01-00170	City of Yukon (BankOne)UB	Keurig Coffee System	3/2015	Staples 7134075342	159.95
			Keurig Wire Rack	3/2015	Staples 7134075342	48.29
			Asst.coffees & teas	3/2015	Staples 7134075342	96.99
			1,000 pk cups	3/2015	Staples 7134075342	38.49
15-61312	01-00180	City of Yukon (BankOne)PW	uniform cleaning, rental	3/2015	Clean 50700156	21.51
15-61389	01-00180	City of Yukon (BankOne)PW	uniform cleaning, rental	3/2015	Clean 50701300	21.51
15-61492	01-00180	City of Yukon (BankOne)PW	uniform cleaning, rental	3/2015	Clean 50702433	21.51
15-61357	01-06381	City of Yukon-Petty Cash	Peak wasp spray	7/2014	Walmart 05112	5.94
			Hancock Postage Due	3/2015	USPS Mar '15	0.49
			Hancock Postage Due	3/2015	USPS Mar '15	0.21
			Hancock Postage Due	3/2015	USPS Mar '15	0.63
			Hancock Postage Due	3/2015	USPS Mar '15	0.49

FUND: 70 - Water &amp; Sewer Enterprise

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 202		UTILITY BILLING				
			Hancock Postage Due	3/2015	USPS Mar '15	0.21
			Hancock Postage Due	3/2015	USPS Mar '15	0.21
			Edmonds Postage Due	3/2015	USPS Mar '15	0.04
			Hancock Postage Due	3/2015	USPS Mar '15	0.21
			Hancock Postage Due	3/2015	USPS Mar '15	0.21
			Hancock Postage Due	3/2015	USPS Mar '15	0.21
15-61272	01-39550	Paul Penley Oil Company,	Inunleaded fuel	3/2015	0108101-IN	295.75
15-61491	01-39550	Paul Penley Oil Company,	Inunleaded fuel	3/2015	0108503-IN	352.58
15-61358	01-39960	Pitney Bowes	Mail Machine Lease	3/2015	7245806-MR15	704.67
15-61342	01-39963	Pitney Bowes Purchase Power	Utility Billing	3/2015	03-31-15	1,000.00
15-61553	01-47660	Shred-it USA LLC	Doc.destruction	3/2015	9405195908	9.14
15-61359	01-51740	Tyler Technologies, Inc.	Custom Export UB&Court	4/2015	025-119037	449.26
DEPARTMENT TOTAL:						3,783.84
DEPARTMENT: 203		TREATMENT AND SUPPLY				
15-61539	01-06375	City of Oklahoma City	Water Usage - Feb'15	3/2015	03/12/15	94,918.35
DEPARTMENT TOTAL:						94,918.35
DEPARTMENT: 204		FLEET MAINTENANCE				
15-59982	01-00180	City of Yukon (BankOne)PW	oils, lubricants etc	3/2015	Napa 594908	55.00
			oils, lubricants etc	3/2015	Napa 594294	22.49
			oils, lubricants etc	3/2015	UnitedEng 648116	160.74
			oils, lubricants etc	3/2015	Napa 594239	59.76
			oils, lubricants etc	3/2015	Napa 593651	14.98
15-60187	01-00180	City of Yukon (BankOne)PW	cng for vehicles	3/2015	Loves 073311	12.47
			cng for vehicles	3/2015	Loves 93582	29.05
15-60492	01-00180	City of Yukon (BankOne)PW	parts to repair vehicles	3/2015	OReily 0343-475531	232.06
			parts to repair vehicles	3/2015	OReily 0343-472323	238.75
15-60494	01-00180	City of Yukon (BankOne)PW	parts to repair vehicles	3/2015	Napa 595218	146.18
			parts to repair vehicles	3/2015	Napa 594496	478.22
			parts to repair vehicles	3/2015	Napa 593809	280.72
15-60495	01-00180	City of Yukon (BankOne)PW	tires for vehicles	2/2015	Goodye 255-1004123	179.00
			tires for vehicles	3/2015	Goodye 255-1004371	139.00
15-61136	01-00180	City of Yukon (BankOne)PW	parts to repair vehicles	3/2015	UnitedEng 648677	111.16
			parts to repair vehicles	3/2015	Ace 874065	4.39
			parts to repair vehicles	3/2015	AutoFX 25467	399.90
			parts to repair vehicles	3/2015	UnitedEng 648117	52.62
			parts to repair vehicles	3/2015	GillesBros 3-9-15	25.25
			parts to repair vehicles	3/2015	Conrad 498040	80.21
			parts to repair vehicles	3/2015	Conrad 497942	57.44
			parts to repair vehicles	3/2015	Conrad 497947	53.61
			parts to repair vehicles	3/2015	Cummins 020-79146	541.45
			parts to repair vehicles	3/2015	JoeCooper 77799Y	81.28
			parts to repair vehicles	3/2015	SSI 378983	72.00
			parts to repair vehicles	3/2015	Wylie 0252602	112.88
			parts to repair vehicles	3/2015	Wylie 0252825	246.40

FUND: 70 - Water &amp; Sewer Enterprise

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 204		FLEET MAINTENANCE				
15-61179	01-00180	City of Yukon (BankOne)PW	repairs to Rescue Truck	3/2015	JoeCooper 552825	3,144.65
15-61213	01-00180	City of Yukon (BankOne)PW	fan and blower	3/2015	Locke 25380092-00	343.29
15-61225	01-00180	City of Yukon (BankOne)PW	tools	3/2015	HarborFr 127647	123.91
			tools	3/2015	Napa 594295	582.08
15-61312	01-00180	City of Yukon (BankOne)PW	red oil rag rental	3/2015	Clean 50700156	19.78
			uniform cleaning,ren	3/2015	Clean 50700156	17.61
15-61332	01-00180	City of Yukon (BankOne)PW	towels	3/2015	Napa 594519	34.98
15-61389	01-00180	City of Yukon (BankOne)PW	red oil rag rental	3/2015	Clean 50701300	29.54
			uniform cleaning,ren	3/2015	Clean 50701300	17.61
15-61391	01-00180	City of Yukon (BankOne)PW	topside creeper	3/2015	Napa 595435	269.00
15-61443	01-00180	City of Yukon (BankOne)PW	hyd motor and kit	3/2015	Frontie 15323YUKON	800.11
15-61470	01-00180	City of Yukon (BankOne)PW	plier kit	3/2015	OReily 0343-478305	189.63
15-61487	01-00180	City of Yukon (BankOne)PW	hose, coupler	3/2015	Chappell 0410883	32.99
15-61488	01-00180	City of Yukon (BankOne)PW	silicone	3/2015	Ace 874145	8.98
15-61492	01-00180	City of Yukon (BankOne)PW	red oil rag rental	3/2015	Clean 50702433	19.78
			uniform cleaning,ren	3/2015	Clean 50702433	17.57
15-61272	01-39550	Paul Penley Oil Company,	Inunleaded fuel	3/2015	0108101-IN	7,011.39
			diesel fuel	3/2015	0108101-IN	2,289.58
15-61491	01-39550	Paul Penley Oil Company,	Inunleaded fuel	3/2015	0108503-IN	6,594.51
			diesel fuel	3/2015	0108503-IN	1,446.48
15-61342	01-39963	Pitney Bowes Purchase Power	Fleet Maint	3/2015	03-31-15	25.00
15-61352	01-41440	ProStar Service-Oklahoma	coffee service	3/2015	138222	88.43
15-61329	01-53425	DOC/Union City Comm Corr	Ctppwp part of Feb 15	3/2015	UNC2015-8YUKON	260.00
15-61451	01-53425	DOC/Union City Comm Corr	Ctppwp inmate pay feb 15	3/2015	UNC2015-YUK-3128	169.36
			adm fee	3/2015	UNC2015-YUK-3128	16.94
15-61292	01-63050	Yukon Trophy & Awards, Inc.	decals for police vehs	3/2015	315267	1,200.00
DEPARTMENT TOTAL:						28,640.21
FUND TOTAL:						132,686.65

FUND: 71 - Sanitation Enterprise

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 301		SANITATION				
15-61414	01-00123	City of Yukon (BankOne)TEC	Sant Svcs Tablets	3/2015	Verizon 9741852305	160.04
15-59449	01-00171	City of Yukon (BankOne)SAN	paint for dumpsters	3/2015	Ace 874075	139.99
15-61323	01-00171	City of Yukon (BankOne)SAN	meals-SWANA Conf	3/2015	TobyKeith 03-25-15	44.87
15-60494	01-00180	City of Yukon (BankOne)PW	parts to repair vehicles	3/2015	Napa 595218	40.33
			parts to repair vehicles	3/2015	Napa 594496	80.48
			parts to repair vehicles	3/2015	Napa 593809	50.63
15-61136	01-00180	City of Yukon (BankOne)PW	parts to repair vehicles	3/2015	Cummins 020-78766	62.09
			parts to repair vehicles	3/2015	Goodye 255-1004281	50.64
			parts to repair vehicles	3/2015	Eggelhof F-57330-0	150.54
15-61312	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50700156	42.84
15-61389	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50701300	46.97
15-61492	01-00180	City of Yukon (BankOne)PW	uniform cleaning,ren	3/2015	Clean 50702433	51.10
15-58365	01-16565	Goodyear	tires w/ Duraseal	3/2015	255-1004333	299.26
15-61272	01-39550	Paul Penley Oil Company,	Inunleaded fuel	3/2015	0108101-IN	132.93
			diesel fuel	3/2015	0108101-IN	2,922.70
15-61491	01-39550	Paul Penley Oil Company,	Inunleaded fuel	3/2015	0108503-IN	230.58
			diesel fuel	3/2015	0108503-IN	2,794.81
15-61342	01-39963	Pitney Bowes Purchase Power	Sanitation	3/2015	03-31-15	25.00
15-59823	01-41440	ProStar Service-Oklahoma	coffee service	3/2015	138235	32.12
15-61271	01-57420	Waste Connections of Oklaho	Disposal Cost for 2/15	2/2015	20557	19,604.07
15-61322	01-91507	Oklahoma Chapter SWANA	B.Stover part conf	3/2015	Conf15-028	125.00
			R.Luman part. conf	3/2015	Conf15-028	175.00
			C.Ballard part. conf	3/2015	Conf15-028	175.00
DEPARTMENT TOTAL:						27,436.99
FUND TOTAL:						27,436.99

FUND: 73 - Storm Water Enterprise

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 401		STORMWATER				
15-60813	01-00173	City of Yukon (BankOne)SW	Media for Plotters	3/2015	gsDirect 314368	552.74
			Media for Plotters	3/2015	gsDirect 314378	161.17
15-61379	01-05490	CDW Government Inc.	Plotter Maint Renewal	3/2015	TK63025	1,127.39
15-61272	01-39550	Paul Penley Oil Company,	Inunleaded fuel	3/2015	0108101-IN	26.35
15-61491	01-39550	Paul Penley Oil Company,	Inunleaded fuel	3/2015	0108503-IN	37.94
15-61453	01-47660	Shred-it USA LLC	Document destruction	3/2015	9405204237	9.01
					DEPARTMENT TOTAL:	1,914.60
					FUND TOTAL:	1,914.60

P.O.#	VENDOR #	NAME	DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 120		Emergency Mgmt Grants				
15-61339	01-00180	City of Yukon (BankOne)PW	hotel, meals, rental	3/2015	ShingleCreek 7127	1,282.70
			hotel, meals, rental	3/2015	Fox 176743	363.72
			hotel, meals, rental	3/2015	CafeOsceol 3-11-15	32.05
			hotel, meals, rental	3/2015	MonroeSt 03-12-15	24.01
			hotel, meals, rental	3/2015	MonroeSt 03-10-15	15.43
			hotel, meals, rental	3/2015	TobiasFlat 3-11-15	35.54
			hotel, meals, rental	3/2015	OCharleys 3-12-15	33.81
			hotel, meals, rental	3/2015	MeiAsian 3-13-15	25.85
			hotel, meals, rental	3/2015	MillersPub 3-14-15	12.60
			hotel, meals, rental	3/2015	McDonalds 3-14-15	15.42
DEPARTMENT TOTAL:						1,841.13
FUND TOTAL:						1,841.13
GRAND TOTAL:						414,339.91



**PARK ADMINISTRATION**

**DATE:** March 19, 2015  
**FROM:**  Jan Scott  
**TO:** Grayson Bottom  
**RE:** Sports Contracts

**MEMORANDUM**

**Item 1:** Yukon Soccer Club use of Ranchwood and Taylor Park from March 11, 2015 through December 31, 2015.

**CITY OF YUKON  
PARKS AND RECREATION DEPARTMENT  
USE AGREEMENT**

This agreement is made and entered into this day of March 11, 2015 by and between the City of Yukon, a municipal corporation, acting by and through the Yukon Parks and Recreation Department, hereinafter referred to as "the City", and **Yukon Soccer Club** hereinafter referred to as "Organization".

**WITNESS TO:**

**WHEREAS**, the City owns, operates, and maintains recreational facilities for the benefit of the citizens of the City of Yukon and visitors to the City; and

**WHEREAS**, the City desires to allow the public to use certain property under the Supervision of the City of Yukon Parks and Recreation Department, under the terms and conditions as set forth hereafter.

**NOW, THEREFORE**, for and in consideration of the covenants and conditions contained herein, the parties agree as follows;

1. The City shall permit the Organization to use the following property, hereinafter referred to as the "Leased Premises": **Ranchwood and Taylor Park.**
2. **Duration of Permit:** This permit shall be effective and the Organization shall be permitted to use the Leased Premises from **March 11, 2015 through December 31, 2015** according to the following schedule:  
**March 11, 2015 – December 31, 2015**  
**Monday through Friday 8:00 a.m.-dusk**  
**Saturday and Sunday 7:00 a.m.-dusk**  
**Portable lights may be used until park closing of 12 a.m. during the winter months as necessary. This shall be at the sole expense of the Yukon Soccer Club**
3. **Use of leased Premises:** The Organization shall be permitted to use the Leased Premises for the following activity or activities: **Youth soccer games and practice**

In no event shall the Organization use the Lease Premises for any purpose or for any activity not listed above, without obtaining the express approval of the Parks and Recreation Department, or the Parks and Recreation Director.

4. **Ownership:** The organization hereby acknowledges that the City is the owner of all of the property described in this permit, including real property improvements existing or erected thereon, and the Organization agrees to cooperate and protect said improvements existing or erected thereon, and the Organization agrees to cooperate and protect said improvements from damage. Title to any personal property provided by the Organization shall remain in the name of the Organization. No buildings, displays or other structures, either permanent or temporary, shall be erected or positioned within the park without prior approval of the Parks and Recreation Director.
5. **Security and Site Selection:** Organization will be responsible for providing security in addition to normal city police. Each organization agrees to follow the direction and instructions of the Parks and Recreation Director in regard to area assignment for parking, exhibits, or any other activities or functions associated with this permit.
6. **Accounts and Records:** Organization shall keep true and accurate books and records showing all of its transactions and the city shall have the option to inspect such books and records. Organization hereby agrees that a year-end financial statement shall be submitted to the City.

7. **Refuse:** The city will furnish all necessary refuse and garbage containers and will remove and dispose of all rubbish, refuse and garbage resulting from the special use, events or activity, provided that the refuse is deposited in receptacles provided. The Organization will be responsible for refuse and garbage pick up and facility clean up on the park ground and agrees to restore all park grounds, buildings, facilities and structures to the level of cleanliness and order which existed prior to the event, activity or use. Organization agrees to keep area surrounding the facility neat and orderly, storing all materials and supplies out of view of the general public.
8. **Performance of contract:** Violation by Organization of the terms of this permit shall be grounds for termination by the City; and shall be grounds for prohibiting future contractual use by Organization.
9. **Liability Insurance:** Organization shall indemnify and hold the City and its employees, agents, and officers harmless from all claims, damage, suits cost, or losses arising out any negligence or wrongful conduct of the Organization or from the activities of the Organization pursuant to this agreement. Organization shall obtain public liability insurance naming the Organization as the insured and the City as the additionally insured. Insurance coverage shall be obtained from a duly licensed insurance company within the State of Oklahoma, acceptable to the City, providing for minimum limits of:

**\$1,000,000.00** each person  
**\$1,000,000.00** each accident  
**\$1,000,000.00** property damage

A copy of the insurance policy shall be furnished to the City prior to the commencement of the permit period.

10. **Risk Management Policy:** It is expressly understood and agreed that this agreement is subject to the Risk Management Policy of the City of Yukon. Furthermore, all coaches shall be required to become certified by a recognized coaches certification program It is the responsibility of the Organization to set up said certification clinics for their coaches and require that each coach be certified a week before the season starts.
11. **Inspection of Premises:** The City hereby reserves the right to enter upon the premises occupied by Organization, at any reasonable time, to inspect the same.
12. **Applicable Laws:** Organization shall comply with all Federal laws and regulations and with all other applicable laws, ordinances and regulations of the state, county and municipality where the park is located, with regard to construction, sanitation, licenses, permits and all other matters. Section Nineteen of the Yukon Parks Rules states "No person shall consume or inhale any intoxicating substance for the purposes of this section. "No person shall consume or possess beer within any sport facility at anytime regardless of the alcoholic content.
13. **Non-Discrimination:** Organization and its employees shall not discriminate because of race, religion, color, sex orientation, origin, against any person by refusing to furnish such person any accommodation, facility service or privilege offered to or enjoyed by the general public.
14. **Assignments and subleases:** Organization shall not assign, sublease or convey any interest granted by this permit. The Organization must be the operator of the event or activity. Any document by which an interest is granted shall indicate that the person acquiring the interest takes subject to the terms of this permit.

- 15. **Approval of permit:** This permit shall not become effective unless it is approved by the Yukon Parks and Recreation Department, Yukon Parks & Recreation Board and signed by the Mayor of Yukon.
- 16. **Professional conduct:** Permittee, his employees, associates and guests will conduct his or her activity in a professional manner at all times.. Any incident of an unprofessional nature that could jeopardize the image or reflect adversely on the City of Yukon Parks and Recreation Department, or its holdings, can and will be considered grounds for termination.
- 17. **Games and/or Tournaments:** All activities or tournaments which are not covered in this contract must be approved by the Parks and Recreation Department and a contract signed for that particular activity or tournament.
- 18. **Safety:** Each organization is responsible for providing information concerning appropriate safety equipment, relating to each sport, to each and all participants in their programs.

**IN WITNESS WHEREOF**, the parties herein have hereunto set their hands and seals the day and year set forth below.

Lee Clark  
 Yukon Soccer Club President

3-11-15  
 Date

Ken Smith  
 Yukon Parks and Recreation Director

3-11-15  
 Date

Joe Edwards  
 Chairman, Yukon Park Board

3-11-15  
 Date

\_\_\_\_\_  
 Mayor, City of Yukon

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 ATTEST: City Clerk

\_\_\_\_\_  
 Date

**ADDENDUM A  
CITY OF YUKON  
PARKS AND RECREATION DEPARTMENT  
USE AGREEMENT**

The Yukon Soccer Club desires to use the following facilities:

**OWNERSHIP:** City of Yukon  
**FACILITY:** Ranchwood Park/Taylor Park  
**AREA INVOLVED:** Soccer Fields  
**LOCATION:** 712 Oakcreek Dr. / 410 N. 11<sup>th</sup> Yukon, OK.  
**DAYS OF WEEK:** Monday thru Friday Saturdays & Sunday  
**HOURS:** 8:00 a.m.-dusk 7:00 a.m.-dusk, with the exception of portable lights during the winter months, until midnight.  
**BEGINNING DATE:** March 11, 2015  
**ENDING DATE:** December 31, 2015  
**ACTIVITY:** Youth soccer practice and games  
**ORGANIZATIONAL-CONTACT PERSON:** Lee Clark  
**ADDRESS:** 4104 Champlain Ct., Yukon, OK 73099  
**PHONE:** 520-6847

<b>MAINTENANCE RESPONSIBILITIES:</b>	<b>OWNER</b>	<b>ORGANIZATION</b>
<b>UTILITY BILLS</b>	<u>  X  </u>	<u>          </u>
<b>MINOR REPAIRS (Fencing, lights, etc...)</b>	<u>  X  </u>	<u>          </u>
<b>JANITOR</b>	<u>  X  </u>	<u>          </u>
<b>PICKING UP (TRASH COLLECTION ON GROUNDS)</b>	<u>  X  </u>	<u>  X  </u>
<b>MOWING</b>	<u>  X  </u>	<u>          </u>
<b>FERTILIZING</b>	<u>  X  </u>	<u>          </u>
<b>RE-SEEDING &amp; SODDING</b>	<u>  X  </u>	<u>          </u>
<b>CHALKING/STRIPING OF FIELD</b>	<u>          </u>	<u>  X  </u>
<b>WATERING OF FIELDS</b>	<u>  X  </u>	<u>  X  </u>
<b>RESTROOMS</b>	<u>  X  </u>	<u>  X  </u>
<b>CONCESSIONS</b>	<u>          </u>	<u>  X  </u>
<b>LIABILITIES</b>	<u>          </u>	<u>  X  </u>
<b>SUPERVISOR (AMOUNT OF FEE)</b>	<u>          </u>	<u>  X  </u>

\*\*\*\*\*

We have read the policies of the owners involved and fully understand the agreements set forth in this contract. We agree to abide by them and to be responsible for payment of all fees and damages to property not including normal wear and tear.

**APPROVED:**

Lee Clark  
**YUKON SOCCER CLUB PRESIDENT**

3-11-15  
**DATE**

John Scott  
**PARK & RECREATION DIRECTOR**

3-11-15  
**DATE**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
2/3/2015

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 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).

<b>PRODUCER</b> RPS Bollinger 101 JFK Parkway Short Hills NJ 07078	<b>CONTACT NAME:</b> PHONE (A/C No. Ext): 973-467-8005 E-MAIL ADDRESS:		<b>FAX (A/C No.):</b> 973-921-2876
	<b>INSURER(S) AFFORDING COVERAGE</b>		
<b>INSURED</b> Oklahoma Soccer Association PO Box 35174 Tulsa OK 74153-0174	<b>INSURER A :</b> Markel Insurance Company		<b>NAIC #</b> 38970
	<b>INSURER B :</b> Markel Insurance Company		38970
	<b>INSURER C :</b>		
	<b>INSURER D :</b>		
	<b>INSURER E :</b>		
	<b>INSURER F :</b>		

### COVERAGES

CERTIFICATE NUMBER: 1315716351

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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Participant Liab  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC			3602AH243745	9/1/2014	9/1/2015	EACH OCCURRENCE	\$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$300,000
							MED EXP (Any one person)	\$5,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$5,000,000
							PRODUCTS - COMP/OP AGG	\$2,000,000
								\$
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			3602AH243745	9/1/2014	9/1/2015	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						WC STATUTORY LIMITS	OTHER
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
B	Accident Insurance Full Excess			4102AH243743	9/1/2014	9/1/2015	Medical Limit	\$100,000
							Deductible	\$500
							CoPay	80/20

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

All activities sanctioned by Oklahoma Soccer Association for their registered member leagues, clubs and teams. Certificate Holder is named as an additional insured. Certificate issued on behalf of  
Yukon Soccer Club  
All Canadian Valley Teams  
Group Code: Yukon

<b>CERTIFICATE HOLDER</b>  City of Yukon/Parks Department PO Box 850500 Yukon OK 73085	<b>CANCELLATION</b>  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 
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**Technology Item Listing - Apr 7, 2015**

<b>Item #</b>	<b>Description</b>	<b>Model Number</b>	<b>Serial Number</b>	<b>Department</b>
101520	Vertex Standard Desktop Repeater	VXR-7000V	1L260014	Tech
100603	HP 6000 Pro Computer	6000	MXL11110GQ	Tech
	Hard Drive	GB0160EAEZH	TH483410EJ	Tech
100474	Dell Monitor	E228WFPc	CN-0X764G-64180-88T-0U1M	Tech
100093	Dell LCD Monitor	E198FPf	CN-0G422H-72872-86L-25MH-A00	Tech



**DATE:** March 18, 2015

**FROM:** Arnold Adams / Public Works Director

**TO:** Grayson Bottom / City Manager

**CC:** Doug Shivers / City Clerk

**RE:** Agenda Item – 2014 Snow and Ice Plowing and Removal Services

**MEMORANDUM**

Grayson, we are recommending the City of Yukon extend Schwarz Paving Company, Inc., contract for one additional year at the original bid item unit price. Schwarz Paving Company, Inc. has performed very well and has been very responsive for the snow removal. The extension will be for a second year, the contract documents allow for the City to extend the contract on yearly basis for a total contract length of three years.

The contract documents allow for the unit bid prices to be adjusted per the rate of the State of Oklahoma Consumer Price Index. We have provided the available information we were able to obtain from the Oklahoma Department of Commerce 3<sup>rd</sup> Quarter 2014 Consumer Price Index Report. The document states year over year in September 2014, the CPI for all U.S. Urban Consumers increased by 1.66% had an increase of 1.71%. However, Oklahoma shares many characteristics with Midwest Region, which had an increase of 1.64%. Per our discussion with Schwarz Paving Company, Inc. we are recommending that the current bid prices be used for the second year of the contract.

Upon your approval, I would respectfully request it be placed on the next available agenda.

## **SPECIAL PROVISIONS**

### **GENERAL**

This project consists of furnishing labor and materials and related incidental work required to make improvements to **SNOW AND ICE PLOWING AND REMOVAL SERVICES**.

### **PROJECT DURATION**

The work shall be commenced when a Work Order is issued for the services. The contract is for one (1) year and if agreed upon by both the City of Yukon and Contractor extended in one (1) year increments with a maximum of three (3) total years. Contract Bid Prices will be adjusted per additional year at a rate of the State of Oklahoma Consumer Price Index (CPI).

### **INSURANCE**

The Contractor shall purchase and maintain insurance in accordance with the General Provisions.

### **LAWS AND ORDINANCES**

- A. All work performed under this contract shall be in full accordance with the laws and ordinances pertinent to such work. In case of any conflict wherein the methods or standards of installation or materials specified do not equal or exceed the requirements of the laws or ordinances, the laws or ordinances shall govern. All items required by the laws or ordinances but not specified or shown on the drawings shall be furnished without extra charge as if shown on specifications, plans and drawings.
- B. The words "laws and ordinances" as used herein shall mean all local, state, or national codes, laws, ordinances, standards, rules, or regulations of any nature which are in any way pertinent to, or regulatory over, the work covered by this section of the specifications.

### **RIGHTS-OF-WAY**

Contractor shall perform work in all right-of-way unless directed by the City of Yukon.

### **PROTECTION OF PUBLIC AND PRIVATE PROPERTY**

The Contractor shall protect, shore, brace, support, and maintain all underground pipes, conduits, drains, and other underground construction uncovered or otherwise affected by the construction work performed by him. All pavement, surfacing, driveway, curbs, walks, buildings, utility poles, guy wires, fences, and other surface structures affected by construction operations, together with all sod and shrubs in yards and parking areas, shall be restored to their original condition as determined and approved by the Public Works Director, whether within or outside the Owner's right-of-way. All replacements shall be made with new materials. The Contractor shall be responsible for all damage to streets, roads, highways, shoulders, ditches, embankments, culverts, bridges, and other public or private property, regardless of location or character, which may be caused by transporting equipment, materials, or men to or from the work or any part of it thereof, whether by him or his subcontractors. The Contractor

**3rd Quarter 2014 Consumer Price Index Report      October 2014**

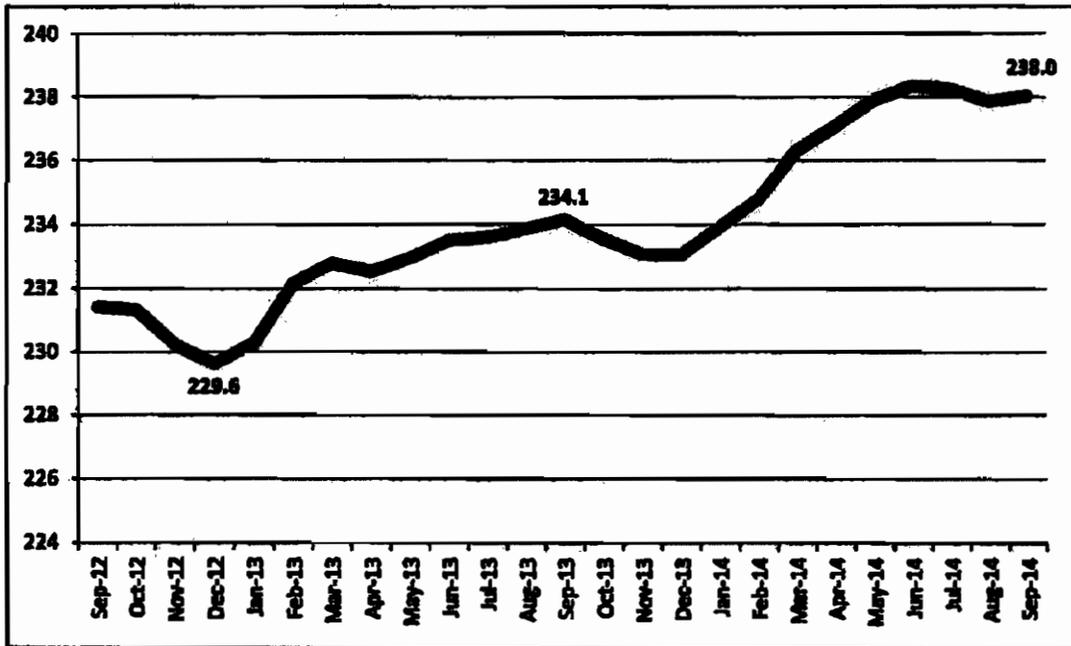
**Executive Summary**

The average Consumer Price Index rose to 238.0 in the 3<sup>rd</sup> quarter of 2014, increasing from 237.8 in 2<sup>nd</sup> quarter 2014. Year over year in September 2014, the CPI for all U.S. Urban Consumers increased 1.66% before seasonal adjustment. Similar to the national trend during the same time period the Midwest Urban Area CPI increased by 1.64% and the South Urban Area CPI increased by 1.71% before seasonal adjustment.

The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by American consumers for goods and services. The Consumer Price Index is measured by the U.S. Bureau of Labor and Statistics and reported monthly.

The CPI is based on prices of food, clothing, shelter, and fuels, transportation fares, charges for doctors' and dentists' services, drugs, and the other goods and services that people buy for day-to-day living. Each month, prices are collected in 87 urban areas across the country from about 4,000 housing units and approximately 26,000 retail establishments—department stores, supermarkets, hospitals, filling stations, and other types of stores and service establishments.

**U.S. Consumer Price Index September 2012 – September 2014**  
Not Seasonally Adjusted

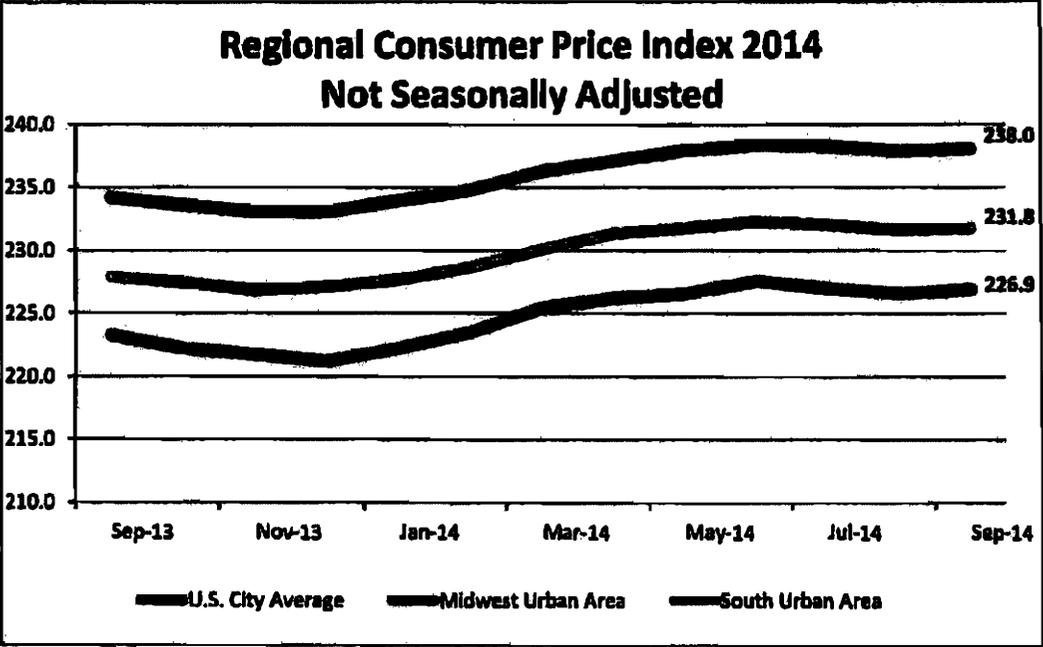


U.S. City Average – September 2014 – 238.0

**Regional Consumer Price Index**

Oklahoma is the most northwestern state in the Southern region, as defined by the Bureau of Labor Statistics. Oklahoma shares many characteristics with the Midwest region, given that fact that it is in such close proximity. South region is comprised of: Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. The Midwest region is comprised of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

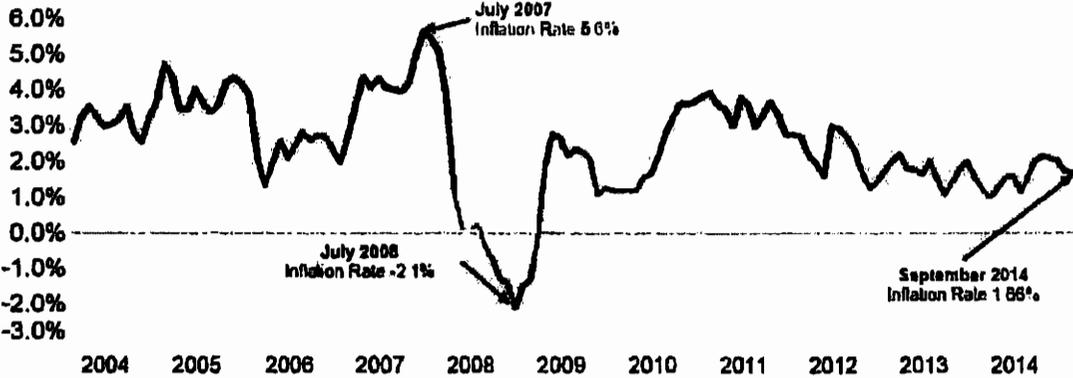
The graph below shows a 12 month moving average for the U.S., as well as the South and Midwest Regions.



12 Month Moving Average: U.S. – 238.0, Midwest Urban Area – 226.6, South Urban Area – 231.8

**Inflation Rate**

The inflation rate is a measure of the rise of the general level of the prices of goods and services over a period of time. The chief measure of price inflation is the percentage change in the Consumer Price Index.



2012 U.S. Inflation Rate =2.1 % 2013 U.S. Inflation Rate =1.5% 2014 (Sep-2014) U.S. Inflation Rate =1.66%

**Consumer Price Index - All Urban Consumers - Not Seasonally Adjusted- All Items (CPI-U)**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual Average YTD	Inflation Rate YTD
2004	185.2	186.2	187.4	188.0	189.1	189.7	189.4	189.5	189.9	190.9	191.0	190.3	188.9	2.7%
2005	190.7	191.8	193.3	194.6	194.4	194.5	195.4	196.4	198.8	199.2	197.6	196.8	195.3	3.4%
2006	198.3	198.7	199.8	201.5	202.5	202.9	203.5	203.9	202.9	201.8	201.5	201.8	201.6	3.2%
2007	202.4	203.5	205.4	206.7	207.9	208.4	208.3	207.9	208.3	208.9	210.2	210.0	207.3	2.8%
2008	211.1	211.7	213.5	214.8	216.6	218.8	220.0	219.1	218.8	216.6	212.4	210.2	215.3	3.8%
2009	211.1	212.2	212.7	219.2	213.9	215.7	215.4	215.8	215.9	216.2	216.3	216.0	214.5	-0.4%
2010	216.7	216.7	217.6	218.0	218.2	218.0	218.0	218.3	218.4	218.7	218.8	219.2	218.1	1.6%
2011	220.2	221.3	223.5	224.9	225.96	225.7	225.9	226.5	226.9	226.4	226.2	225.7	224.94	3.2%
2012	226.7	227.7	229.4	230.1	229.8	229.5	229.1	230.4	231.4	231.3	230.2	229.6	229.59	2.1%
2013 U.S. City Average	230.3	232.2	232.8	232.5	233.0	232.9	233.3	233.5	233.9	233.8	233.9	234.6	233.1	1.5%
2013 Midwest Urban Area	219.3	221.6	222.1	222.0	223.0	223.8	222.9	223.0	223.3	222.2	221.7	221.2	222.2	1.4%
2013 South Urban Area	223.9	225.9	226.6	226.2	226.3	227.1	227.5	227.8	227.9	227.4	226.8	227.1	226.7	1.6%
2014 U.S. City Average	233.9	234.7	236.3	237.1	237.9	238.3	238.2	237.9	238.0	N/A	N/A	N/A	236.38	1.7%
2014 Midwest Urban Area	222.2	223.4	225.5	226.2	226.6	227.6	227.0	226.6	226.9	N/A	N/A	N/A	225.26	1.6%
2014 South Urban Area	227.6	228.6	230.1	231.3	231.8	232.3	232.0	231.6	231.8	N/A	N/A	N/A	230.30	1.8%

The table above, All Items Consumer Price Index for All Urban Consumers (CPI-U) is the Bureau of Labor Statistics' broadest and most comprehensive Index. The base index year is 1982-1984 = 100. Source: U.S. Bureau of Labor Statistics, [www.bls.gov/data](http://www.bls.gov/data)

RESOLUTION NO. 2015-04

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUKON APPROVING AN AMENDED AND RESTATED TRUST INDENTURE FOR THE OKLAHOMA MUNICIPAL RETIREMENT FUND; PROVIDING AMENDMENTS TO THE TRUST TO AUTHORIZE DAILY VALUATIONS AND DAILY ACCOUNTING FOR ASSETS WITHIN THE MASTER DEFINED CONTRIBUTION PLANS ADMINISTERED BY OKLAHOMA MUNICIPAL RETIREMENT FUND; PROVIDING FOR DAILY VALUATION OF PARTICIPANT ACCOUNTS IN THE DEFINED CONTRIBUTION PLANS ADMINISTERED BY OKLAHOMA MUNICIPAL RETIREMENT FUND AND PROVIDING PROCEDURES AND RULES FOR ACCOUNTING OF SUCH ASSETS; PROVIDING FOR EFFECTIVE DATE OF AMENDED AND RESTATED TRUST INDENTURE AND CONTINUING EXISTING TRUST AS AMENDED IN FULL FORCE AND EFFECT.**

**WHEREAS**, the Board of Trustees of Oklahoma Municipal Retirement Fund have approved an Amended and Restated Trust Indenture of the Oklahoma Municipal Retirement Fund which makes various amendments to the Trust for purposes of allowing daily valuations and rules and procedures for accounting of assets in the Master Defined Contribution Plan which amendment is attached hereto as Exhibit "1"; and,

**WHEREAS**, the amendment can only become effective upon approval by a two-thirds (2/3) majority of the participating employers in the Oklahoma Municipal Retirement Fund.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Yukon that the attached amendment to the Oklahoma Municipal Retirement Fund Trust Indenture is approved.

**\*\*\*END\*\*\***

The foregoing Resolution was duly adopted and approved by the City Council of the City of Yukon, on the \_\_\_\_ day of \_\_\_\_\_, 2015, after compliance with notice requirements of the Open Meeting Law (25 OSA, Sections 301, et seq.).

\_\_\_\_\_  
MAYOR/CHAIRMAN

ATTEST:

\_\_\_\_\_  
CLERK/SECRETARY

Highlighted  
Material changes

## **EXHIBIT 1**

# **TRUST INDENTURE ESTABLISHING OKLAHOMA MUNICIPAL RETIREMENT FUND**

**TRUST INDENTURE**

**OKLAHOMA MUNICIPAL RETIREMENT FUND**

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## ARTICLE I

### Name

1.1 Name: The trust hereby created shall be designated and known as “OKLAHOMA MUNICIPAL RETIREMENT FUND.”

1.2 Continuation of Trust. This Trust is an amendment, restatement and continuation of the existing Trust Indenture Establishing Oklahoma Municipal Retirement Fund. This amendment and restatement of the Trust is effective upon date set forth in a separate certification by the Trustees as the effective date of the conversion of the defined contribution System administration to a daily valuation basis; provided that, the effective date in such certification shall not be retroactive to a date prior to the date of the certification.

## ARTICLE II

### Definitions and Construction

2.1 Definitions: Where the following words and phrases appear in this Trust Indenture, they shall have the respective meanings set forth below, unless their context clearly indicates to the contrary.

Authorized Agent shall mean the person designated by each Employer to represent it in its transactions with the Trustees of this Trust and to perform such other duties as are set forth herein and in the system of such Employer.

Daily Valuation Date shall mean each business day of the Plan Year for which there is an established market value for System assets.

Employee shall mean any employee covered by the system of an Employer.

Employer shall mean: (1) each and every incorporated municipality in the State of Oklahoma; (2) public trusts having municipality(ies) as beneficiary(ies); (3) interlocal cooperatives created pursuant to 74 Oklahoma Statutes, Sections 1001, et seq., between municipalities and/or their public trust, and; (4) any other legal entity comprising a municipal authority as that term is used in Chapter 48 of Title 11 Oklahoma Statutes, which has adopted a plan or system as herein defined and which has become a participant in this trust according to the terms hereof.

Oklahoma Municipal League shall mean the wholly owned and financed instrumentality of its member city and town governments by that name, in existence since 1913 to perform common functions of each, and wholly controlled by an elected board of municipal officials.

System shall mean each and every employee's retirement fund and system created or adopted by an employer which is a participant in this trust.

Trust or Oklahoma Municipal Retirement Fund shall mean the Trust hereby created and may be used to refer collectively to all the assets at any time comprising the corpus and accumulated income thereof.

Trust Administrator shall mean the person, firm or corporation appointed by the Trustees to see to the day to day operations of the Trust and to perform such other duties as are herein specified.

Trustees shall mean the group or body composed of all Trustees serving hereunder at any particular time.

2.2 Construction: Any word appearing in this Trust Indenture denoting gender, whether masculine, feminine or neuter, shall, unless the context clearly indicates to the contrary, include any other gender. The words “hereof,” “herein,” “hereunder” and other similar compounds of the word “here” shall mean and refer to this entire Trust Indenture, not to any particular provision or section. In all matters regarding this Trust, the decision of the Trustees shall control and the construction, interpretation, resolution of any conflicts or inconsistencies determined by the Trustees and their determination as to what should be supplied in the event of omission, shall be binding and conclusive upon all persons and for all purposes.

## ARTICLE III

### Trustees

3.1 Existing Trustees: The Trustees serving on the effective date of this amendment shall serve as such Trustees until their successors are elected and qualified as hereinafter provided. These Trustees shall be referred to as the existing Trustees.

3.2 Creation of District Boundaries: The State of Oklahoma shall be separated into eight districts for purposes of nomination of Trustees to the Oklahoma Municipal Retirement Fund. The eight districts shall be as shown on the attached map, and shall be numbered one through eight. The Trustees may, from time to time, amend the district boundaries as necessary by adopting a resolution setting forth amended district boundaries. No amendment to district boundaries shall disqualify a Trustee from completing his or her unexpired term.

3.3 Number of Trustees and Nominations: The Trustees of this Trust shall be nine (9) in number. The Trustees shall be nominated by participating employer(s) located within the district boundaries of the district for which nomination is made, except one Trustee shall serve at-large, and such at-large Trustee may be nominated by any employer. Such nominations shall be made by resolution of the employer and shall be filed with the Trust Administrator between May 20th and June 30th, both inclusive, of each year for terms expiring in that year. No nominations received by the Trust Administrator after June 30th, shall be considered.

3.4 Elections: After June 30th, the Trust Administrator shall prepare a ballot listing thereon the names and a brief resume of the background and experience of all nominees for the office for which said Trustee was nominated, (i.e., the district or at-large), and shall forward on or before July 20th of each year by certified mail a copy of the ballot to the authorized agent of each employer. The governing body of each employer shall be entitled to cast by resolution one vote for each office to be filled, provided no vote shall be split or cast in any fraction or part of the whole. The resolution shall direct the authorized agent to indicate the results of its voting on the ballot furnished by the Trust Administrator, and to return the ballot to the Trust Administrator. The ballot shall be returned to the Trust Administrator between July 20th and August 30th of each year, and no ballots received by the Trust Administrator after August 30th shall be counted. The nominee from each district receiving the largest number of votes shall be elected to the office of Trustee for the respective district. In the event of a tie, the Trust Administrator shall, on or before September 10th, prepare a second ballot listing thereon the names of the nominees receiving such equal number of votes, following the same procedure as provided for the first ballot, the governing body of the employers shall again vote, and the nominee(s) receiving the largest number of votes shall be elected. Tie vote ballots shall be returned to the Trust Administrator on or before October 20th, and no ballots received after that date shall be counted.

A ballot signed by the authorized agent of an employer shall be conclusive evidence of the vote or votes cast by such employer.

The Trust Administrator shall notify the employers of the final results of the election as soon as same is determined, and the Trustees so elected shall take office on October 1st, except in the case of Trustees elected on a tie vote ballot, who shall take office on November 1<sup>st</sup>.

3.5 Transitional Provisions: In 1994, the Trustee for the “at-large” position shall be elected, and in 1995 the Trustee for District No. 2 shall be elected. The initial terms for the offices of Trustees after adoption of this amendment shall expire as follows:

<u>Trustee District</u>	<u>Expiration</u>
No. 1	1998
No. 2	1995
No. 3	1997
No. 4	1994
No. 5	1996
No. 6	1996
No. 7	1995
No. 8	1997
At-large	1994

As soon as possible after the effective date of this amendment, the two newly created Trustee offices from District No. 2 and the At-Large position shall be filled by appointment by a majority of the existing Trustees for terms expiring as follows: District No. 2 expires in 1995, and Trustee at-large expires in 1994.

3.6 Terms of Office: Except as provided in Section 3.5, the Trustees so elected under this Trust Agreement shall serve for terms of five years, or until their successors are qualified.

3.7 Bonding Requirements: Each Trustee and Successor Trustee serving hereunder at any time shall be covered by a corporate surety bond in an amount equal to at least ten percent (10%) of the total value of the Trust assets as determined at the close of the last fiscal year of the Trust, in favor of the Trust hereby created and conditioned upon the full and faithful performance of all duties, obligations, and responsibilities hereby imposed upon such Trustees, provided that no such bond shall be required in an amount in excess of \$500,000.00 per Trustee. The cost of expense of such bond, which may be in the form of a blanket bond, shall be considered a proper operating expense of the Trust and shall be paid from the segregated operating funds held by the Trustees.

3.8 Filling Vacancies: Any vacancies in the Trustees occurring during any year may be filled by appointment by the Chairman with confirmation by the affirmative vote of a majority of the Trustees then serving. Any Trustee so appointed and confirmed by the Trustees shall hold office for the remainder of the term of the vacating Trustee, subject to the other provisions hereof, and until the election and qualification of his successor. Trustees appointed under this section shall meet the qualifications set forth in Section 3.15 of this Trust.

3.9 Officers and Duties: The Trustees shall elect from their membership the following officers who shall serve for a term of one (1) year or until their successors are elected, but any officer shall be considered eligible for election to succeed himself:

Chairman: The Chairman shall be the chief executive officer of the Trustees, and shall preside at all meetings of the members of the Trustees, and shall, after appropriate resolution of the Trustees, sign all contracts, deeds, and other formal instruments on

behalf of the Trustees, and shall sign all checks disbursing any part of the segregated Trust Operating Fund held by the Trustees.

Vice-Chairman: The Vice-Chairman shall in the absence of or during the disability of the Chairman, have all the powers and perform all the duties of the Chairman.

Secretary: Under the direction of the Trustees the Secretary shall have charge of the records of all proceedings of the Trustees and shall record minutes of all meetings of the Trustees, and shall attest to the signature of the Chairman on all documents or instruments requiring such signature, and shall make such reports and certifications, and shall perform such other duties as are incident to his office or may be required of him by the Trustees. One or more Assistant Secretary may be elected by the Trustees.

Treasurer: The Treasurer shall certify to the accuracy of all statements and reports relating to the assets of the Trust and shall countersign all checks disbursing any part of the segregated Trust Operating Fund held by the Trustees.

3.10 Office, Records and Meetings: The Trustees shall establish an office or offices with suitable space for meetings of the Trustees and for use of the Trust Administrator and other administrative personnel. The Trustees shall maintain accurate and detailed records and accounts of all their transactions. All books and records of the Trustees, the Administrator, and the Trust shall be kept in such office or offices or in such other specified place or places as the Trustees shall designate for safekeeping and or convenient, ready reference. The Trustees shall hold meetings in such office or offices, on a regular basis once each month, and at such other times upon the call of the Chairman or a majority of the Trustees. All books and records, including the record of the Trustees' proceedings shall be available at all reasonable times for inspection or audit by any employer, employee, or other interested person or persons.

3.11 Meetings: The meetings of the Trustees of the Oklahoma Municipal Retirement Fund shall be subject to the Open Meeting Act.

3.12 Quorum: At any meeting of the Trustees the presence of a majority of the Trustees then serving shall be necessary to constitute a quorum for all purposes, and the act of a majority of the Trustees present at any meeting at which there is a quorum shall be the act of all the Trustees, except as may otherwise be specifically provided by law or by this Trust Agreement.

3.13 Compensation: No Trustee or Successor Trustee serving hereunder shall be entitled to receive any compensation for his services as such Trustee, but all such Trustees shall be entitled to reimbursement out of the Trust Operating Fund held by the Trustees of all reasonable expenses, including a reasonable travel allowance incurred in order to attend meetings of the Trustees or to perform other necessary and proper duties incident to the office of such Trustee.

3.14 Systems for Reference: Each employer shall deliver to the Trustees a copy of the System established by such employer and any amendment thereto for convenience of reference, but the rights, powers, titles, duties, discretions, and immunities of the Trustees shall be governed solely by this instrument without reference to such System.

3.15 Qualifications, Disqualification, and Limitations: Each person nominated, elected, or appointed to serve as Trustee of this Trust shall be at the time he is to take office an officer of the employer, member of the governing body of the employer, or an active or retired participant in the system. (Active or retired participant shall mean an employee with an account balance or benefit remaining in the system.) For the district offices the Trustee shall be an officer or member of the governing body of an employer located in the district represented by the Trustee, and in the case of a retired or active participant the Trustee's participation must be with an employer located in the district for which the Trustee serves.

Any Trustee shall immediately be disqualified upon failing to meet any of the criteria for qualification as set forth above.

## ARTICLE IV

### Trust Assets

4.1 Assets and Interests: The assets of this Trust shall consist of such assets and the income therefrom, including such contributions as shall from time to time be made to the Trustees by each Employer under its System, or property for which any of the same shall be exchanged or into which any of the same shall be converted, together with any other assets from time to time held hereunder by the Trustees. All legal right, title and interest in and to the assets of the Trust shall at all times be vested exclusively in the Trustees or their nominee and no Employee shall be deemed to have a severable ownership of any asset of the Trust or any right of partition or possession thereof, but each Employer shall have a proportionate undivided interest therein, based upon the number of units of participation and the value of other assets allocated to its account, sharing ratably with other Employers in the income, gains or losses.

4.2 Valuations: The Securities Custodian(s) shall appraise and place valuations upon the assets of the Trust held by it as of the month end with respect to the assets of each defined benefit System and on each Daily Valuation Date for each defined contribution System. The Recordkeeper(s) shall appraise and place valuations upon the assets of each defined contribution System and the individual participant accounts of each Daily Valuation Date. Any Trust assets not held by the Securities Custodian(s) shall be appraised and valued by the Trustees on said date.

The valuation of all assets of the Trust shall be both at cost and at the fair market value thereof as determined by reference to the best available source or sources in the opinion of the Securities Custodian(s) and the Trustee, and both the Securities Custodian(s) and Trustees may rely on figures, or statements appearing in any reputable publication purporting to state sales prices, market quotations, values, bid and asking prices, or any facts affecting values and upon the opinion of one or more persons familiar with the reasonable market value of any assets to be valued, and shall incur no liability for error in any such valuations made in good faith.

### 4.3 Units of Participation:

(1) Defined Benefit Systems. This paragraph shall apply solely to the valuation of defined benefit System assets. As of each valuation date the invested portion of the Trust assets in the hands of the Securities Custodian(s) shall be divided into units of equal value for convenience in determining the proportionate interest of the plan or System of each separate Employer and the proportionate interest of each such Employer shall be expressed by the number of such units allocated thereto. The initial value of each such unit shall be Ten Dollars (\$10.00) and thereafter its value shall be a fractional portion of the established valuation of all assets of the Trust in the hands of the Securities Custodian(s) using one (1) as the numerator of such fraction and the total number of units participating in the Trust as the denominator. The Trustees may from time to time cause the units of the Trust to be divided into a greater number of units of lesser value or cause them to be combined into a lesser number of units of greater value. Units of participation in the invested portion of the Trust assets in the hands of the Securities Custodian(s) shall not be evidenced by any form of certificate, but the Trustee shall maintain a record of the number of units outstanding allocated to each Employer.

(2) Defined Contribution Systems. This paragraph shall apply solely to defined contribution System assets. The units of participation method described in Section 4.3(1) above may be used to determine the proportionate interest of each defined contribution System in the portion of the Trust attributable to defined contribution Systems. Alternatively, the proportionate interest of each defined contribution System may be determined directly as the market value of all participant accounts of a defined contribution System on a given Daily Valuation Date compared with the total market value of all participant accounts of all defined contribution Systems on such Daily Valuation Date.

## ARTICLE V

### Trust Expenses

5.1 Repealed April 1, 1991

5.2 Costs and Expenses: All costs and expenses incurred in the operation, administration, investment, and management of the Trust shall be paid from the Trust assets for and on behalf of the employees or other beneficiaries participating in the system, by the Securities Custodian(s) from the funds in its possession. The Trustees shall have discretion to allocate costs and expenses among the participating Systems in a reasonable manner. Disbursements from the Trust for expenses shall be made only upon approval by the Trustees. Provided, the Trustees are authorized to charge costs for special participant record keeping and reports to the requesting participants or Employer. Provided further, the Trustees and the Recordkeeper(s) shall have discretion to charge an employee's account for reasonable expenses directly related to that account. Nothing herein shall authorize the payment of any funds from the Trust assets except those funds necessary to pay the reasonable and necessary expenses of the operation, administration; investment, and management of the Trust for the benefit of the participating employees and their beneficiaries.

5.3 Repealed April 1, 1991

5.4 Repealed April 1, 1991

5.5 Equipment and Supplies: The Trustees are authorized to purchase such equipment and supplies as they shall deem necessary for the efficient operation, administration, and management of the Trust. Such payments shall be considered an expense of the Trust and the equipment and supplies so purchased shall be an asset of the Trust and shall be held by the Trustees as such and no Employer shall be deemed to have severable ownership therein or any right of partition or possession thereof, but each Employer shall have proportionate undivided interest therein as specified in Article IV hereof.

5.6 Budget: The Trust Administrator shall prepare an annual budget to include all anticipated costs and expenses of the Trust. The budget shall be submitted to the Trustees for approval at the June meeting. Monthly statements showing expenses shall be submitted to the Trustees at each regular monthly meeting.

## ARTICLE VI

### Administration and Management

6.1 Trustees Responsible: The Trustees shall be responsible for the operation, administration and management of the Trust and shall determine the general investment policy to be followed in the investment of the Trust assets and shall approve all investments either before or after the same are made or by establishing a list of specified authorized securities and other investment media in which Trust funds may be invested in accordance with the general investment policy.

6.2 Appointment of Advisors and Others: In order to carry out the responsibilities hereby imposed upon them, the Trustees shall appoint such advisors, consultants, agents and employees, each of whom may be such individual, firm or corporation as shall be deemed necessary or advisable and approved by the Trustees. Such individuals, firms or corporations may be retained or employed in such manner and upon such terms as shall seem appropriate and proper to the Trustees, either by contract or retainer, by regular full or part-time employment or by such other arrangements as shall be satisfactory to the Trustees and shall be subject to such bonding requirements as shall be established by the Trustees. The fees, commissions, salaries or other compensation of such advisors, consultants, agents or employees shall be paid by the Trustees from the Trust Operating Fund.

6.3 Required Appointments: In addition to others which may from time to time be determined to be necessary, the Trustees shall appoint the following advisors, consultants, agents or employees who shall perform the duties and services indicated below and such other duties and services as may from time to time be requested or directed by the Trustees, and who shall be responsible to the Trustees and shall attend all regular meetings of the Trustees:

Trust Administrator: The Trust Administrator shall be responsible to the Trustees for the day to day operation of the Trust, and shall on behalf of the Trustees,

- 1) Be responsible for the transmittal of communications from the Trustees to the Employers.
- 2) Receive or directly submit to the Recordkeeper(s) payroll and employment reports from Employers and maintain current employment, earnings, and contribution data on each covered employee of each Employer.
- 3) Certify to any proper and interested party the amount and duration of benefits to be paid from the Trust Fund.
- 4) Coordinate the activities of all other advisors, consultants, agents or employees appointed by the Trustees.
- 5) Maintain all necessary records reflecting the operation and administration of the Trust and Trust Operating Fund and submit detailed reports thereof to the Trustees at each regular meeting of the Trustees and at such other time or times as requested by the Trustees.

6) Process all claims for payment of benefits or expenses for approval of the Trustees.

7) File on behalf of the Trustees such reports or other information as shall be required by any State or Federal law or regulation.

Investment Counsel: The Investment Counsel shall be a professional, impartial and experienced person, firm or corporation and shall advise and assist the Trustees in the formation of general investment policy and in the acquisition and sale of specific securities or other investment media. Duties include, but are not limited to, searches, monitoring, reporting and recommending hiring or terminating managers. The Trustees shall consult with Investment Counsel regarding all trust investments but shall be under no specific obligation to strictly adhere to the advice or recommendations of such counsel.

Security Custodian(s): The Securities Custodian(s) shall hold all stocks, bonds and other securities of the Trust on behalf of the Trustees and shall buy, sell, exchange or otherwise deal with or contract with reference to such stocks, bonds and other securities as directed by the Trustees or as directed by authorized parties. The Securities Custodian(s) shall also provide safekeeping of all such securities and shall collect and disburse the income or proceeds thereof as directed by the Trustees and shall maintain accurate records regarding all investments, receipts, and disbursements and shall submit detailed reports to the Trustees at each regular meeting of the Trustees and at such other time or times as requested by the Trustees. All stocks, bonds or other securities so held by the Securities Custodian(s) may be held in the name of the Trustees or in his or its name as nominee or in the name of a nominee serving on behalf of the Security Custodian(s).

Actuary: The Actuary shall advise and assist the management of the Trust and shall, so often as directed by the Trustees but at least biannually, compute from data furnished by the Trust Administrator the cost rate for the actuarial valuation reports to each Employer and to the Trustees concerning funding, cash flow and related requirements. All cost and actuarial valuation reports furnished by the Actuary shall be certified by a Fellow of the Society of Actuaries.

Auditor: The Auditor shall be engaged to perform such duties, examinations or other services and to render such reports as the Trustees may from time to time direct.

Legal Counsel: The Trustees may appoint legal counsel to render such advice or perform such legal services as may from time to time be deemed by the Trustees to be necessary or advisable in the operation of the Trust. Such legal counsel shall be a duly licensed attorney engaged in the active practice of law within the State of Oklahoma.

Recordkeeper(s): The Recordkeeper(s) shall provide systems and processes to receive and maintain participant records and data on behalf of each Employer which reflects all required fields of participant plan activity including but not limited to name, social security number, salary, plan contributions, employment date, interest earnings, taxable and non-taxable status of the funds and distribution activity.

## ARTICLE VII

### **Retirement Committee and Authorized Agent**

7.1 Retirement Committee: The System of each Employer provides and shall continue to provide for the appointment or election of a Board of Trustees to administer that System. Such Board of Trustees shall serve as and be hereinafter referred to as the “Retirement Committee” of such Employer. It shall be the duty of the “Retirement Committee” of each Employer to furnish the, Trust Administrator all necessary payroll and contribution information, to file claims on behalf of Employees, to see that all Employee and municipal contributions are forwarded promptly to the Trustees for investment, to determine eligibility of employees for participation and benefits, and to perform such other duties as shall be imposed thereupon by other provisions herein contained or by the System of such Employer.

7.2 Authorized Agent: In order to simplify the relationship between the Trustees and/or Trust Administrator and each Employer, each Retirement Committee shall designate an individual who may, but need not, be one of its members to serve as “Authorized Agent”. The “Authorized Agent” shall furnish all necessary information on behalf of his municipality to the Trustees and/or Trust Administrator and shall be the proper person to receive all communications, correspondence or other information furnished by the Trustees or Trust Administrator to the particular Employer.

7.3 Notice to Trustees: Each Employer shall notify the Trustees of the name of the members of its Retirement Committee and shall furnish the Trustees a specimen of signature of each member of the Retirement Committee. The members of the Retirement Committee shall notify the Trustees of the name and business address of the Authorized Agent selected by the Committee.

7.4 Authority of Retirement Committee: Each Retirement Committee shall have complete authority to determine the existence, non-existence, nature and amount of the equitable rights and interests of all persons in the Trust assets, as such rights and interests affect its System. All directions by the Retirement Committee to the Trustees shall be in writing and signed by the Authorized Agent. Until notified of a change, the Trustees shall be fully protected in acting upon the assumption that the membership of the Retirement Committee and its Authorized Agent have not been changed.

## **ARTICLE VIII**

### **Contributions**

8.1 Trustees Accountable: The Trustees shall be accountable for all contributions received by them but shall have no duty to require any contribution to be made to them or to determine that the amounts received comply with the System of any Employer or to determine that the Trust assets are adequate to provide the benefits payable pursuant to any System.

8.2 Delivery to Trustees: Each Employer shall withhold from the compensation of each Employee covered by its System the portion of the total contribution to be made by such Employee pursuant to its System. On or before the fifteenth (15) day of each month, each Employer shall forward to the Trustees or other authorized parties the Employees' contributions so withheld during the immediately preceding month, together with the portion of the total contributions to be paid by the Employer pursuant to its System for such preceding month.

## ARTICLE IX

### Payments From Trust Assets

9.1 Direction by Retirement Committee: Payments of benefits to or for Employees shall be made from the Trust assets by the Trustees to such persons, in such manner, at such times and in such amounts as the Retirement Committee of each Employer shall direct. The Trustees shall be fully protected in making, discontinuing or stopping such payments from the Trust assets in accordance with the directions of the Committee. The Trustees shall have no responsibility to see the application of payments so made or to ascertain whether the directions of the Committee comply with the System of each Employer. When the Committee directs that any payment is to be made only during or until the time a certain condition exists regarding the payee, any payment made by the Trustees in good faith, without actual notice or knowledge of the changed status or condition of the payee, shall be considered to have been properly made by the Trustees and made in accordance with the direction of the Committee. If any such payment is made by a check mailed to the payee and such check is returned to the Trustee undelivered, or if the Trustees are otherwise unable to deliver any such payment to the payee, the Trustees shall promptly give notice thereof to the Committee.

9.2 Withholding and Releases: The Trustees are authorized, but not required, to withhold from distributions to any payee such sum as the Trustees may reasonably estimate as necessary to cover federal and state taxes for which the Trustee may be liable, which are, or may be, assessed with regard to the amount distributable to such payee. Upon discharge or settlement of such tax liability, the Trustees shall pay the balance of such sum, if any, to such payee or to his estate. Prior to making any payment or distribution hereunder, the Trustees may require such releases or other documents from any lawful taxing authority and may require such indemnity from any payee or distributee as the Trustees shall reasonably deem necessary for their protection.

9.3 Exemption of Assets--Restraints on Alienation:

(1) Assets Exempt. Except as otherwise provided in Section 9.3(2) of this Trust Indenture, the assets of the Trust shall be exempt from legal process, and distributions payable from the Trust assets shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, but excluding devolution by death or mental incompetency, including any such liability which is for alimony or other payments for the support of a spouse or former spouse or any otherwise relative of the Employee, prior to actually being received by the person entitled to the benefit under the terms of the System. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to benefits payable hereunder shall be void. The Trustee and Trust assets shall not in any manner be liable for, or subject to the debts, contracts, liabilities, engagements, or torts of any person entitled to benefits hereunder. None of the System benefits or Trust assets shall be considered an asset of the Employee in the event of his divorce, insolvency, or bankruptcy.

(2) Qualified Domestic Relations Orders:

(a) The provisions of Section 9.3 of this Indenture shall not apply to a Qualified Domestic Relations Order as provided pursuant to this subsection.

(b) The term “Qualified Domestic Relations Order” means an order issued by the District Court of this State pursuant to the domestic relations laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member, and which creates or recognizes the existence of an alternate payee’s right to, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System.

(c) Each retirement plan administered by the Oklahoma Municipal Retirement Fund shall include rules and regulations for Qualified Domestic Relations Orders. Such rules shall be included as a part of each Tax Qualified Retirement Plan.

(3) Loans Secured by Participants Accrued Non-Forfeitable Benefits. Where specifically authorized by the employer's System, a loan may be made to a participant from the Trust, and such loan shall not be treated or construed as an assignment or alienation prohibited by this Section if such loan is secured by the participant's accrued, non-forfeitable benefit under the Plan, and satisfies the applicable requirements of the Plan and the Internal Revenue Code of 1986, as amended (including Section 72, and applicable amendments thereto). *(This paragraph was inadvertently omitted in the January 2007 version and reinserted in June 2011.)*

9.4 Payment of Taxes: The Trustees may pay any taxes or assessments which, in their opinion, are proper charges against the Trust, without liability for error judgment, and the Trustees shall be entitled to exoneration and reimbursement from the Trust for any taxes or assessments levied on or payable by them with respect to the Trust or any asset thereof or income therefrom. Any such taxes shall be apportioned or allocated to the accounts of the various Employers as the Trustees shall determine to be legal and equitable.

9.5 Benefit Payments: In order to provide a more efficient procedure for the payment of benefits, the Trustees may adopt other suitable means to issue such benefit payments and may authorize the Trust Administrator to issue the same, under such rules and regulations as the Trustees may adopt; provided, however, that any such adoption and authorization shall in no way reduce the liability of the Trustees or relieve them of any responsibility regarding the protection of Trust assets.

## ARTICLE X

### Investment of Trust Assets

10.1 Authorization of Trustees: The Trustees are authorized to invest and reinvest the Trust assets in such bonds, notes, debentures, mortgages, investment trust certificates, preferred or common stocks, interest in realties, leaseholds, fee titles, equipment trust certificates, royalties (including overriding oil and gas royalties whether measured by production or by gross or taxable income from property), or in oil and gas leases, oil payments or any other type of oil properties, and other forms of securities and/or investments permissible under applicable law, including securities of any Employer, as the Trustees may deem advisable and the Trustees may hold any portion of the Trust assets in cash pending investment or payment of expenses or benefits without liability for interest.

10.2 Limitation of Investments: Any provisions herein contained notwithstanding, no investment shall be made which is prohibited by the law of the State of Oklahoma and prior to making any investment in any security of any Employer, the Trustees shall secure a ruling from the Internal Revenue Service that such investment will not adversely affect the status of the Trust, unless occasion for such particular ruling shall be eliminated by statute, regulation or other determination of general application.

## ARTICLE XI

### Accounting and Mechanical Operation of the Trust

11.1 Deposit of Contributions: All contributions received by the Trustees from any Employer, including the portion thereof attributable to contributions by employees, shall be immediately deposited by the Trust Administrator in such depository as shall have been designated by the Trustees and credited to the account of the contributing Employer on the books of the Trust.

11.2 Subsidiary Ledgers: The Trust Administrator shall establish and maintain a subsidiary ledger for each Employee covered by the System of every Employer and shall accurately reflect therein the total amount of contributions made by such covered Employee pursuant to the System under which he or she is covered.

#### 11.3 Investment of Funds:

(1) Defined Benefit Systems. This paragraph shall apply solely to defined benefit Systems. The Trustees shall deliver all or such portion as they deem proper, of the contributions held by them and credited to the account of an Employer to the Securities Custodian(s) for investment immediately upon determination by the Securities Custodian(s) of the value per unit of participation in accordance with Article IV hereof, as of the valuation date next following receipt of such contributions by the Trustees. The Securities Custodian(s) immediately upon receipt of such funds, shall proceed to invest the same pursuant to the directions of the Trustees, and shall allocate to each Employer, the appropriate number of units of participation determined by dividing the total amount of such funds delivered to it and credited to the account of such Employer by the value per unit of participation on such valuation date. Provided, however, if any contribution of an Employer is received by the Trustees subsequent to any valuation date but prior to the determination of the value per unit of participation as of such valuation date, the Trustees shall deliver all or such portion as they deem proper of such contribution to the Securities Custodian(s) for investment, immediately upon the determination by the Securities Custodian(s) of such value per unit of participation and the Securities Custodian(s) shall proceed to invest the same as above set out and shall allocate to the account of each such Employer an appropriate number of units of participation determined as above required but based upon the value per unit of participation as of such immediately past valuation date. In each event the Securities Custodian(s), immediately upon allocation of units of participation to the accounts of individual Employers, shall notify the Trust Administrator of such allocation and the Trust Administrator shall make appropriate entries in the books and records of the Trust.

(2) Defined Contribution Systems. This paragraph shall only apply solely to defined contribution Systems. The Trustees shall deliver all or such portion as they deem proper, of the net contributions held by them and credited to a defined contribution System Employer to the Securities Custodian(s) for investment. Such amounts shall be appropriately allocated to each investment option based on Employee elections. The investment of such funds shall be made as soon as reasonably practicable.

#### 11.4 Liquidating Payments:

(1) Defined Benefit Systems. This paragraph shall apply solely to defined benefit Systems. The Trust Administrator shall notify the Securities Custodian(s) of the amount of any funds required by the Trustees for the purpose of making any benefit payments due under the System of any Employer. Immediately upon determination by the Securities Custodian(s) of the value per unit of participation, in accordance with Article IV hereof, as of the valuation date next following the receipt of such notice the Securities Custodian(s) shall liquidate for cash a number of the units of participation credited to the account of such Employer sufficient to produce the required funds and shall appropriately reflect such liquidation in its records. The funds so made available shall be delivered to the Trust Administrator for deposit and credit to the account of the appropriate Employer. The Securities Custodian(s) shall also furnish the Trust Administrator the information necessary to reflect such liquidation in the books and records of the Trust.

(2) Defined Contribution Systems. This paragraph shall apply solely to defined contribution Systems. The Recordkeeper(s) shall notify the Securities Custodian(s) of the amounts of each investment option required for the purpose of investing Employee contributions, trades or transfers and making benefit payments (including withdrawals, loans and transfers) to Employees. The Securities Custodian(s) shall sell a sufficient amount of each investment option to meet the payment obligations and deliver the funds to the Trust Administrator.

11.5 Records of Securities Custodian(s): In addition to any other records required of it, the Securities Custodian(s) shall at all times maintain accurate records of its receipts and disbursements and of the income, expenses, gains and losses earned or incurred by it in all transactions with relation to the Trust or any assets or investments thereof.

## ARTICLE XII

### Rights of Trustees

12.1 Enumeration of Rights: Subject only to other pertinent provisions of this Trust, and in addition to other enumerated rights, powers and privileges, the Trustees are further authorized and empowered:

To hold, manage, improve, repair and control all property, real or personal, at any time forming part of the Trust assets; to sell, convey, transfer, exchange, partition, lease for any term, even extending beyond the duration of this Trust, and otherwise dispose of the same from time to time in such manner, for such consideration and upon such terms and conditions as the Trustees shall determine; to vote any corporate stock either in person or by proxy, with or without power of substitution for any purpose;

To cause any property of the Trust to be issued, held or registered in the individual names of the Trustees, or in the name of a nominee, or in such form that title will pass by delivery, provided the records of the Trustees shall indicate the trust ownership of such property;

To exercise any conversion privilege or subscription right given to the Trustees as the owner of any security forming part of the Trust assets; to consent to, take any action in connection with, and receive and retain any securities resulting from reorganization, consolidation, merger, readjustment of the financial structure, sale, lease or other disposition of the assets of any corporation or other organization, the securities of which may be an asset of the Trust;

To employ such agents and counsel as may be reasonably necessary in managing and protecting the Trust and to pay them reasonable compensation from the Trust Assets; to settle, compromise, or abandon all claims and demands in favor of or against the Trust; to charge any premium on bonds purchased above par value to the principal of the Trust without amortization from the income of the Trust, regardless of any law relating thereto;

To exercise all the further rights, powers, options and privileges granted to, provided for, or vested in Trustees generally under the laws of the State of Oklahoma as amended from time to time, it being intended that, except as herein otherwise provided, the powers conferred upon the Trustees herein shall not be construed as in limitation of any authority conferred by law but shall be construed as in addition thereto; and

In addition to the enumerated powers herein, to do all other acts in their judgment necessary or desirable for the proper administration of the Trust.

12.2 Protection by Written Directions: The Trustees shall be fully protected in taking any action indicated by this instrument to be within the scope of the authority of any member of the Retirement Committee under the System of an Employer in accordance with any written instrument purporting to be signed by such person or persons authorized to sign for the Retirement Committee, which the Trustees, in good faith, believe to be genuine.

12.3 Advice of Counsel: The Trustees may consult with counsel in respect to any of their duties or obligations hereunder and shall be fully protected in acting or refraining from acting in accordance with the advice of such counsel.

12.4 Indemnification of Trustee: The Trustees shall incur no personal liability (except for their own gross negligence) for any act done or omitted to be done in good faith in the administration of the Trust, and the Trustees shall be indemnified and saved harmless by the Employers, or from the Trust, or both, from and against any and all liability to which the Trustees may be subjected by reason of any such act or conduct, including all expenses reasonably incurred in their defense.

## ARTICLE XIII

### Accounts of the Trustee

13.1 Inspection or Audit: The Trustees shall maintain accurate and detailed records and accounts of all transactions hereunder, which shall be available at all reasonable times for inspection or audit by each Authorized Agent or Retirement Committee as to its Employer's Trust share, or by any other person designated by the governing body of a participating Employer.

13.2 Reports to Auditors: The Trustees at the direction of any Employer shall submit to the auditors for such Employer, such valuations, reports, or other information as they may reasonably require.

13.3 Annual Audit: The Trustees shall cause an audit to be made of the Trust and Trust Operating Fund as of the end of each fiscal year thereof and as of such other date as the Trustees shall determine.

13.4 Written Accounts: Following the close of each fiscal year of the Trust, the Trustees shall file with each Employer a written account setting forth all transactions effected by them subsequent to the end of the period covered by the last previous annual account pertaining to the System of such Employer and listing the assets of the Trust relating to the System of such Employer at the close of the period covered by such account, at fair market value.

The fiscal year and annual accounting period of the Trust shall be the twelve-month period beginning July 1 and ending June 30 of the following year during the existence of the Trust. Such fiscal year accounting period shall not be changed except after approval by the Internal Revenue Service of the Trustees' application therefor.

13.5 Approval of Accounts: Upon the receipt by the Trustees of written approval of any such account, or upon the expiration of ninety days after delivery of any such account to the Authorized Agent of an Employer, such accounts (as originally stated if no objection has been theretofore filed by such Employer, or as theretofore adjusted pursuant to agreement between such Employer and the Trustees) insofar as it relates to the System of such Employer, shall be deemed to be approved by such Employer except as to matter, if any, covered by written objections theretofore delivered to the Trustees by such Employer regarding which the Trustees have not given an explanation, or made adjustments, satisfactory to such Employer, and the Trustees shall be released and discharged as to all items, matters and things set forth in such account which are not covered by such written objections as if such account had been settled and allowed by a decree of a court having jurisdiction regarding such account and of the Trustees, such Employer, its Retirement Committee and all persons having or claiming to have any interest in the Trust assets. The Trustees, nevertheless, shall have the right to have their accounts settled by judicial proceedings if they so elect, in which event the Employers or any of them, or their Retirement Committees and the Trustees shall be the only necessary parties.

13.6 Inquiry by Directors of the Oklahoma Municipal League: For the purpose of advising or making recommendations to participating Employers, the Board of Directors of the Oklahoma Municipal League may inquire into the accounts and activities of the Trustees at any

reasonable time and may conduct such audits or investigations as it shall deem advisable.

## ARTICLE XIV

### **Resignation, Removal and Succession of Trustees**

14.1 Removal by Withdrawing Employer: Any Employer, by resolution of its governing body, may remove the Trustees as the Trustees for its System, at any time and create or designate a separate trust and appoint a Successor Trustee or Trustees for its System. Such removal or appointment shall become effective when copies of said resolution certified by the appropriate officer of such Employer and an acceptance of the Trust signed by the Successor Trustee or Trustees so appointed is delivered to the Trustees. Upon such change being made, the Trustees shall, as soon after the valuation date next following receipt of such certified resolution and acceptance as is practical, deliver to the Successor Trustee or Trustees so appointed, an amount of cash equal to the ratable portion of the Trust assets allocated to the account of such Employer as of such valuation date together with a certified statement of all facts reasonably necessary to enable the Successor Trustee or Trustees to accept, hold, manage and distribute such trust assets. Thereupon the Trustees shall be fully discharged of all duties and liabilities in regard to such Employer and any employees thereof.

14.2 Resignation by Trustee: Any Trustee may resign as Trustee of this Trust by delivering to the other Trustees of this Trust a written resignation to take effect sixty days after the delivery thereof unless prior thereto the remaining Trustees shall have appointed a Successor Trustee as hereinbefore provided.

14.3 Applicability to Successor Trustees: All of the provisions set forth herein with respect to the Trustees shall relate to each Successor Trustee with the same force and effect as if such Successor Trustee originally had been named herein as Trustee.

14.4 Liability of Successor Trustees: No Successor Trustee shall be liable for the acts or omissions of any prior Trustee or be obliged to examine the accounts, records or acts of any prior Trustee or Trustees.

14.5 Removal by Majority of Employers: Any one or all of the serving hereunder at any time may be removed as such Trustee or Trustees by resolution or ordinance of the governing bodies of a majority of the participating Employers. In the event less than all of the Trustees of this Trust shall be so removed, the other provisions hereof shall govern the appointment or election of successors for those so removed.

14.6 Resignation or Removal of All Trustees: If all the Trustees shall at the same time be removed by such action or resign with no Successor Trustees having been properly elected to take office as of the effective date of such removal or resignation, the Directors of the Oklahoma Municipal League shall serve as temporary Trustees of this Trust until Successor Trustees have been elected and qualified under the provisions hereof.

## ARTICLE XV

### Termination

15.1 Termination of System by Participating Employer: The Trust created by this Indenture is intended to be permanent unless otherwise prohibited by law, and, in such event, it shall last only so long as one day short of the maximum time permitted by the statutes and laws of the State of Oklahoma. The Trust may, however, be terminated at any time by any Employer insofar as it relates to such Employer, in accordance with and as provided in its System pursuant to resolution of the governing body of such terminating Employer, by giving notice in writing to the Trustees, which notice shall recite the date upon which the termination shall be effective. After receipt of such notice the Trustees shall continue to hold, invest, administer, liquidate and distribute the portion of the Trust assets attributable to the System of each such terminating Employer pursuant to the provisions of its System and this Trust. The Trust shall terminate as to any Employer only when no assets of the Trust attributable to the System of the terminating Employer remain in the possession of the Trustee.

15.2 Distributions to Employer: In no event shall any assets be returned to any Employer except such, if any, which remain as the result of erroneous actuarial computation after the satisfaction of all fixed and contingent liabilities to persons entitled to benefits from the Trust.

15.3 Termination on Loss of Exemption: Notwithstanding any other provision herein contained, if at any time the System of any Employer has ceased to be entitled to tax exemption under the Internal Revenue Code, then such Employer shall automatically cease to be a participant in this Trust and the allocable portion of the Trust assets attributable to such Employer shall be segregated and distributed to the Treasurer of such Employer, for the use and benefit of its covered employees or their beneficiaries.

15.4 Loss of Membership in Oklahoma Municipal League: Any Employer eligible for membership in the Oklahoma Municipal League must be and shall remain a member in good standing of the Oklahoma Municipal League before being approved for participation in the Oklahoma Municipal Retirement Fund.

## ARTICLE XVI

### Amendments

16.1 Right to Amend: The Employers, only, shall have the right at any time or times to amend this Trust Indenture in whole or in part. Any amendment shall be approved by resolution or ordinance by the governing bodies of at least two-thirds of the Employers participating herein at the time of such amendment.

16.2 Copies of Amendments: A certified copy of each amendment to this Trust Indenture shall be delivered to each Employer by the Trustees.

16.3 Limitation on Right to Amend: No amendment shall be made to this Trust Indenture pursuant to the foregoing provisions which shall:

Make it possible, at any time prior to the satisfaction of all liabilities under the System of any Employer with respect to its employees and their beneficiaries, for any part of the Trusts assets to be used for, or diverted to, purposes other than for the exclusive benefit of employees of such Employer or their beneficiaries; or

Increase the duties or liabilities of the Trustees without their written consent; or

Be made effective retroactively to a date prior to the beginning of the fiscal year of the Trust in which it is adopted except amendments which are necessary to maintain without interruption, the qualification of the Trust or the System of any Employer for tax exemption under the Internal Revenue Code as amended from time to time and the regulations promulgated thereunder.

## ARTICLE XVII

### **Controlling Law and Legal Actions**

17.1 Controlling Law: This instrument shall be construed and enforced, and the Trust shall have a situs in and shall be administered according to the laws of the State of Oklahoma.

17.2 Severability of Provisions: If any of the provisions of this Indenture shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining provisions of this Trust Indenture, but shall be fully severable and the Trust Indenture shall be construed and enforced as if said illegal or invalid provisions had never been inserted herein.

17.3 Legal Actions: The participating Employers shall have the authority either jointly or severally, but shall be under no duty to enforce this Indenture on behalf of any and all persons, having or claiming any interest in the Trust assets. In any action or proceeding affecting the Trust or the administration thereof, or for instructions to the Trustees, the participating Employers and the Trustees shall be the only necessary parties, and no Employees or former Employees of any participating Employer or their beneficiaries, or any other person having or claiming to have an interest in the Trust assets shall be entitled to any notice or process, and any judgment that may be entered in such action or proceeding shall be binding on all persons having or claiming to have any interest in the Trust assets.

## ARTICLE XVIII

### **Adoption by Other Incorporated Cities and Towns**

18.1 **Authorization and Procedure:** Any Employer as defined herein in the State of Oklahoma with employees now in existence, or hereafter formed which is not already an Employer under this Trust, may, with the consent and approval of the Trustees, by formal resolution or ordinance of its governing body adopt by reference the Trust hereby created, and as amended from time to time, and establish a System of which it is a part for all or any classification of persons in its employment. Such adoption shall be effectuated by and evidenced by a duly certified formal resolution or ordinance by the adopting Employer. It shall not be necessary for the adopting Employer to sign or execute the original or then amended Trust document. The effective date of the Trust for any such adopting Employer shall be that stated in the resolution or ordinance of adoption, which shall be the first day of its first System year, and from and after such effective date such adopting Employer shall assume all the obligations of an Employer hereunder and under its System, and shall be included within the meaning of the word "Employer" as defined herein. However, participation in the Trust by an adopting Employer shall be subject to such acceptance of the Trustees and shall be contingent upon a determination by the Internal Revenue Service that the participation by such Employer in the Trust constitutes a qualified plan and trust under Section 401(a) of the Internal Revenue Code of 1954, and upon such adopting Employer having entered into a written contract for the pooling of its pension and retirement funds for purposes of management and investment with those of other entities which are Employers hereunder. The administrative powers and control of the Trustees, as provided in the System and Trust, shall not be diminished by reason of the participation of any such adopting Employer in the Trust. Any Employer may withdraw from the Trust at any time without affecting other Employers not withdrawing by complying with the provisions of the Trust relating to termination of the Trust and Successor Trustees.

18.2 **Asset Management:** Nothing in this Trust Indenture shall be construed as prohibiting an Employer from entering into this Trust for the purposes of pooling its pension and retirement funds for purposes of management and investment of those funds with other employers participating in the trust, with such Employer reserving the right to adopt and administer its own separate retirement plan. The acceptance of such funds for management and investment only shall be subject to the acceptance by the Trustees and shall be contingent upon a determination that the participation of the Employer in the Trust does not affect the tax exempt status of the Trust as part of a qualified plan under Sections 401 and 501 of the Internal Revenue Code. The Trustees of this Trust shall determine and charge a fee to the Employer for the management and investment of its pooled funds.

## ARTICLE XIX

### Miscellaneous

19.1 Application of Funds: No person dealing with the Trustees shall be required or entitled to see the application of any money paid or property delivered to the Trustees, or to determine whether or not the Trustees are acting pursuant to authorities granted to them hereunder or to authorizations or directions herein required. The certificate of the Trustees that they are acting in accordance with this Indenture shall protect any person relying thereon.

19.2 Tax Status of Trust: The Trust is hereby designated as constituting a part of a plan intended to qualify and to be tax exempt under Section 401(a) and Section 501(a) respectively, of the Internal Revenue Code of 1954, as amended from time to time. Until advised otherwise, the Trustees may conclusively assume that this Trust is qualified under Section 501(a) of the Internal Revenue Code as amended from time to time, and that this Trust is exempt from federal income taxes.

19.3 Limitation of Interest: Neither the creation of this Trust nor anything contained in this Indenture shall be construed as giving any person entitled to benefits hereunder or other employee of any Employer any equity or other interest in the assets, business or affairs of any Employer.

19.4 Exclusive Benefit of Employees: It shall be impossible by operation of this Trust, by natural termination thereof, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement, or by any other means, prior to the satisfaction of any and all liability under the System with respect to Employees, retired Employees, or beneficiaries of deceased Employees, for any part of the Trust assets and the income therefrom to be used for or diverted to purposes other than for the exclusive benefit of such Employees, retired Employees, and such of their beneficiaries as may be entitled to benefits under the System of an Employer. Provided, however, termination of its System, an Employer shall receive such amount, if any, as may remain after the satisfaction of all liabilities under its System to its Employees and arising out of any variations between actual requirements and expected actuarial requirements. The Trustees shall, however, be under no obligation to see to the enforcement of this paragraph.

19.5 Separate Accounting for Contributions and Benefits: The Trustees shall be under obligation to record separately the contributions from each Employer made with respect to its System and the benefits paid under the System to its Employees upon instructions of its Retirement Committee.

19.6 Provisions Apply Separately: All provisions of this Indenture shall apply separately to each of the Employers.

19.7 Consolidation or Merger: Upon the liquidation, bankruptcy, insolvency, consolidation, or merger of an Employer to or with another governmental unit in which the Employer is not the surviving unit, the System of such Employer and the Trust as related to it will terminate and the Trust assets allocated to it will be held or distributed as herein provided, unless the successor to such Employer assumes the duties and responsibilities of such Employer

by adopting its System, or, by the establishment of a separate plan or System to which its pro rata share of the Trust assets shall be transferred and delivered as in the case of the removal of the Trustees by a withdrawing Employer.

19.8 Discretion of Trustees: The discretion or judgment of the Trustees, when exercised in good faith and with reasonable care under the circumstances then prevailing, shall be binding upon all persons.

19.9 Fractions of a Cent: Any fraction of a cent per unit of participation resulting from any computation hereunder may be disregarded or adjusted in such reasonable manner as the Trustees may determine.



Oklahoma • Municipal • Retirement • Fund

**Proposed  
Amendment, Restatement and Continuation  
Trust Indenture explanation**

Each Oklahoma Municipal Retirement Fund (OkMRF) member operates under two documents – the *Master Plan Document with Joinder Agreement* and the *Trust Indenture*. The Trust Indenture provides for the organization and administrative procedures of the OkMRF **trust**. In order for any changes to be made to the Trust Indenture, two-thirds of the OkMRF membership must approve the change.

Before you is a request from the OkMRF trustees to approve an Amended and Restated Trust Indenture. The change does not directly impact the Defined Benefit (DB) plans or any pension benefits. It does impact members with Defined Contribution (DC) and related Customized Manager Option (CMO) plan(s). Yet, it requires each of you to consider a **resolution ballot** to secure the two-thirds vote.

Up until this proposed amendment, the applicable rules for DB, DC and CMO members were identical. With the amendment before you, OkMRF is suggesting separate accounting rules for the Defined Contribution Systems. This would be a favorable and welcomed change to enable DC/CMO participants to obtain their individual balances on a daily basis rather than monthly.

**DB Members action required:**

After voting and returning the enclosed resolution on the Trust Indenture amendment, there will be no further action needed.

**DC and CMO Members further action required:**

After voting and returning the enclosed resolution on the Trust Indenture amendment, provided amendment passes, the trust Administrator will then forward a related Master Plan Document with Joinder Agreement that will need to be presented to your governing body for approval and signature. The revised Master Plan with Joinder Agreement will include the updated IRS approved plan document along with necessary changes to implement daily recordkeeping.

The affected sections as outlined and explained on the attached **MEMORANDUM** are also highlighted for your convenience on the Trust Indenture attached to the Resolution as **Exhibit “1”** and will go into effect at a later date which will be certified by the OkMRF Trustees after:

- Two-third majority vote is secured;
- Contracts for daily recordkeeping with related vendors are properly in place; and
- Individual DC and CMO Master Plans with Joinder Agreements are signed and received.

Enclosed please find a resolution which should be submitted to your Retirement Committee (governing body) for approval **on your next available Council/Board meeting date**. A certified copy of the resolution needs to be returned to the OkMRF offices on or by May 15, 2015. When necessary votes are received and effective date certified, we will forward the updated Trust Indenture document for your files.

Thank-you for taking the time to have your governing body address this simple but important change. OkMRF is super excited to effect this type of change for DC/CMO plan participants to have account balances, distributions, loans, etc. updated and processed more frequently.

Please call Jodi Cox, Chris Whatley or Kari Baser with any questions you might have at ext. 102, 103 and 104, respectively.



Oklahoma • Municipal • Retirement • Fund

## MEMORANDUM

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TO: Oklahoma Municipal Retirement Fund

FROM: Jodi S. Cox, Executive Director & CEO

DATE: March 10, 2015

RE: Oklahoma Municipal Retirement Fund Trust Indenture Amendment and Restatement – Summary of Material Changes

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The following summary compares the old version of the Oklahoma Municipal Retirement Fund Trust Indenture with proposed version as set before you for approval.

### Trust Indenture Amendment and Restatement

<u>Sec.</u>	<u>Feature</u>	<u>Current Version</u>	<u>Newly-Approved Version</u>
1.2	Continuation of Trust	None.	Trustees will certify effective date of trust indenture upon acquiring 2/3 votes, securing applicable vendor contracts and obtaining individual DC/CMO master plan documents with joinders.
2.1	Definitions	None.	Daily Valuation Date defined.
4.2	Valuations	DB and DC Systems valued monthly.	DB Systems remain monthly. DC Systems valued each Daily Valuation Date.
4.3	Units of Participation	DB and DC Systems unitized using same method.	DB Systems unitized using same unit method. DC Systems can be unitized using units or dollars.
5.2	Costs and Expenses	Did not address individual participant fees.	Provides for a means to charge a DC plan participant individually, if they want specialized services, such as, but not limited to: loans, investment advice, brokerage fees, etc.
6.3	Required Appointments	None.	Recordkeeper(s) defined.

<b><u>Sec.</u></b>	<b><u>Feature</u></b>	<b><u>Current Version</u></b>	<b><u>Newly Approved Version</u></b>
10.1	Authorization of Trustees	None.	Modified language to add securities or investments permissible under applicable law.
11.3	Investment of Funds	DB and DC Systems investment of funds using same method.	Accounting for DC Systems separated out to account for investing more frequently.
11.4	Liquidating Payments	DB and DC Systems used same liquidation method.	DC Systems separated out to account for liquidating payments more frequently.



MEMORANDUM

Date: March 30, 2015

To: Mr. Grayson Bottom, City Manager

From: Robbie Williams, City Engineer

Re: CDBG – Small Cities Set Aside  
Year 13 Roadway, Sanitary Sewer and Waterline Replacement Project

We are requesting City Council consideration to authorize the City Engineer to advertise the above referenced project. This project will replace the roadway existing asphalt pavement with a new concrete pavement on Cedar Avenue between 1<sup>st</sup> Street and State Highway 4. We will also pipe burst the existing sanitary sewer line and install a new 8 inch sanitary sewer line and reconnect the service connections on Cedar Avenue between 1<sup>st</sup> Street and State Highway 4. We will receive an alternate bid to replace an existing waterline and to install a new waterline on Cedar Avenue between 1<sup>st</sup> Street and State Highway 4. We anticipate City Council consideration of award of the project at the May 19<sup>th</sup>, 2015 City Council meeting.

**SPECIFICATIONS**

for

**YEAR 13 – SMALL CITIES SET ASIDE  
ROADWAY, SANITARY SEWER AND WATERLINE REPLACEMENT  
PROJECT**

for the  
**CITY OF YUKON  
OKLAHOMA**



**BY:**

**Triad Design Group, Inc.  
Architects/Engineers/Planners  
3020 N.W. 149<sup>th</sup> Street, Oklahoma City, Oklahoma 73134  
Telephone: 405/752-1122  
FAX: 405/752-8855**

Triad Design Group, Inc. Project No. E109.13

**APRIL 2015**

APPROVAL SHEET

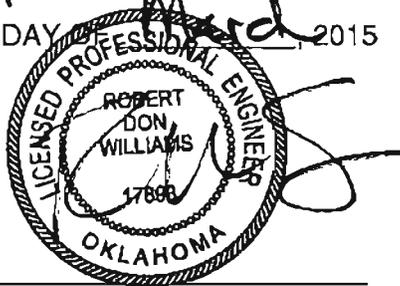
**YEAR 13 – SMALL CITIES SET ASIDE  
ROADWAY, SANITARY SEWER AND WATERLINE REPLACEMENT PROJECT**

**for the  
CITY OF YUKON  
OKLAHOMA**

SUBMITTED BY

TRIAD DESIGN GROUP, INC.

THIS 30<sup>th</sup> DAY of March, 2015



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Robert Don Williams, P.E.

## NOTICE TO BIDDERS

Notice is hereby given that the City of Yukon will receive sealed bids in the **Office of the City Clerk, City Hall, 500 West Main, Yukon, Oklahoma, 73085** until **2:00p.m. on Thursday the 30<sup>th</sup> day of April, 2015**, for the construction of:

### **YEAR 13 – SMALL CITIES SET ASIDE ROADWAY, SANITARY SEWER AND WATERLINE REPLACEMENT PROJECT CITY OF YUKON, OKLAHOMA**

Bids submitted by a Bidder shall be made in accordance with the Notice to Bidders, Requirements for Bidders, Plans, Specifications, and Bidder's Proposal, which are on file and available for examination at the Office of the City Clerk in the Municipal Building located at 500 West Main, Yukon, Oklahoma, 73085 and are made a part of this notice as fully set forth herein and copy of which may be obtained from Triad Design Group, Inc., 3020 NW 149<sup>th</sup> St., Oklahoma City, Oklahoma, 73134 upon deposit of **\$25.00 per set**, all of which will be retained. All bids shall remain on file at least forty-eight (48) hours thereafter before a contract shall be made and entered into thereon.

Bids shall also be made in accordance with the prevailing Federal Wage Rates for this locality and project as determined by the Davis-Bacon Wage Determination as though fully set forth herein.

All bids must include assurances that the following provisions will be complied with:

1. Federal Labor Standards Provisions, US Department of Labor, 29 CFR 5;
2. Section 3 of the Housing and Urban Development Act of 1974, as amended; 12 U.S.C. 1701U, which requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in substantial part by persons residing in the area of the project;
3. Section 109 of the Housing and Community Development Act of 1974, which assures that no person shall, on the grounds of race, color, natural origin or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination;
4. Certification of Non-Segregated Facilities, which assures the bidder does not maintain or provide any segregated facilities;
5. Equal Opportunity Provisions – Executive Order 11246, as amended, which assures non-discrimination;
6. Minority Business Enterprise and Women Business Enterprise provisions which encourage minority-owned businesses and women-owned businesses to bid on the project;
7. Assurances that surety companies executing bonds appear on the Treasury Department's list and are authorized to transact business in the State where the project is located.

Bids received more than ninety-six (96) hours, excluding Saturdays, Sundays, and holidays, before the time set for opening of bids, as well as bids received after the time set for opening of bids, will not be considered and will be returned unopened.

A cashier's check, a certified check, or a surety bond in the amount of five percent (5%) of the bid shall accompany the sealed proposal of each bidder.

The City of Yukon reserves the right to reject any or all bids. Bids will be opened at 2:00 p.m. on Thursday the 30<sup>th</sup> day of April, 2015, in the Centennial Building Conference Room, 12 South 5<sup>th</sup> Street, Yukon, Oklahoma, 73085.

A pre-bid conference will be held at the City of Yukon, Centennial Building Conference Room, 12 South 5<sup>th</sup> Street, Yukon, Oklahoma, 73085 on Thursday, April 16, 2015, at 2:00 p.m.

NON-DISCRIMINATION IN EMPLOYMENT

Bidders on this work will be required to comply with the President's Executive Order No. 11246. The requirements for bidders and contractors under this order are explained in the specifications.

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City Clerk

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## **GENERAL PROVISIONS**

## GENERAL PROVISIONS

The C.D.B.G. General Conditions (pg GP 29 through GP 49) and C.D.B.G. Supplemental General Conditions (pg GP 50 through GP 57), govern over the City's General Provisions and Special Provisions.

### **DEFINITION OF TERMS**

**2.01 - Definitions.** Wherever the words, forms or phrases herein define, or pronouns used in their stead, occur in these specifications, in the contract or in the advertisement or any document or instrument herein contemplated or to which these specifications apply, the intent and meaning shall be interpreted as follows:

**A.A.S.H.T.O.** - The American Association of State Highway Transportation Officials.

**ADVERTISEMENT** - All of the legal publications pertaining to the work contemplated or under contract.

**A.S.T.M.** - The American Society for Testing Materials.

**AWARD** - The decision of the City to accept the proposal of the lowest and best bidder for the work, subject to the execution and approval of a satisfactory contract and the required bonds therefore specified or otherwise required by law.

**BIDDER** - Any person or persons, partnership, company, firm or corporation acting directly through a duly authorized representative submitting a proposal for the work contemplated.

**CALENDAR DAY** – Any day shown on the calendar beginning and ending at midnight.

**CITY** - City of Yukon, Oklahoma, a Municipal Corporation, acting through its duly authorized representatives or agents.

**CITY AUDITOR** - The City Auditor of the City or his/her duly authorized assistants or agents.

**CITY BUILDING DEPARTMENT** - The City Building Department.

**CITY CLERK** - The City Clerk of the City, or his duly authorized assistants or agents.

**CITY MANAGER** - The Manager of the City.

**CITY TREASURER** - The City Treasurer of the City, or his duly authorized assistants or agents.

**CONSTRUCTION BOND** - The approved form of security furnished by the Contractor and his surety as a guarantee of good faith on the part of the contractor to execute the work in accordance with the plans, specifications and terms of the contract.

**CONTRACT** - The written agreement covering the performance of the work. The contract includes the Advertisement and Notice to the Contractors, Proposals, Bonds, Specifications, including special Provisions, plans or working drawings and any supplemental agreements pertaining to the work or materials therefor.

**CONTRACTOR** - The persons or persons, partnership, company, firm or corporation entering into contract for the execution of the work acting directly through a duly authorized representative.

**COUNCIL** - The Council of the City.

**DEVELOPER** - The owner of a tract of land that has been subdivided into lots, blocks, streets, and alleys having street improvements made in accordance with these specifications by private contract.

**DIRECTOR OF PUBLIC WORKS** - The person acting within the scope of duly delegated authority.

**ENGINEER** - City Engineer or his duly authorized agents acting severally within the scope of the particular duties entrusted to them.

**EXTRA WORK** - Any work performed by the Contractor not provided for by the plans.

**FURNISH** - To supply.

**MAINTENANCE BOND** - The approved form of security furnished by the Contractor and his surety as a guarantee that he will maintain the work constructed by him, against any failure due to defective material or workmanship.

**MAJOR PAY ITEM** - Any item having an original contract value in excess of 10 percent of the original contract amount shall be considered as a major item or items. All other items shall be considered minor items.

**MAYOR** - The Mayor of the City and Chairman of the City of Yukon Municipal Authority.

**MOBILIZATION** - Mobilization shall consist of preparatory work and operations, including, but not limited to, those necessary for the movement of personnel, equipment, supplies and incidentals to the project site; for the establishment of all offices, buildings, and other facilities necessary for work on the project; and for all other work and operations which must be performed, or costs incurred, prior to beginning work on the various items on the project site. Payment for same will be made as provided for in the Special Provisions.

**MUNICIPAL COUNSELOR** - The Municipal Attorney of the City or his duly authorized assistants or agents.

**OWNER** - The owner is that person or agency contracting for the proposed improvements.

**PLAN OR PLANS** - All of the drawings pertaining to the contract and made a part thereof, including such supplemental drawings as the Engineer may issue from time to time, in order to elucidate other drawings or for the purpose of showing changes in the work as authorized under the Section, "Changes and Alterations", or for showing details not shown thereon.

**PROPOSAL** - The written statement or statements duly filed with the City Clerk or the person or persons, partnership, company, firm or corporation proposing to do the work contemplated.

**PROPOSAL FORM** - The approved form on which the formal bids for the work are to be prepared and submitted.

**PROPOSAL GUARANTY** - The security, designated in the "proposal form" and in the Advertisement, to be furnished by the bidder as a guarantee of good faith to enter into a contract with the City and to execute the required bonds for the work contemplated after the work is awarded to him and as liquidated damages in event of failure to do so.

**PROVIDE** - To furnish and erect or install.

**SPECIAL PROVISIONS** - The special clauses setting forth conditions or requirements peculiar to the specific project involved, supplementing the Standard Specifications and taking precedent over any conditions or requirements of the Standard Specifications with which they are in conflict.

**SPECIFICATIONS** - The directions, provisions and requirements contained herein, together with the "Special Provisions" supplemental hereto, pertaining to the method and manner of performing the work or to the kinds, quantities or qualities of materials to be furnished under the contract and methods of measurement and basis of payment.

**STATUTORY BOND** - The approved form of Surety furnished by the Contractor and his Surety as a guarantee that he will pay, in full, all bills and accounts for material and labor used in the construction of the work, as provided by law.

**SUBSTANTIAL COMPLETION** - The term "substantial completion" means that the work, structure, or facility has been made suitable for occupancy or use, and is in condition to serve its intended purpose, but may require minor miscellaneous work or adjustment.

**SURETY OR SURETIES** - The Corporate body which is bound by such bonds as are required with and for the Contractor and engages to be responsible for the entire and satisfactory fulfillment of the contract and for any and all requirements as set out in the specifications, contract or plans.

**THE WORK** - All construction activities included within the scope of the plans and specifications, including the furnishing of labor, materials, tools, equipment and incidentals, to be performed by the Contractor under the terms of the contract.

**WORKING DAY** - Any day, other than a legal holiday, Saturday or Sunday, on which the approximate normal working forces of the Contractor may proceed with regular work in a manner satisfactory to the Engineer for at least six (6) hours, toward completion of the work, unless work is suspended for causes beyond the Contractor's control, provided that Saturdays, Sundays, and legal holidays on which the Contractor's forces do engage in regular work will be

considered as working days. A weekly schedule of working days charged to the job shall be submitted to the Engineer for his concurrence.

## **REQUIREMENTS FOR BIDDERS**

2.02 - Requirements. The items noted in this section apply to and become part of the terms and conditions of the Proposal and Detailed Proposal as though they were included in their entirety. Any exceptions must be in writing.

All bidders shall comply with the pre-qualification requirements of the City of Oklahoma City.

2.03 - Content of Proposal Forms. Bids must be submitted on the Proposal Form and Detailed Proposal Form as appropriate. Said forms will be provided by the City and will state the general location and description of the contemplated work and will contain a list of the items of work to be done or materials to be furnished and upon which bid prices are asked. The Proposal Form will state the time limits for commencing and for completing the work and will provide for entering the amount of the proposal guaranty. The proposal form will contain a non-collusion affidavit.

2.04 - Interpretation of Plans and Specifications. If any person contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of the plans, specifications or other proposed contract documents, he may submit to the Engineer a written request for an interpretation thereof. The person submitting such request will be responsible for its prompt delivery. An interpretation of the proposed documents will be made only by Addendum duly issued and a copy of such addendum will be mailed or delivered to each person receiving a set of such documents. The City will not be responsible for any other explanations or interpretations of the proposed documents.

2.05 - Examination of Documents and Site of the Work. Bidders are advised that the plans and specifications of the Engineer on file with the City Clerk shall constitute all the information which the City will furnish. No other information given by the City or any official thereof prior to the execution of the contract shall ever become a part of or change the contract, plans or specifications or be binding on the City. Bidders are required, prior to submitting any proposal, to read carefully the specifications, the proposal, contract and bond forms; to examine carefully all estimates officially opened for examination and all plans on file with the City Clerk; to visit the site of the work; to examine carefully local conditions; to inform themselves by their independent research of the difficulties to be encountered and judge for themselves the accessibility of the work and all attending circumstances affecting the cost of doing the work or the time required for its completion and obtain all information required to make an intelligent proposal. It is mutually agreed that submission of a proposal will be evidence that the bidder has made the examination and investigations required herein.

2.06 - Preparation and Filing of Proposal. Bids and affidavits must be made in duplicate and filed in sealed envelopes within the time limit for receiving proposals, as stated in the Notice to Bidders, which envelopes shall bear a legible notation thereon "PROPOSAL" and the name of the project. The copies shall be filed with the City Clerk in the Municipal Building or as directed by the Notice to Bidders. All blank spaces in the proposal forms shall be correctly filled in and the bidder shall state the prices, typewritten or written in ink, both in words and numerals, for

which he proposes to do the work contemplated or furnish the materials required. All prices shall be distinct and legible. In cases of conflict between the Proposal and Detailed Proposal, the unit prices specified on the Detailed Proposal shall govern.

If the proposal is submitted by an individual, his name must be signed by him or his duly authorized agent and his post office address given. If the proposal is submitted by a firm or partnership, the name and post office address of each member must be given and the proposal signed by a member of the firm or partnership as a person duly authorized. If the proposal is made by a company or corporation, the company or corporate name and the State under the laws of which said company or corporation is chartered and the business address must be given and the proposal signed by an official or agent duly authorized. Powers of Attorney, authorizing agents or others to sign proposals must be properly certified and must be in writing and on file with the City Clerk.

2.07 - Proposal Affidavit. The bidder must execute the sworn statement found on the Proposal that the person signing the Proposal executed said Proposal in behalf of the bidder therein named and that he had lawful authority to do so, and that said bidder has not directly or indirectly entered into any agreement, express or implied, with any other bidder or bidders having for its object the controlling of the amount of such bid or any bids, the limiting of the bids or bidders, the parceling or farming out to any bidder or bidders or other persons of any part of the contract or any bid or the subject matter of the bid or of the profits thereof, and that he has not and will not divulge said sealed bid to any person whomever except those having a partnership or other financial interest with him in said bid, until after the said sealed bids are opened.

2.08 - Proposal Guaranty. Proposals will not be considered unless the original filed with the City Clerk is accompanied by a bidder's bond or certified or cashier's check in the required amount, made payable to the Treasurer of the City. The proposal guaranty shall be in the amount of five (5) percent of the total amount of the bid unless otherwise provided in the Advertisement or Special Provisions. The proposal guaranty is required as evidence of good faith and as a guarantee that if awarded the contract, the bidder will execute the contract and furnish the required bonds within the required time and as liquidated damages in event of failure to do so.

2.09 - Withdrawal of Proposals. Any bidder upon his or his authorized representative's written request, or by telegram to the City Clerk will be given permission to withdraw his proposal not later than the time set for opening thereof. After other proposals are opened and read, the proposal for which withdrawal is requested in a timely manner will be returned unopened.

2.10 - Opening of Proposals. The proposals filed with the City Clerk will be opened at the time stated in the advertisement and shall thereafter remain on file in the office of said City Clerk for 48 hours before any contract will be entered into, based on such proposal.

2.11 - Irregular Proposals. Any bid proposal that shows any omission, alteration of form, addition or condition not called for in any unauthorized bid proposal shall be deemed irregular; however, the City reserves the right to waive technicalities and make the award in the best interest of the City.

2.12 - Rejection of Proposals. The City reserves the right to reject any or all proposals and all proposals submitted are subject to this reservation. Proposal may be rejected for any of the following specific reasons:

- A. Proposals received before or after the time limit for receiving proposals as stated in the advertisement.
- B. Proposal prices obviously unbalanced.
- C. Total proposal price above the Engineer's estimate of total cost.
- D. Proposals that are incomplete insofar as the Non-Collusion Affidavit, required signatures, or containing any material irregularities.
- E. Failure to submit Proposal Guaranty.
- F. Bidder not pre-qualified.
- G. Any other irregularity.

2.13 - Disqualification of Bidder. Bidders may be disqualified and their proposals not considered for any of the following specific reasons:

- A. Where more than one proposal for an individual, firm, partnership, or corporation is filed under the same or different names and where such proposals are not identical in every respect.
- B. Reasonable grounds for believing that any bidder is interested in more than one proposal for the work contemplated or materials to be furnished.
- C. Reason for believing that collusion exists among the bidders.
- D. The bidder being in arrears on any existing contracts, interested in any litigation against the City or having defaulted on a previous contract.
- E. Lack of competency, as revealed by the financial statement, experience and equipment questionnaires, etc.
- F. Uncompleted work which, in the judgment of the City, will hinder or prevent the prompt completion of additional work, if awarded.
- G. Any other matter which comes to the attention of the City which, in the sole discretion of the City, would cast reasonable doubt upon bidder's ability to perform the contract.

## AWARD AND EXECUTION OF CONTRACT

2.14 - Consideration of Proposals. After the proposals are opened, those proposals containing unit prices will be tabulated for comparison on the basis of the quantities shown in the approximated estimate. Until the final award of the contract, the City reserves the right to reject any or all proposals, to waive technicalities and to advertise for new proposals or proceed to do the work otherwise when the best interests of the City will be promoted thereby.

2.15 - Award of Contract. The City reserves the right to withhold the award of the contract for a period of time not to exceed thirty (30) days unless mutually agreed upon from the date of opening the proposals and no award will be made until the necessary investigations are made as to the responsibility of the low bidder. The awarding of the contract shall give the bidder no right of action or claim against the City upon such contract until the execution of the contract shall have been completed and the contract delivered to the Contractor.

2.16 - Return of Proposal Guaranty. As soon as the proposal prices have been compared, the City may, at its discretion, return the proposal quantities accompanying proposals which in its judgment would not be considered in making the award. Should the awarding of the contract be delayed more than thirty (30) days, all bidders' checks will be returned unless such delay is from causes beyond the control of the City, and in such event the proposal and bidder's check, of any bidder, will be returned at the bidder's option.

2.17 - Surety Bonds. With the execution and delivery of the contract, the Contractors shall furnish and file with the City in the amounts herein required, the following surety bonds:

- A. A good and sufficient Construction Bond in an amount equal to one hundred (100) percent of the approximate total amount of the contract, guaranteeing the full and faithful execution of the work and performance of the contract.
- B. A good and sufficient Statutory Bond in an amount equal to one hundred (100) percent of the approximate total amount of the contract, guaranteeing payment for all labor, materials, and equipment used in the construction of the improvement.
- C. A good and sufficient Maintenance Bond will be required for a period of **two (2) year** for all improvements from the date of final acceptance of the project by the City. Said bond shall be as stated on the maintenance bond form.

All bonds shall be acceptable to the Owner. All bonds shall be made on forms furnished by the City and shall be executed by surety companies licensed to do business in the state of Oklahoma and conforming to the requirements of the City and acceptable to the City of Yukon. Each bond shall be executed by the Contractor and the Surety.

2.18 - Execution of Contract. The person or persons, partnership, company, firm or corporation to whom a contract is awarded shall within seven (7) days after such award sign the necessary agreements entering into the required contract with the City and execute and deliver the required bonds.

No contract shall be binding on the City until it has been approved by the City Attorney, executed by the City of Yukon and delivered to the Contractor.

2.19 - Failure to Execute Contract. Upon failure of the bidder to execute the required bonds or to sign the required contract within seven (7) days after the contract is awarded, he will be considered to have abandoned his proposal and the City may annul the award. By reason of the uncertainty of market prices of the materials and labor and it being impracticable and extremely difficult to fix the amount of damages to which the City would be put by reason of said bidder's failure to execute said bonds and contract within seven (7) days, the proposal guaranty accompanying the proposal shall be an agreed amount of damages which the City will suffer by reason of such failure on the part of the bidder and shall thereupon be retained by the City as liquidated damage. The filing of a proposal will be considered as an acceptance of this provision.

## **SCOPE OF WORK**

2.20 - Intent of Plans and Specifications. The intent of the plans and specifications is to prescribe a complete scope of work or improvement which the Contractor undertakes to do, in full compliance with the plans, specifications, special provisions, proposal and contract. The Contractor shall furnish all labor, materials, tools, equipment and incidentals necessary to the prosecution of the work, unless otherwise specified.

2.21 - Design, Drawing and Instructions. It is agreed that the Owner will be responsible for the adequacy of design and sufficiency of the Drawings and Specifications. The Owner, through the Engineer, or the Engineer and the Owner's representative, shall furnish drawings and specifications which adequately represent the requirements of the work to be performed under the Contract. All such drawings and instructions shall be consistent with the Contract Documents and shall be true developments thereof. Drawings and specifications which adequately represent the work to be done shall be furnished prior to the time of entering into the Contract. The Engineer may, during the life of the Contract, issue additional instructions, by means of drawings or other media, necessary to clarify the work or illustrate changes in the work.

2.22 - Special Provisions. Should any work or any conditions which are not thoroughly or satisfactorily stipulated or covered by the general or standard specifications be anticipated on any proposed work, "Special Provisions" for such work may be prepared and shall be considered as a part of the specifications and contract.

2.23 - Increased or Decreased Quantities of Work. Where the quantity of a major pay item in this contract is an estimated quantity and where the actual quantity of such pay item varies more than fifteen percent (15%) above or below the estimated quantity stated in this contract, as it may hereafter be modified, an equitable adjustment in the contract unit price shall be made upon demand of either party. If the quantity variation is such as to cause an increase or decrease in the time necessary for completion, the contract shall be increased or decreased on a basis commensurate with the amount and difficulty of the modified work.

2.24 - Alterations of Plans and Specifications. The City reserves the right to make such changes in the plans and in the character of the work as may be necessary or desirable to insure completion of the work in the most satisfactory manner, provided such changes do not materially alter the original plans and specifications or change the general nature of the work as

a whole. Such changes shall not be considered as waiving or invalidating any condition or provision of the contract.

2.25 - Extra Work. When any work is necessary to the proper completion of the project for which no prices are provided in the proposal or contract, the Contractor shall do such work, but only when and as ordered in writing by the Engineer and with the prior approval of the City of Yukon.

Payment of extra work will be made as hereinafter provided.

2.26 - Final Cleaning Up. Upon completion of the work and before acceptance and final payment will be made, the Contractor shall clean and remove from the site of the work surplus and discarded materials, temporary structures, stumps or portions of trees, and debris of any kind. He shall leave the site of the work in a neat and orderly condition. Waste materials removed from the site of the work shall be disposed of at locations satisfactory to the Engineer.

## **CONTROL OF THE WORK AND MATERIALS**

2.27 - Authority of Engineer. The Engineer shall perform technical inspection of the work. He has authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract. He shall also have authority to reject all work and materials which do not conform to the Contract and to decide questions which arise in the execution of the work.

2.28 - Detail Shop and Working Drawings Furnished by Contractor. The Contractor shall submit to the Engineer for approval, such additional shop and working drawings of structures or equipment as may be required, and prior to the approval of such drawings by the Engineer, any work done or materials ordered shall be at the Contractor's risk. The contract price shall include the cost of furnishing such drawings.

2.29 - Conformity with Plans. Allowable Deviations. All work shall conform to the lines, grades, cross-sections and dimensions accomplished by change orders prepared by the Engineer. All change orders shall be in writing, and shall, except in case of emergency, be approved by the City of Yukon before the work is commenced. Where an actual emergency exists, wherein the delay caused by submitting the change order to the City of Yukon for approval would jeopardize the interest of the City or the public, the Engineer may approve the change order in writing. However, change orders approved by the engineer under the circumstances outlined above shall be submitted to the City for consideration at its next regular meeting.

- A. Change orders submitted to the City of Yukon for approval shall bear the approval of the Engineer and shall be prepared in three copies, distributed as follows:
  - 1. One (1) copy to the City;
  - 2. One (1) copy of the Contractor;
  - 3. One (1) copy to the Engineer.
- B. Change orders shall include the following:

1. Complete detail of the work contemplated.
2. Estimated cost of the work as originally planned and as contemplated by the Change Order.
3. Complete justification.
4. Statement as to whether the prices shown are contract bid prices or agreed prices.
5. Statement by the Contractor that he is willing to perform the work at the prices shown.
6. Increase or decrease in contract working time.

2.30 - Changed Conditions. Should the Contractor encounter or the Engineer discover during the progress of the work subsurface or latent physical conditions at the site differing materially from those indicated in this contract or unknown physical conditions at the site, of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract, the Engineer shall be promptly notified in writing of such conditions before they are disturbed, or when discovered by the City, the Contractor shall be notified in writing of such conditions.

The Engineer will thereupon promptly investigate the conditions and if he finds they do so materially differ and cause an increase or decrease in the cost of, or the time required for performance of the contract, an equitable adjustment will be made and the contract modified in writing accordingly.

2.31 - Coordination of Plans, Specifications, Proposal and Special Provisions. The plans, these specifications, the proposal, Special Provisions, and all supplementary documents are intended to describe a complete scope of work and are essential parts of the contract. All requirements occurring in any of them are binding. In case of discrepancies, figured dimensions shall govern over scaled dimensions; plans shall govern over specifications; Special Provisions shall govern over both General and Standard Specifications; and the plans and quantities shown on the plans shall govern over those shown in the proposal. In the event the Contractor or Engineer discovers any apparent error or discrepancy, he shall immediately call such error or discrepancy to the attention of the other.

2.32 - Cooperation of Contractor. Six sets of plans and specifications will be furnished the Contractor. The Contractor shall have a set of plans and specifications available at all points where a separate construction crew is working.

The Contractor shall give to the work the consistent attention necessary to facilitate the program thereof, and he shall cooperate with the Engineer and his inspectors and with other contractors in every way possible. The Contractor shall provide a competent Superintendent on the work at all times who is fully authorized as his agent on the work. Such Superintendent shall be capable of reading and thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the Engineer or his representative.

The Contractor and his Superintendent shall provide all reasonable facilities to enable the Engineer and his inspectors to inspect the workmanship and materials entering into the work.

2.33 - Cooperation of Engineer. The Engineer shall give to the work the consistent attention necessary to facilitate the program thereof, and he shall cooperate with the Contractor and his Superintendents and with other contractors in every way possible. The Owner shall provide a competent Inspector available at all times who is fully authorized as his agent on the work. Such Inspector shall be capable of reading and thoroughly understanding the plans and specifications.

2.34 - Construction Stakes. The Engineer will furnish the Contractor with control points for each line; however, the Contractor shall be responsible for establishing all lines, grades, and measurements necessary to the proper prosecution and control of the work contracted for under these specifications. Such control points as the Engineer may set for either his own or the Contractor's guidance shall be scrupulously preserved by the Contractor. In case of negligence on the part of the Contractor or his employees resulting in the destruction of such control points, an amount equal to the cost of replacing the same may be invoiced to the Contractor at the option of the Engineer.

2.35 - Source of Supply and Quality of Materials. The Contractor shall not start delivery of materials until the Engineer has approved the source of supply. Only materials conforming to the requirements of these specifications shall be used in the work and such materials shall be used only after written approval has been given by the Engineer and only so long as the quality of said material remains equal to the requirements of the specifications. The Contractor shall furnish approved materials from other sources, if, for any reason, the product from any source at any time before commencing or during the prosecution of the work proves unacceptable. After approval, any material which has become mixed with or coated by dirt or any other foreign substance during its delivery and handling shall not be used in the work.

2.36 - Samples and Tests of Materials. Where, in the opinion of the Engineer or called for in the specifications, tests of materials are necessary, such tests shall be made by, and at the expense of the City, unless otherwise provided. Tests, unless otherwise specified, are to be made in accordance with the latest standard methods of the American Society for Testing Materials. The Contractor shall provide such facilities as the Engineer may require for collecting and forwarding samples and shall not use the materials represented by the samples until tests have been made and approved by the designated Engineer or testing laboratory. The Contractor in all cases shall furnish the required samples without charge. All tests shall be made by a laboratory designated by the City.

In all cases where the Engineer orders tests or inspections to be made by a testing laboratory, the costs of the tests shall be borne by the Owner, except as otherwise provided herein.

Testing shall be done only on written order of the Engineer on test order forms provided by the City; unless otherwise provided. Nothing in these specifications shall be construed as requiring a specific number of tests to be made; the minimum schedule of satisfactory tests, listed herein, will be furnished by the Engineer and performed by a testing laboratory designated by the City.

The reference made herein to the A.S.T.M. and A.A.S.H.T.O. are to establish a standard for quality of material, and shall not be construed as requiring tests for compliance with these specifications except on the written order of the Engineer as provided above.

A satisfactory test is defined as being a test which shows that the quality of the materials or workmanship meets the requirements of the specifications. Where tests reveal that the quality of the materials or workmanship does not meet the requirements of the specifications, additional tests shall be made as directed by the Engineer until the number of satisfactory tests called for in the schedule have been made. The reports of the tests shall constitute the evidence referred to above.

The Engineer may order tests in addition to the number provided for in the schedule to be made if, in his opinion, such additional tests are necessary. The cost of all tests ordered, in addition to the number of satisfactory tests provided for in the schedule, which show that the materials or workmanship conform to the specifications shall be paid for by the Owner.

All such tests which reveal that the materials or workmanship do not conform to the specifications shall be paid for by the Contractor.

2.37 - Storage of Materials. Materials shall be stored so as to insure the preservation of their quality and fitness for the work. Stored materials shall be located so as to facilitate prompt inspection.

2.38 - Inspection. The Contractor shall furnish the Engineer with every reasonable facility for ascertaining whether or not the work as performed is in accordance with the requirements and intent of the plans and specifications. If the Engineer requires, the Contractor shall at any time before acceptance of the work, remove and uncover such portions of the finished work as may be directed, for inspection. After inspection, the Contractor shall restore said portion of the work to the condition required by the specifications.

Should the work thus exposed on examination prove acceptable, the cost of uncovering or removing and replacing of the covering, or making good the parts removed will be paid for as "Extra Work". Should the work so exposed or examined prove unacceptable, the cost of covering or removing and the placing of the coverage, or making good of the parts removed shall be at the Contractor's expense, provided that where ample notice of the intention to complete or cover up the work was not given by the Contractor to the Engineer, then the cost of the uncovering or removing and the replacing of the covering, or making good of the parts removed shall be borne by the Contractor regardless of whether or not the work examined proved acceptable or unacceptable. Any work done or material used without suitable supervision or inspection by the Engineer may be ordered removed and replaced at the Contractor's expense.

2.39 - Removal of Defective and Unauthorized Work. All work which has been rejected or condemned shall be repaired, or, if it cannot be satisfactorily repaired, it shall be removed and replaced at the Contractor's expense. Defective materials shall be removed immediately from the site of the work.

Work done without lines and grades having been given; work done beyond the lines or not in conformity with the grades shown on the plans or as given, save as herein provided; work done without proper inspection or any extra or unclassified work done without written authority and prior agreement in writing as to prices, will be done at the Contractor's risk and will be considered unauthorized, and, at the option of the Engineer, may not be measured and paid for and may be ordered removed at the Contractor's expense.

Upon the failure of the Contractor to satisfactorily repair or to remove and replace, if so directed, any rejected, unauthorized or condemned work or materials immediately after receiving notice from the Engineer, the Engineer shall, after giving written notice to the Contractor, have the authority to cause defective work to be remedied or removed and replaced or to cause unauthorized work to be removed and to deduct the cost thereof from any compensation due or to become due to the Contractor. If the Engineer and City deem it inexpedient to correct work injured or done not in accordance with the contract, an equitable deduction from the contract price shall be made therefor.

2.40 - Correction of Work After Final Payment. Neither the final certificate nor payment nor any provision in the Contract Documents shall relieve the Contractor of responsibility for faulty materials or workmanship and, unless otherwise specified, he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of substantial completion. The City shall give notice of observed defects with reasonable promptness.

2.41 - Final Inspection. The Engineer shall make final inspection of all work included in the contract or any portion thereof.

## **LEGAL RELATION AND RESPONSIBILITY TO THE PUBLIC**

2.42 - Laws to be Observed. The Contractor shall keep fully informed of all Federal and State Laws, all local laws, ordinances, safety codes, regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. He shall at all times observe and comply with all such laws, ordinances, safety codes, regulations, orders, and decrees; and shall protect and indemnify the City and its representatives against any claim or liability arising from or based on the violation of any such law, ordinance, safety code, regulation, order, or decree, whether by himself or by his employees.

2.43 - Permits and Licenses. The Contractor shall procure all permits and licenses, pay all charges or fees, and give all notices necessary for the lawful prosecution of the work. When the Contractor has filed a contract with the City, the City agrees to waive all incidental permits and fees.

2.44 - Patented Devices, Materials and Processes. If the Contractor is required or desires to use any design, device, material, or process covered by letters, patent or copyright, he shall provide for such use by suitable legal agreement with the patentee or owner.

2.45 - Sanitary Provisions. All sanitary laws and regulations of the City and of the state of Oklahoma shall be strictly complied with.

2.46 - Public Convenience and Safety. Materials stored about the work shall be so placed and the work shall at all times be so conducted as to cause no greater obstruction of the traveling public than is considered necessary by the Engineer. Detours and routes are to be furnished by the City, or such will be set forth in proposal as a bid item. Sidewalks must not be obstructed unless by special permission of the Engineer. Neither the materials excavated nor

the construction materials or plant used in the construction of the work shall be placed so as to endanger the work or prevent free access to all fire hydrants; water valves; gas valves; manholes for electric, telephone, telegraph, or traffic signal conduits, sewers; or fire alarm or police call boxes in the vicinity. The City reserves the right to remedy any neglect on the part of the Contractor as regards the public convenience and safety which may come to its attention, after twenty-four (24) hours notice in writing to the Contractor, save in cases of emergency when it shall have the right to remedy any neglect without notice and in either case, the cost of such work done by the City shall be deducted from moneys due or to become due the Contractor. The Contractor shall notify the Fire Department headquarters when any street is closed or obstructed and when directed by the Engineer shall keep any street or streets in condition for unobstructed use by fire apparatus.

When the Contractor is required to construct temporary culverts or bridges or make other arrangements for crossing over ditches or streams, his responsibility for accidents shall include the roadway approaches as well as the structures of such crossings.

2.47 - Privileges of Contractor in Streets, Alleys, or Rights-of-way. For the performance of the contract, the Contractor will be permitted to occupy such portions of streets or alleys, other public places or other rights-of-way as provided for in the ordinances of the City, as shown on the plans or as permitted by the Engineer. A reasonable amount of tools, materials and equipment for construction may be stored in such space but not more than is necessary to avoid delay in the construction. Excavated and waste materials shall be piled or stacked in such a way as not to interfere with space that may be designated to be left free and unobstructed, nor inconvenience occupants of adjoining property. Other contractors of the City may, for all purposes required by their contracts, enter upon the work and premises used by the Contractor and the Contractor shall give to other contractors of the City, all reasonable facilities and assistance for the completion of the adjoining work. Any additional grounds desired by the Contractor for his use shall be provided by him at his own expense.

2.48 - Railway Crossings. When the work encroaches upon the right-of-way of any railway, the City will secure for the Contractor all the necessary contracts, easement, or authority to enter upon such right-of-way for the prosecution and completion of the work. Where railway tracks are to be crossed, the railway company, if it elects to do so, will construct the necessary bridges, trestles, cribs, or other structures for the safe operation of trains or cars across any excavation during the time of construction of the work, and the cost of construction of such bridges, trestles, cribs, or other structures shall be paid to the railway company by the Contractor. The price shall be the stated allowance as shown in the bid proposal. The Contractor shall take such special precautions for the safety of the work and the traveling public as may be necessary by sheeting, bracing, and thoroughly supporting the sides of any excavation and supporting and protecting any adjacent structures.

2.49 - Protection of the Public and of the Work. The Contractor shall continuously maintain reasonable protection of all work from damage, and shall take all reasonable precautions to protect the Owner's property from injury or loss arising in connection with this Contract. He shall make good any damage, injury or loss to his work and to the property of the Owner resulting from lack of reasonable protective precautions, except such as may be due to errors in the Contract Documents or caused by agents or employees of the Owner. He shall reasonably protect adjacent private and public property as required by Law and the Contract Documents.

The Contractor will be held responsible for all damage to the work due to failure of barricades, signs, light, and watchmen to protect it, and whenever evidence of such damage is found prior to acceptance, the Engineer may order the damaged portion immediately removed and replaced by the Contractor at his expense, if, in the opinion of the Engineer, such action is justified. The Contractor's responsibility of the maintenance of barricades, signs, and lights and for providing watchmen shall not cease until the project shall have been accepted by the City.

2.50 - Use of Explosives. Should the Contractor elect to use explosives to loosen rock or for any other purpose in the prosecution of the work, he shall obtain the required permits and the written permission of the Engineer before any blasting is done, but neither the issuance of said permits, the granting of said permission nor any other act, requirements, or condition contained in these specifications, nor any order, direction, or approval given by the Engineer or any other official or employee of the City shall be construed as requiring or directing the use of any explosive or as accepting any liability for any injury or damage to persons or property resulting from such usage. No blasting shall be done unless an Inspector is present and the Contractor shall notify the City Building Department when he is ready to begin any blasting work.

All necessary precautions shall be taken by the Contractor as required by the ordinances of the City or the laws of the state of Oklahoma relative to blasting and the necessary provisions shall be made for the protection of the new work and all blasting shall be so conducted as not to endanger persons or property. Only sufficient quantity of explosives necessary for the immediate day's work shall be kept on hand by the Contractor. Storage of caps, exploders, and explosives shall be done strictly in compliance with the orders of the Engineer and the ordinances of the City.

The Contractor shall be responsible for and shall make good any damage caused by blasting or accidental explosions.

The Contractor shall notify the proper representatives of any public service corporation not less than eight (8) hours in advance of any blasting which might cause damage to their property along or adjacent to the work. Wherever explosives are stored, they shall be kept in a safe, secure manner and all storage places shall be plainly marked "Dangerous Explosives", and shall be under the care of a competent watchman at all times.

2.51 - Protection and Restoration of Property. The Contractor shall not enter upon private property for any purpose without first obtaining permission and he shall be responsible for the preservation of and shall use every precaution necessary to prevent damage to all trees, fences, culverts, bridges, pavement driveways, sidewalks, etc., to all water, sewer, gas, or electric lines or appurtenances thereof and to all other public or private property along or adjacent to the work. The Contractor shall notify the proper representatives of any public service corporation, any company, or any individual not less than twenty-four (24) hours in advance of any work which might damage or interfere with the operation of their or his property, along or adjacent to the work. When and where any direct or indirect damage or injury is done to public or private property on account of any act, omission, neglect, or misconduct in the execution of the work or in consequence of the non-execution thereof on the part of the Contractor, he shall restore at his expense such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring as may be directed or he shall make good such damage or injury in an acceptable manner.

In case of the failure on the part of the Contractor to restore such property or make good such damage or injury, the Engineer may, upon forty-eight (48) hours written notice, under ordinary circumstances, and without notice when a nuisance or hazardous condition results, proceed to repair, rebuild or otherwise restore such property as may be determined necessary and the cost thereof will be deducted from any moneys due or to become due the Contractor under his contract.

2.52 - Protection and Preservation of Land Monuments and Property-Line Marks. The Contractor shall protect carefully from disturbance or damage all land monuments and iron pins or other markers which establish property or street lines, provided that where such monuments or markers must, of necessity, be disturbed or removed in the performance of the contract, the Contractor shall first give ample notice to the Engineer, so that he may witness or reference in such monuments or markers. Should the Contractor disturb, remove or damage any established land monument or property or street-line mark without first giving the Engineer ample notice, the Engineer may, at his option, deduct the cost of re-establishing such monuments or markers from any moneys due or to become due the Contractor.

2.53 - Responsibility for Damage Claims. The Contractor and his surety shall defend, indemnify, and save harmless the City and/or City and all its officers, agents, and employees from all suits, actions, or claims of any character, name and description brought for, or on account of any injuries or damages received or sustained by any person or persons or property by or from the said Contractor or his employees or by or in consequence of any negligence in safeguarding the work or through the use of unacceptable materials in constructing the work or by or on account of any act or omission, neglect, or misconduct of the said Contractor, or by or on account of any claim or amounts, or from any claims or amounts arising or recovered under the Workmen's Compensation Law, or any other law, ordinance, order, or decree, and so much of the money due the said Contractor under and by virtue of his contract as shall be considered necessary by the City may be retained for the use of the City or in case no money is due, his surety shall be held until such suits or suit, action or actions, claim or claims for injury or damage as aforesaid shall have been finally settled and satisfactory evidence to that effect furnished to the City.

2.54 - Contractor's Claim for Damages. Should the Contractor claim compensation for any alleged damage by reason of the acts or omissions of the City, he shall within ten (10) days after the sustaining of such damage, make a written statement to the Engineer setting out in detail the nature of the alleged damage. On or before the 25th day of the month succeeding that in which any such damage is claimed to have been sustained, the Contractor shall file with the Engineer an itemized statement of the details and amount of such damage and upon request shall give the Engineer access to all books of account, receipts, vouchers, bills of lading, and other books or papers containing any evidence as to the amount of such damage. Unless such statement shall be filed as thus required, the Contractor's claim for compensation shall be waived and he shall not be entitled to payment on account of any such damage.

2.55 - Public Utilities and Public Property to be Changed. In case it is necessary to change or move the property of any owner of a public utility, such owner will, upon proper application by the Contractor, be notified by the Engineer to change or move such property within a specified time, and the Contractor shall not interfere with such property until ordered so to do by the Engineer. The right is reserved to the owner of public utilities to enter upon the limits of the contract premises for the purpose of making such repairs or changes of their property that may be necessary by performance of the contract. The City shall have the privilege of entering upon

the limits of the contract premises for the purpose of repairing or relaying sewer and water lines and appurtenances, repairing culverts or storm drains, and for making other repairs, changes, or extensions to any City property.

2.56 - Temporary Sewer and Drain Connections. When existing sewers must be taken up or removed, the Contractor at his own expense shall provide and maintain temporary outlets and connections for all private or public drains, sewers, or sewer inlets. He shall also take care of all sewage and drainage which will be received from the rains, sewers, and sewer inlets; and for this purpose he shall provide and maintain at his own expense adequate pumping facilities and temporary outlets or diversions. He shall construct such troughs, pipe, or other structures necessary and be prepared at all times to dispose of drainage and sewage received from these temporary connections until such time as the permanent connections are built and in service. The existing sewers and connection shall be kept in service and maintained under the contract, except where specified or ordered to be abandoned by the Engineer. All water or sewage shall be disposed of in a satisfactory manner so that no nuisance is created and that the work under construction will be adequately protected.

2.57 - Arrangement and Charge for Water Furnished by the City. If the Contractor desires to use City water, he shall pay the rate established by City ordinance for such service and he shall make complete and satisfactory arrangements with the City Water Department for so doing. Meters will be used and the Contractor shall deposit the cost of the water meter with the Water Department and will pay for all repairs and maintenance of the meter for the period which he has the meter in use or in his possession.

2.58 - Use of Fire Hydrants. The Contractor or his employees shall not open, turn off, interfere with, attach pipe or hose to, or connect anything with any fire hydrant, stop valve, or stop cock or tap any water main belonging to the City, unless duly authorized to do so by the Water Department.

2.59 - Contractor's Responsibility for the Work. Until final written acceptance of the project by the Engineer, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof except damage to the work due to un-foreseeable causes beyond the control of and without the fault or negligence of the Contractor, including but not restricted to acts of God, of the public enemy or governmental authorities.

2.60 - Personal Responsibility of Public Officials. In carrying out any of the provisions contained herein or in exercising any power or authority granted to him by the contract, there shall be no liability to the Contractor, its agents, employees, subcontractors, or independent contractors upon the Engineer or his authorized assistants, either in person or as officials of the City, it being understood that in such matters he acts as the agent and representative of the City.

2.61 - Waiver of Legal Rights. Inspection by the Engineer or by any of his duly authorized representatives or any order, measurement, or certificate by the Engineer, of any work or any extension of time or any possession taken by the City, shall not operate as a waiver of any provisions of the contract or any power therein provided. Any waiver of any breach of contract

shall not be held to be a waiver of any other or subsequent breach. The City reserves the right to correct any error that may be discovered in any estimate that may have been paid and to adjust the same to meet the requirements of the contract and specifications. The City reserves the right to claim and recover by process of law sums as may be sufficient to correct any error or errors or make good any deficiency in the work resulting from such error or deficiency, dishonesty, or collusion discovered in the work after the final payment has been made.

2.62 - Contractor's Insurance. The Contractor shall not commence work under this contract until he has obtained all insurance required under this specification and such insurance has been approved by the City, nor shall the Contractor allow any sub-contractor to commence work on his sub-contract until all similar insurance required of the sub-contractor has been so obtained and approved.

2.63 - Compensation and Death Liability Insurance. The Contractor shall maintain and provide to the City evidence of maintenance during the life of this contract Workmen'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) for all his employees employed at the site of the project, and, in case any work is sublet, the Contractor shall require the sub-contractor similarly to provide Workmen's Compensation and Employer's Liability Insurance for all the latter's employees, unless such employees are covered by the protection afforded by the Contractor. In the event any class of employees engaged in hazardous work performed under this contract at the site of the project is not protected under this insurance heretofore mentioned, the Contractor shall provide, and shall cause each sub-contractor to provide adequate insurance for the protection of his employees not otherwise protected.

2.64 - Public Liability and Property Damage Insurance.

A. Contractor's Insurance

1. The Contractor and/or Sub-contractor shall maintain during the life of this contract such Public Liability and Property Damage Insurance as will protect him from claims for damages for bodily injury, including accidental death, as well as from claims from property damages, which may arise from operations under this contract, whether such operations be by himself or by his sub-contractor or by anyone directly or indirectly employed by either of them and the amounts of such insurance shall be as follows:
2. Bodily Injury Liability in the amount of not less than \$500,000.00 for injuries including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$1,000,000.00 for one accident.
3. Property Damage Liability. Limits shall be carried in the amounts of not less than \$100,000.00 for any one accident and an aggregate limit of \$1,000,000.00.

B. Owner's Insurance

1. Contractor shall provide Owner's Protective Liability Insurance with this City as the name insured, and the architects/engineers as additional insured, to protect

the City and architects/engineers against claims arising out of operations of contractors and other independent contractors, as well as omissions of supervisory acts of the City and architects/engineers in connection with the performance of the contract covered by these specifications in the following minimum amounts:

2. Bodily Injury Liability in an amount not less than \$500,000.00 for injuries, including accidental death, to any one person, and subject to the same limit for each person, and an amount not less than \$1,000,000.00 for one accident.
  3. Property Damage Liability. Limits shall be carried in the amounts of not less than \$100,000.00 for any one accident an aggregate limit of \$1,000,000.00.
  4. **Builder's Risk Insurance. – NOT REQUIRED FOR CDBG PROJECT**
    - a. Extended coverage – The Construction Contractor shall procure and shall maintain, during the term of the Contract, builder's risk insurance (broad form coverage, including theft, fire coverage on building construction and/or renovation) on one hundred percent (100%) of the construction cost **plus** \$50,000, which is that portion of the City's deductible for property damage insurance applicable to the project facility. Such insurance shall remain in effect until 12:00 noon on the day following the date of final acceptance of the entire project, whether or not the building or some part thereof is occupied in any manner prior to final acceptance of the project by formal action of the City Council. The Contractor shall be named as insured and the City and/or any participating public trust (as their interests may appear) shall be named as additional insureds.
    - b. Scope of Insurance – The insurance required above shall provide protection for the Construction Contractor, the City and any participating public trust, respectively, against damage claims which may arise from activities, omissions or operations under the Contract, whether such activities, omissions or operations are caused by an insured or by anyone directly or indirectly employed by an insured and, also, against any of the special hazards which may be encountered in the performance of the Contract. Neither the Construction Contractor nor any of its subconsultants, employees, or agents shall commit any act, operation or omission which would vitiate or impair the insurance coverage hereunder.
    - c. Materials, supplies and equipment stored off site – The Construction Contractor shall provide insurance on all stored materials, supplies and equipment when stored off site.
- C. The policies of insurance shall be executed by an insurance or indemnity carrier authorized to do business in the state of Oklahoma.
- D. Before awarding a contract, the City will be furnished a binder or certificate of insurance showing the coverage to be in effect.

2.65 - Proof and Carriage of Insurance. The Contractor shall furnish the City with satisfactory proof of carriage of the insurance required.

2.66 - Transportation Tax. Under provisions of Section 3475(b) of the Internal Revenue Code, as amended, the state of Oklahoma, its agencies and political subdivisions are exempt from payment of the transportation tax levied by Sub-Section (a) of Section 3475, in either of the following cases:

- A. When the property (equipment, goods, materials, etc.) is consigned to the State, its agencies, or political subdivisions, or
- B. When such property is consigned to the State, its agency or political sub-division in care of the Contractor.

If it is the policy of the City to take advantage of the savings afforded by the above-mentioned exemption, the Contractor agrees to comply with the following:

In determining the cost of material and computing freight charges do not include Federal transportation of property tax. Section 3475(b) of the Internal Revenue Code, as amended, exempts the City from this tax. The successful bidder will be furnished an appropriate exemption certificate form by the contracting authority, and will be authorized to have all shipments of construction materials and equipment entering into this contract consigned to the City in care of himself, thereby enabling him to take advantage of the above-mentioned exemption.

NOTE: Said exemption will not apply to shipments of fuel, lubricants, spare parts or items of construction equipment belonging to the Contractor which will not be incorporated in the construction project and which will not become the property of the City.

2.67 - Third Party Liability. It is specifically agreed between the parties executing this contract that it is not intended by any of the provisions of any part of the contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for personal injury or property damage pursuant to the terms or provisions of this contract. The duties, obligations, and responsibilities of the parties to this contract with respect to third parties shall remain as imposed by law.

## **PROSECUTION AND PROGRESS**

2.68 - Subletting of Work. The City will not recognize any subcontractor on the work. The Contractor shall, at all times when work is in operation, be represented either in person or by a qualified superintendent or other designated representative. If the Contractor sublets the whole or any part of the work to be done under this contract, he will not, under any circumstances, be relieved of his responsibility and obligations. All transactions of the Engineer shall be with the Contractor. Sub-contractors will be considered only in the capacity of employees or workmen and shall be subject to the same requirements as to character and competency.

2.69 - Assignment of Contract. The Contractor shall not assign, transfer, convey or otherwise dispose of the contract or his right, title or interest in or to the same or any part thereof without

the previous consent of the Engineer in writing, approved by the City of Yukon and concurred in by the Surety. If the Contractor does, without such previous consent, assign, transfer, convey, sublet or otherwise dispose of the contract or of his right, title or interest therein or any part thereof to any person or persons, partnership, company, firm, or corporation, or by bankruptcy, voluntary or involuntary, or by assignment under the insolvency laws of any state, attempt to dispose of the contract, or make default in or abandon said contract, then the contract may, at the option of the City, be revoked and annulled unless the Surety shall successfully complete said contract and any moneys due or to become due under said contract shall be retained by the City as liquidated damages for the reason that it would be impracticable and extremely difficult to fix the actual damages.

2.70 - Prosecution of Work. The Contractor shall begin the work to be performed under the contract within the time limit stated in the advertisement, proposal and contract, and shall conduct the work in such a manner and with sufficient equipment, materials and labor as is necessary to insure its completion within the time limit set forth in the advertisement, proposal, and contract. Should the prosecution of the work for any reason be discontinued by the Contractor, he shall notify the Engineer at least twenty-four (24) hours in advance of resuming operations.

2.71 - Limitation of Operations. The contractor shall conduct his work so as to create a minimum amount of inconvenience to the public. At any time when in the judgment of the Engineer, the Contractor has obstructed or closed or is carrying on operations on a greater portion of the street or public way than is necessary for the proper execution of the work, the Engineer may require the Contractor to finish the section on which work is in progress before the work is started on any additional section.

2.72 - Character of Workmen and Equipment. The Contractor shall employ such superintendents, foremen, and workmen as are careful and competent and the Engineer may demand the dismissal of any person or persons employed by the Contractor, in, about or on the work who shall misconduct himself or be incompetent or negligent in the proper performance of his or their duties or neglect or refuse to comply with the directions of the Engineer, and such person or persons shall not be employed again thereon without the written consent of the Engineer, then the Engineer may withhold all estimates which are or may become due or may suspend work until such orders are complied with.

All workmen shall have sufficient skill and experience to properly perform the work assigned them. All workmen engaged on special work or skilled work or in any trade shall have sufficient experience in such work to properly and satisfactorily perform it and operate the equipment involved, and shall make due and proper effort to execute the work in the manner prescribed in these specifications. Otherwise, the Engineer may take action as above prescribed. In the employment of labor, preference shall be given, other conditions being equal, to bona-fide residents of the City but no other preference or discrimination among citizens of the United States shall be made.

The Contractor shall furnish such equipment as is considered necessary for the prosecution of the work in an acceptable manner and at a satisfactory rate of progress. The low bidder must submit a list of all equipment owned by the Contractor. All equipment, tools and machinery used for handling materials and executing any part of the work shall be subject to the approval of the Engineer and shall be maintained in a satisfactory working condition. Equipment on any

portion of the work shall be such that no injury to the work or adjacent property will result from its use.

2.73 - Day's Work. Contractor shall observe all state laws and City ordinances governing the hours of work.

2.74 - Time of Commencement and Completion. The Contractor shall commence work within the time specified in the advertisement, proposal and contract and the rate of progress shall be such that the whole work will be performed and the premises cleaned up in accordance with the contract, plans and specifications within the time limit, where such time limit is stated in the advertisement, proposal and contract, unless an extension of time be made in the manner hereinafter specified.

2.75 - Extension of Time of Completion. The Contractor shall be entitled to an extension of time, as provided herein only when claim for such extension is submitted to the Engineer in writing by the Contractor within seven (7) days from and after the time when any alleged cause of delay shall occur and then only when such claim is approved by the Engineer and the City of Yukon. In adjusting the contract time for the completion of the projects, all strikes, lockouts, unusual delays in transportation or any condition over which the Contractor has no control and also any suspensions ordered by the Engineer for causes not the fault of the Contractor shall be excluded from the computation of the contract time for completion of the work. If the satisfactory execution and completion of the contract should require work or materials in greater amount or quantities than those set forth in the contract, then the contract time shall automatically be increased in the same proportion as the cost of the additional work bears to the cost of the original work contracted for. No allowance shall be made for delays or suspension of the prosecution of the work due to the fault of the Contractor.

2.76 - Failure to Complete Work on Time. The time of completion is of the essence to the contract. For each working day that any work shall remain uncompleted after the time agreed upon in the proposal and the contract, or as automatically increased by additional work or materials ordered after the contract is signed, or the increase time granted by the City for the completion of said work, the sum per day given in the following schedule, unless otherwise specified in the proposal or Special Provisions, will be deducted from the moneys due the Contractor, not as a penalty but as liquidated damages. The amount of liquidated damages per day will be \$100.00.

The sum of money thus deducted for such delay, failure or non-completion is not to be considered as a penalty but should be deemed, taken and treated as reasonable liquidated damages since it would be impracticable and extremely difficult to fix the actual damages.

2.77 - Temporary Suspensions. The Engineer shall have the authority to suspend the work wholly or in part for such period or periods as he may deem necessary, due to unsuitable weather or such other conditions as are considered unfavorable for the suitable prosecution of the work.

If it should become necessary to stop work for an indefinite period, the Contractor shall store all materials in such a manner that they will not obstruct or impede the traveling public unnecessarily nor become damaged in any way, and he shall take every precaution to prevent damage or deterioration of the work performed, and shall provide suitable drainage about the work and erect temporary structures where necessary.

The Contractor shall not suspend work without written authority from the Engineer and shall proceed with the work promptly when notified by the Engineer to resume operations.

2.78 - The Owner's Right to Terminate Contract. If the Contractor should file or have filed against a petition in bankruptcy, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed as a result of his insolvency, or if he should be guilty of a substantial violation of the contract as determined by the Engineer, then the Owner, upon the Certificate of the Engineer that sufficient cause exists to justify such action, may, without prejudice to any other right or remedy and after giving the Contractor and his Surety seven (7) days written notice, terminate the employment of the Contractor and take possession of the premises and of all materials, tools, equipment and other facilities installed on the work and paid for by the Owner, and finish the work by whatever method he may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner. The expense incurred by the Owner as herein provided, and the damage incurred through the Contractor's default shall be certified by the Engineer.

2.79 - Termination of Contract. The contract will be considered fulfilled, save as provided in any bond or bonds or by law, when all the work has been completed, the final inspection made by the Engineer, and final acceptance and final payment made by the City.

## **PAYMENT**

2.80 - Payment for Extra Work. The extra work done by the Contractor, as authorized and approved by the Engineer and the City of Yukon, will be paid for in the manner hereinafter described and the compensation thus provided shall be accepted by the Contractor as payment in full and for all labor, materials, tools, equipment and incidentals, and all superintendents' and timekeepers' services, all insurance and all other overhead expense incurred in the prosecution of the extra work.

Payment for extra work will be made by one or more of the following methods:

- A. Unit prices agreed on in writing by the Engineer and the Contractor and approved by the City before said work is commenced, subject to all other conditions of the contract.
- B. A lump sum price agreed on in writing by the Engineer and the Contractor and approved by the City before said work is commenced, subject to all other conditions of the contract.
- C. The hours and rates of labor and equipment and costs of materials used each day shall be submitted to the Engineer in a satisfactory form on the succeeding day and shall be approved by him or adjusted at once.

Payment for extra work is to be handled in the same manner as regular progress payments. The Contractor shall, on or before the 10th day of the month succeeding that in which any extra work shall have been performed, file with the Engineer his claim and an account giving the itemized cost of such work and shall give the Engineer access to all accounts, bills, and vouchers relating thereto.

2.81 - Partial Payment. Each month, the Engineer shall prepare and deliver to the City a statement showing as completely as practicable the total value of all work done by the Contractor up to and including the first day of the preceding month. This statement shall also include the value of all materials which meet the requirements of the specifications which have been delivered to and remain unused at the site of the work, and the quantity of which is within that needed for the completion of the work.

2.82 - Final Completion and Acceptance. Within thirty (30) days after the Contractor has given the Engineer and the City written notice that the work has been completed or substantially completed in accordance with the plans and specifications, the Engineer shall issue to the City and to the Contractor his Certificate of Completion or in the case of substantial completion, the Engineer shall issue his Certificate of Substantial Completion; and thereupon it shall be mandatory that the City within thirty (30) days issue a Certificate of Acceptance of the work to the Contractor. The time duration of any post-completion warranties made under the terms of this contract shall extend from the date of the Certificate of Acceptance by the Engineer.

2.83 - Final Payment. On or before the 10th day after the date of the certificate of completion or the Certificate of Substantial completion, the Engineer shall have made final measurements and shall have prepared a final statement of the value of all the work performed and materials furnished under the terms of this agreement, and shall have certified the final statement of the City and to the Contractor. The entire balance found to be due the Contractor, including the retained percentage, less a retention based on the Engineer's estimate of the fair value of the claims against the Contractor and the cost of completing the incomplete or unsatisfactory items of work with specified amounts for each incomplete or defective item of work, is due and payable on or before the 15th day after the date of the Certificate of Completion or Certificate of Substantial Completion, subject to the procedure adopted by the City for processing claims.

Before issuance of final payment, the Contractor shall furnish to the Engineer and to the City, a sworn statement that he has paid for all of the materials, labor, equipment rentals, sub-contracts, and other expenses that form a part of this work, provided, however, that if he has contracts with any of the above which require payment only after receipt of payment from the City, such sworn statement shall except such obligations. Any materialmen, suppliers, equipment dealers, or sub-contractors who have not been paid in full shall be listed upon the sworn statement, showing the name and address, kind and amount of work done or material supplied, and the balance remaining due to such sub-contractor or supplier.

The City, upon receipt of a schedule showing that all the bills have not been paid as provided herein, may either hold the funds until such bills have been paid by the Contractor, or issue payment jointly to the Contractor and supplier or sub-contractor, as shown on said schedule.

The acceptance by the Contractor of the last payment, as aforesaid, shall operate as and shall be a release to the City from all claims or liability under the contract for anything done or furnished or relating to the work under the contract or for any act or neglect of said City relating or connected with the contract.

2.84 - Hourly Wage Rate. Not less than the prevailing hourly rate of wages as established by the Commissioner of Labor and filed with the Secretary of State, a copy of which shall be attached hereto and made a part hereof (if applicable), shall be paid to any workmen employed on this project. The Davis-Bacon Wage Rate Determination govern for this project.

CLAIM OR INVOICE AFFIDAVIT

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The undersigned  (engineer or supervisory official) , of lawful age, being first duly sworn upon oath, states that this  invoice, claim or contract  is true and correct. Affiant further states that the  (work, services or materials) , as shown by this invoice or claim, have been  (completed or supplied)  in accordance with the plans, specifications, orders or requests furnished to the Affiant. Affiant further states that (s)he has not paid, given or donated or agree to pay, give or donate, either directly or indirectly, to any elected official, officer or employee of the State of Oklahoma any money or any other thing of value to obtain payment or the award of this contract.

\_\_\_\_\_  
Affiant (Engineer or other Supervisory Official)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

## NOTICE OF CONTRACT AWARD

## A. Contractor Information:

TO: \_\_\_\_\_ CDBG Contract No. \_\_\_\_\_  
 \_\_\_\_\_ Project Description: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone #: \_\_\_\_\_ FEI #: \_\_\_\_\_

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## B. Acceptance of Bid:

The Owner has considered the bid submitted by you, and opened on \_\_\_\_\_, for the described work in response to the Advertisement for Bids dated \_\_\_\_\_, and in the Information for Bidders, and opened on \_\_\_\_\_, 200\_\_ (date). You are hereby notified that your bid has been accepted for bid items in the amount of \$ \_\_\_\_\_. If you fail to execute said agreement and furnish applicable bonds and insurance within ten (10) days from the date of this notice, said Owner will be entitled to consider all your rights arising out of the Owner's acceptance of your bid as abandoned and as a forfeiture of your bid bond. The Owner will be entitled to such other rights as may be granted by law. You are required to return an acknowledged copy of this Notice of Award to the Owner.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Owner: \_\_\_\_\_

By: \_\_\_\_\_

Typed Name & Title: \_\_\_\_\_

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## C. Contractor Eligibility

Receipt of this Notice of Contract Award is hereby acknowledged by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, and I hereby certify that this firm does not appear on the List of Parties excluded from Federal Procurement and Non-Procurement Programs i.e., the list of Debarred Contractors.

By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

(<http://epls.arnet.gov>)

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## D. Contractor Information:

1. Type of Trade: \_\_\_ Construction \_\_\_ Education/Training \_\_\_ Other (includes Admin. & Engineering)
2. Business Ownership: \_\_\_ Black or African Americans; \_\_\_ Asians, Hispanics, or Latinos; \_\_\_ American Indian or Alaskan Natives; \_\_\_ Native Hawaiian or Other Pacific Islanders; \_\_\_ Whites.
3. Minority/Women Owned Business: Yes \_\_\_ No \_\_\_
4. Section 3 Contractor: Yes \_\_\_ No \_\_\_

## Notice of Award Instructions

Section A. Contractor Information: Enter the name, address and phone number of the construction contractor. Enter the CDBG Contract Number, the Project Description, and the contractor's FEI (Federal Employer Identification) Number. If the contractor does not have an FEI Number, enter the Social Security Number.

Section B. Acceptance of Bid: Enter the date of the bid opening and the amount of the contractor's bid. Enter the date of the Award. Enter the name of the CDBG grantee on the line beside "Owner". Obtain the signature of the Chief Executive Official (CEO) the of the CDBG grantee on the line beside "By". Type the Name and Title of the CDBG grantee and the CEO.

Section C. Contractor Eligibility: The construction contractor must complete this Section with the company's name and date of his/her receipt of the Award. The construction contractor must sign at the end of this Section certifying that the company is not on the Federal debarred list and is eligible to work on the project. Review of the contractor's eligibility on the worldwide web at <http://epls.arnet.gov>

Section D: Contractor Information:

1. Type of Trade: Check beside appropriate trade for contractor.
2. Business Ownership: Check beside the appropriate race/ethnicity of the contractor.
3. Check yes or no for minority/women-owned business. (A minority/women-owned business enterprise is defined as a business with at least 51% ownership by women and/or minorities).
4. Section 3 Contractor: Contracts of more than \$100,000 require the construction contractor to provide, to the greatest extent feasible, training and employment opportunities to lower-income residents of the project area and award contracts to small businesses within the project area or owned in substantial part by project area residents. If the contractor is able to provide such employment/contracts, check "Yes" and, if not, check "No". Such contractor shall also complete the Section 3 Plan, Page 405-105 in the CDBG Contractors Implementation Manual.

## GENERAL CONDITIONS

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|---|--|
| 1. Definitions                                  | 17. Subsurface Conditions                      |
| 2. Additional Instructions &<br>Detail Drawings | 18. Suspension of Work,<br>Termination & Delay |
| 3. Scheduled, Reports and Records               | 19. Payments to Contractor                     |
| 4. Drawings and Specifications                  | 20. Acceptance of Final<br>Payment as Release  |
| 5. Shop Drawings                                | 21. Insurance                                  |
| 6. Materials, Services & Facilities             | 22. Contract Security                          |
| 7. Inspection & Testing                         | 23. Assignments                                |
| 8. Substitutions                                | 24. Indemnification                            |
| 9. Patents                                      | 25. Separate Contracts                         |
| 10. Surveys, Permits, Regulations               | 26. Subcontracting                             |
| 11. Protection of Work, Property,<br>Persons    | 27. Engineer's Authority                       |
| 12. Supervision by Contractor                   | 28. Land and Rights-of-Way                     |
| 13. Changes in the Work                         | 29. Guaranty                                   |
| 14. Changes in Contract Price                   | 30. Arbitration                                |
| 15. Time Completion & Liquidated Damages        | 31. Taxes                                      |
| 16. Correction of Work                          |  |

1. **DEFINITIONS:** Wherever used in the contract documents, the following terms shall have the meanings indicated and shall be applicable to both the singular and plural thereof:

- a. Addenda: Written or graphic instruments issued prior to the execution of the agreement which modify or interpret the contract documents, drawings and specifications by additions, deletions, clarifications or corrections.
- b. Bid: The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the work to be performed.
- c. Bidder: Any person, firm or corporation submitting a bid for the work.
- d. Bonds: Bid, performance, payment (statutory) and maintenance bonds and other instruments of security furnished by the Contractor and the Contractor's surety in accordance with the contract documents.
- e. Change Order: A written order to the Contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents or authorizing an adjustment in the contract price or contract time.
- f. Contract Documents: The contract, including Advertisement for Bids, Information for Bidders, Bid, Bid Bond, Agreement, Payment (Statutory) Bond, Performance Bond, Notice of Award, Notice to Proceed, Change Order, Drawings, Specifications and Addenda.

- g. Contract Price: The total monies payable to the Contractor under the terms and conditions of the contract documents.
- h. Contract Time: The number of calendar days stated in the contract documents for the completion of the work.
- i. Contractor: The person, firm or corporation with whom the Owner has executed the agreement.
- j. Drawings: The parts of the contract documents which show the characteristics and scope of the work to be performed and which have been prepared or approved by the engineer.
- k. Engineer: The person, firm or corporation named as such in the contract documents.
- l. Field Order: A written order effecting a change in the work not involving an adjustment in the contract price or an extension of the contract time, issued by the engineer to the Contractor during construction.
- m. Notice to Proceed: Written communication issued by the Owner to the Contractor authorizing him/her to proceed with the work and establishing the date for commencement of the work.
- n. Notice of Award: The written notice by Owner to the apparent successful bidder stating that, upon compliance by the apparent successful bidder with the conditions enumerated therein within the time specified, Owner will sign and deliver the agreement.
- o. Owner: A public or quasi-public body or authority, corporation, association, partnership or individual for whom the work is to be performed.
- p. Project: The undertaking to be performed as provided in the contract documents.
- q. Resident Project Representative: The authorized representative of the Owner who is assigned to the project site or any part thereof.
- r. Shop Drawings: All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a subcontractor, manufacturer, supplier or distributor which illustrate how specific portions of the work shall be fabricated or installed.
- s. Specifications: A part of the contract documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.

- t. Subcontractor: An individual, firm or corporation having a direct contract with Contractor or with any other subcontractor for the performance of a part of the work at the site.
- u. Substantial Completion: That date certified by the engineer when the construction of the project or a specified part thereof is sufficiently completed, in accordance with the contract documents, to allow the project or specified part to be utilized for the purposes for which it is intended.
- v. Supplemental General Conditions: Modifications to General Conditions required by a Federal agency for participation in the project and approved by the agency in writing prior to being included in the contract documents or such requirements that may be imposed by applicable State laws.
- w. Supplier: Any person or organization who supplies materials or equipment for the work, including that fabricated to a special design, but who does not perform labor at the site.
- x. Work: All labor necessary to produce the construction required by the contract documents and all materials and equipment incorporated or to be incorporated in the project.
- y. Written Notice: Any notice in writing to any party to the agreement regarding any part of this agreement. Said written notice shall be considered delivered and the service thereof completed when posted by certified or registered mail to said party at their last given address or delivered in person to said party or their authorized representative at the project site.

2. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS:

- a. The Contractor may be furnished additional instructions and detail drawings by the engineer as necessary to carry out the work required by the contract documents.
- b. The additional drawings and instructions thus supplied will become a part of the contract documents. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

3. SCHEDULES, REPORTS AND RECORDS:

- a. The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data, where applicable, as are required by the contract documents for the work to be performed.
- b. Prior to the first partial payment estimate, the Contractor shall submit construction progress schedules showing the order

in which the Contractor proposes to carry on the work, including dates at which the various parts of the work will be started, estimated date of completion of each part and, as applicable:

- (1) The dates at which special detail drawings will be required; and
  - (2) Respective dates for submission of shop drawings, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.
- c. The Contractor shall also submit a schedule of payments the Contractor anticipates will be earned during the course of the work.

4. DRAWINGS AND SPECIFICATIONS:

- a. The drawings and specifications are tools to be used by the Contractor to enable the Contractor to furnish all labor, materials, tools, equipment and transportation necessary for the proper performance of the work in accordance with the contract documents and all incidental work necessary to complete the project in an acceptable manner, ready for use, occupancy or operation by the Owner.
- b. In case of conflict between the drawings and the specifications, the specifications shall govern. Figure dimensions and drawings shall govern over scale dimensions and detail drawings shall govern over general drawings.
- c. Any discrepancies found between the drawings and specifications and site conditions or any inconsistencies or ambiguities in the drawings or specifications shall be immediately reported, in writing, to the engineer, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's risk.

5. SHOP DRAWINGS:

- a. The Contractor shall provide shop drawings as may be necessary for the performance of the work as required by the contract documents. The engineer shall promptly review all shop drawings. The engineer's approval of any shop drawing shall not release the Contractor from responsibility for deviations from the contract documents. The approval of any shop drawing that substantially deviates from the requirement of the contract documents shall be evidenced by a change order.
- b. When submitted for the engineer's review, shop drawings shall bear the Contractor's certification that he has reviewed,

checked and approved the shop drawings and that they are in conformance with the requirements of the contract documents.

6. MATERIALS, SERVICES AND FACILITIES:

- a. It is understood that, except as otherwise specifically stated in the contract documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the work within the specified time.
- b. Materials and equipment shall be so stored as to preserve their quality and fitness for the work. Stored materials and equipment to be incorporated in the work shall be located to facilitate prompt inspection.
- c. Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
- d. Materials, supplies and equipment shall be in accordance with samples submitted by the Contractor and approved by the engineer.
- e. Materials, supplies or equipment to be incorporated into the work shall be purchased by the Contractor or the subcontractor free and clear of chattel mortgages, conditional sales contracts or other agreements by which an interest is retained by the seller.

7. INSPECTION AND TESTING:

- a. All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with generally accepted standards as required and defined in the contract documents.
- b. The Owner shall provide all inspection and testing services not required by the contract documents.
- c. The Contractor shall provide, at the Contractor's expense, the testing and inspection services required by the contract documents.
- d. If the contract documents, laws, ordinance, rules, regulations or orders of any public authority having jurisdiction require any specific work to be inspected, tested or approved by someone other than the Contractor, the Contractor will give the engineer timely notice of readiness. The Contractor will then furnish the engineer the required certificates of inspection, testing or approval.

- e. Inspections, tests or approvals by the engineer or others shall not relieve the Contractor from the obligation to perform the work in accordance with the requirements of the contract documents.
  - f. The engineer and the engineer's representatives will at all times have access to the work. In addition, authorized representatives and agents of any participating Federal or State agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the work and for any inspection or testing thereof.
  - g. If any work is covered contrary to the written instructions of the engineer, it must, if requested by the engineer, be uncovered for the engineer's observation and the covering replaced at the Contractor's expense.
  - h. If the engineer considers it necessary or advisable that covered work be inspected or tested by others, the Contractor, at the engineer's request, will uncover, expose or otherwise make available for observation, inspection or testing, as the engineer may require, that portion of the work in question, furnishing all necessary labor, materials, tools and equipment. If it is found that such work is defective, the Contractor will bear all expenses of such uncovering, exposing, observing, inspecting and testing and of satisfactory reconstruction. If, however, such work is not found to be defective, the Contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to such uncovering, exposing, observing, inspecting, testing and reconstruction and an appropriate change order shall be issued.
8. **SUBSTITUTIONS:** Whenever a material, article or piece of equipment is identified on the drawings or specifications by reference to brand name or catalog number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The Contractor may recommend the substitution of a material, article or piece of equipment of equal substance and function for those referred to in the contract documents by reference to brand name or catalog number and if, in the opinion of the engineer, such material, article or piece of equipment is of equal substances and function to that specified, the engineer may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the contract price and the contract documents shall be appropriately modified by change order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the project will result. Incidental changes or extra

component parts required to accommodate the substitute will be made by the Contractor without a change in the contract price or contract time.

9. The Contractor shall pay all applicable royalties and license fees and shall defend all suits or claims for infringement of any patent rights and save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for any such loss when a particular process, design or product of a particular manufacturer or manufacturers is specified; however, if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, the Contractor shall be responsible for such loss unless the Contractor promptly gives such information to the engineer.

10. SURVEYS, PERMITS, REGULATIONS:

- a. The Owner shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the work, together with a suitable number of benchmarks adjacent to the work as shown in the contract documents. From the information provided by the Owner, unless otherwise specified in the contract documents, the Contractor shall develop and make all detail surveys needed for construction, such as slope stakes, batter boards, stakes for pipe locations and other working points, lines, elevations and cut sheets.
- b. The Contractor shall carefully preserve benchmarks, reference points and stakes and, in case of willful or careless destruction, shall be charged with the resulting expense and shall be responsible for any mistake that may be caused by their unnecessary loss or disturbance.
- c. Permits and licenses of a temporary nature necessary for the performance of the work shall be secured and paid for by the Contractor unless otherwise stated in the Supplemental General Conditions. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the contract documents are at variance therewith, the Contractor shall promptly notify the engineer in writing and any necessary changes shall be adjusted as provided in Section 13, CHANGES IN THE WORK.

11. PROTECTION OF WORK, PROPERTY AND PERSONS:

- a. The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and program in connection with the work. The Contractor will take all necessary precautions for the safety of and will provide the necessary

protection to prevent damage, injury or loss to all employees on the work and other persons who may be affected thereby and for the protection of all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

- b. The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. The Contractor will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. The Contractor will notify owners of adjacent utilities when performance of the work may affect them. The Contractor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor or any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except damage or loss attributable to the fault of the contract documents or to the acts or omissions of the Owner or the engineer or anyone employed by either them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Contractor.
- c. In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, the Contractor, without special instructions or authorization from the engineer or Owner, shall act to prevent the threatened damage, injury or loss. The Contractor will give the engineer prompt written notice of any significant changes in the work or deviations from the contract documents caused thereby and a change order shall thereupon be issued covering the changes and deviations involved.

--12. SUPERVISION BY CONTRACTOR: The Contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will employ and maintain on the work a qualified supervisor or superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site. The supervisor shall have full authority to act on behalf of the Contractor and all communications given to the supervisor shall be as binding as if given to the Contractor. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

13. CHANGES IN THE WORK:

- a. The Owner may, at any time, as the need arises, order changes within the scope of the work without invalidating the

agreement. If such changes increase or decrease the amount due under the contract documents or in the time required for performance of the work, an equitable adjustment shall be authorized by change order.

- b. The engineer may also, at any time, by issuing a field order, make changes in the details of the work. The Contractor shall proceed with the performance of any changes in the work so ordered by the engineer unless the Contractor believes that such field order entitles the Contractor to a change in contract price or time, or both, in which event, the Contractor shall give the engineer written notice thereof within seven (7) days after the receipt of the ordered change. Thereafter, the Contractor shall document the basis for the change in contract price or time within thirty (30) days. The Contractor shall not execute such changes pending the receipt of an executed change order or further instruction from the Owner.

14. CHANGES IN CONTRACT PRICE: The contract price may be changed only by a change order. The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in the order of precedence listed below:

- a. Unit prices previously approved;
- b. An agreed lump sum.

15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES:

- a. The date of beginning and the time for completion of the work are essential conditions of the contract documents and the work embraced shall be commenced on a date specified in the Notice to Proceed.
- b. The Contractor will proceed with the work at such rate of progress as to ensue full completion within the contract time. It is expressly understood and agreed by and between the Contractor and the Owner that the contract time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.
- c. If the Contractor shall fail to complete the work within the contract time or extension of time granted by the Owner, then the Contractor will pay to the Owner the amount for liquidated damages as specified in the bid for each calendar day the Contractor shall be in default after the time stipulated in the contract documents.

d. The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following and the Contractor has promptly given written notice of such delay to the Owner or engineer:

- (1) Any preference, priority or allocation order duly issued by the Owner;
- (2) Unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts or the Owner, acts of another contractor in the performance of a contract with the Owner, fires, flood, epidemics, quarantine, restrictions, strikes, freight embargoes and abnormal and unforeseeable weather; and
- (3) Any delays of subcontractors occasioned by any of the causes specified in paragraphs 15d(1) and 15d(2) of this article.

16. CORRECTION WORK:

- a. The Contractor shall promptly remove from the premises all work rejected by the engineer for failure to comply with the contract documents, whether incorporated in the construction or not, and the Contractor shall promptly replace and re-execute the work in accordance with the contract documents without expense to the Owner and shall bear the expense of making good all work of other contractors destroyed or damages by such removal or replacement.
- b. All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten (10) days after receipt of written notice, the Owner may remove such work and store the materials at the expense of the Contractor.

17. SUBSURFACE CONDITIONS:

- a. The Contractor shall promptly, before such conditions are disturbed except in the event of an emergency, notify the Owner by written notice of:
  - (1) Subsurface or latent physical conditions at the site differing materially from those indicated in the contract documents; or
  - (2) Unknown physical conditions at the site of an unusual nature which differ materially from those ordinarily encountered and generally recognized as inherent in the work the character provided for in the contract documents.

- b. The Owner shall promptly investigate the conditions and, if it is found that such conditions do so materially differ and cause an increase or decrease, an adjustment shall be made and the contract documents shall be modified by a change order. Any claim of the Contractor for adjustment hereunder shall not be allowed unless the required written notice has been given and provided that the Owner may, if the Owner determines the facts so justify, consider and adjust any claims asserted before the date of final payment.

18. SUSPENSION OF WORK, TERMINATION AND DELAY:

- a. The Owner may suspend the work or any portion thereof for a period of not more than ninety (90) days or until such further time as agreed upon by the Contractor in a written notice to the Contractor and the engineer fixing the date on which work shall be resumed. The Contractor will resume that work on the date so fixed. The Contractor will be allowed an increase in the contract price or an extension of the contract time, or both, for any costs and/or delays incurred which are directly attributable to any suspension.
- b. If any of the following conditions occur:
- (1) The Contractor is adjudged bankrupt or insolvent or makes a general assignment for the benefit of its creditors;
  - (2) A trustee or receiver is appointed for the Contractor or for any of its property;
  - (3) Contractor files a petition to take advantage of any debtor's act or to reorganize under bankruptcy of applicable laws;
  - (4) The Contractor repeatedly fails to supply sufficiently skilled workmen or suitable materials or equipment;
  - (5) The Contractor repeatedly fails to make prompt payments to subcontractors or for labor, materials or equipment;
  - (6) The Contractor disregards laws, ordinance, rules, regulations or orders of any public body having jurisdiction over the work;
  - (7) The Contractor disregards the authority of the engineer or otherwise violates any provision of the contract documents;

then the Owner may, without prejudice to any other right or remedy and after giving the Contractor and its surety a minimum of ten (10) days from delivery of a written notice, terminate the services of the Contractor and take possession of the project and of all materials, equipment, tools,

construction equipment and machinery thereon owned by the Contractor and finish the work by whatever method the Owner may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price exceeds the direct and indirect costs of completing the project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the Owner. Such costs incurred by the Owner will be determined by the engineer and incorporated in a change order.

- c. Where the Contractor's services have been so terminated by the Owner, said termination shall not affect any right of the Owner against the Contractor then existing or which may thereafter occur. Any retention or payment of monies by the Owner due the Contractor will not release the Contractor from compliance with the contract documents.
- d. After ten (10) days from the deliver of a written notice to the Contractor and the engineer, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the contract. In such case, the Contractor shall be paid for all work executed and any expense sustained plus a reasonable profit.
- e. If, through no act or fault of the Contractor, the work is suspended for a period of more than ninety (90) days by the Owner or under an order of court or other public authority or the engineer fails to act on any request for payment within thirty (30) days after it is submitted or the Owner fails to pay the Contractor substantially the sum approved by the engineer or awarded by arbitrators within thirty (30) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of a written notice to the Owner and the engineer, terminate the contract and recover from the Owner payment for all work executed and all expenses sustained. In addition to and in lieu of terminating the contract, if the engineer has failed to act on a request for payment or if the Owner has failed to make payment as aforesaid, the Contractor may, upon ten (10) days written notice to the Owner and engineer, stop the work until paid all amounts then due, in which event and upon resumption of the work, change orders shall be issued to adjust the contract price or extend the contract time, or both, to compensate for the costs and delays attributable to the stoppage of the work.
- f. If the performance of all or any portion of the work is suspended, delayed or interrupted as a result of a failure by the Owner or engineer to act within the time specified in the contract documents or if no time is specified, within a reasonable time, an adjustment in the contract price or an

extension of the contract time, or both, shall be made by change order to compensate the Contractor for the costs and delays unnecessarily caused by the failure of the Owner or engineer.

19. PAYMENT TO CONTRACTOR:

- a. At least ten (10) days before each progress payment falls due (but not more often than once a month), the Contractor will submit to the engineer a partial payment estimate filled out and signed by the Contractor, covering the work performed during the period covered by the partial payment estimate and supported by such data as the engineer may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by supporting data, satisfactory to the Owner, which will establish the Owner's title to the material and equipment and protect the Owner's interest therein, including applicable insurance. The engineer will, within ten (10) days after the receipt of each partial payment estimate, either indicate approval of payment in writing and present the partial payment estimate to the Owner or return the partial payment estimate to the Contractor indicating in writing the reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial payment estimate. The Owner will, within ten (10) days of presentation of an approved partial payment estimate, pay the Contractor a progress payment on the basis of the approved partial payment estimate less the retainage. The retainage shall be an amount equal to 10% of said estimate until 50% of the work has been completed. At 50% completion, further partial payments shall be made in full to the Contractor and no additional amounts may be retained unless the engineer certifies that the job is not proceeding satisfactorily and amounts previously retained shall not be paid to the Contractor. At 50% completion or any time thereafter when the progress of the work is not satisfactory, additional amounts may be retained; however, in no event shall the total retainage be more than 10% of the value of the work completed. Upon substantial completion of the work, any amount retained may be paid to the Contractor. When the work has been substantially completed except for work which cannot be completed because of weather conditions, lack of materials or other reasons which, in the judgment of the Owner, are valid reasons for non-completion, the Owner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed.
- b. The request for payment may also include an allowance for the cost of major materials and equipment suitably stored either at or near the site.

- c. Prior to substantial completion, the Owner, with the approval of the engineer and with the concurrence of the Contractor, may use any completed or substantially completed portions of the work. Such use shall not constitute an acceptance of such portions of the work.
- d. The Owner shall have the right to enter the premises for the purpose of doing work not covered by the contract documents. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the work or the restoration of any damaged work except such as may be caused by agents or employees of the Owner.
- e. Upon completion and acceptance of the work, the engineer shall issue a certificate attached to the final payment request that the work has been accepted under the conditions of the contract documents. The entire balance found to be due to the Contractor, including the retained percentages, except such sums as may be lawfully retained by the Owner, shall be paid to the Contractor within thirty (30) days of completion and acceptance of the work.
- f. The Contractor will indemnify and save the Owner or the Owner's agents harmless from all claims growing out of the lawful demand of subcontractors, laborers, workmen, mechanics, materialmen and furnishers of machinery and parts therefor, equipment, tools and supplies incurred in the furtherance of the performance of the work. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged or waived. If the Contractor fails to do so, the Owner may, after having notified the Contractor, either pay unpaid bills or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payment to the Contractor shall be resumed in accordance with the terms of the contract documents. In no event shall these provisions be construed to impose any obligations upon the Owner to either the Contractor, the Contractor's surety or any third party. In paying any unpaid bills of the Contractor, any payment so made by the Owner shall be considered as a payment made under the contract documents by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.
- g. If the Owner failed to make payment within thirty (30) days after approval by the engineer, in addition to other remedies available to the Contractor, there shall be added to each such payment interest at the maximum legal rate commencing on the

first day after said payment is due and continuing until the payment is received by the Contractor.

20. ACCEPTANCE OF FINAL PAYMENT AS RELEASE: Acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others, relating or arising out of this work. Any payment, however, final or otherwise, shall not release the Contractor or its sureties from any obligations under the contract documents or the performance of the payment bonds.

21. INSURANCE:

a. The Contractor shall purchase and maintain such insurance as will protect it from claims set forth below which may arise out of or result from the Contractor's execution of the work, whether such execution be by the Contractor, any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

(1) Claims under Workers' Compensation, disability benefit and other similar employee benefit acts;

(2) Claims for damages because of bodily injury, occupational sickness or disease or death of employees;

(3) Claims for damages because of bodily injury, sickness or disease or death of any person other than employees;

(4) Claims for damages covered by the usual personal injury liability coverage which are sustained by:

(a) Any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor; or

(b) Any other person;

(5) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom.

b. Certificates of insurance acceptable to Owner shall be filed with the Owner prior to commencement of work. These certificates shall contain a provision that coverages afforded under the policies will not be cancelled unless at least fifteen-(15) days' prior written notice has been given to the Owner.

- c. The Contractor shall procure and maintain, at the Contractor's own expense, during the contract time, liability insurance as hereinafter specified:
- (1) Contractor's general public liability and property damage insurance, including vehicle coverage, issued to the Contractor and protecting the Contractor from all claims for personal injury, including death, and all claims for destruction of or damage to property arising out of or in connection with any operations under the contract documents, whether such operations be by the Contractor or by any subcontractor employed by the Contractor. Insurance shall be written with a limit of liability of not less than \$500,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident, and a limit of liability of not less than \$500,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$200,00 for all property damage sustained by any one person in any one accident and a limit of liability not less than \$200,000 aggregate for any such damage sustained by two or more persons in any one accident.
  - (2) The Contractor shall acquire and maintain, if applicable, fire and extended coverage insurance upon the project to the full insurable value thereof for the benefit of the Owner, the Contractor and the subcontractors, as their interest may appear. This provision shall in no way release the Contractor or the Contractor's surety from obligations under the contract documents to fully complete the project.
- d. The Contractor shall procure and maintain, at the Contractor's own expense, during the contract time, in accordance with the provisions of the laws of the State in which the work is performed, Workers' Compensation insurance, including occupational disease provisions, for all of the Contractor's employees at the site of the project and, in case any work is sublet, the Contractor shall require such subcontractor similarly to provide Workers' Compensation insurance, including occupational disease provisions, for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Workers' Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide adequate and suitable insurance for the protection of its employees not otherwise protected.

- e. The contractor shall secure, if applicable, "all risk" type Builder's risk insurance for work to be performed: Unless specifically authorized by the Owner, the amount of such insurance shall not be less than the contract price totaled in the bid. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft and smoke during the contract time and until the work is accepted by the Owner. The policy shall name as the insured the Contractor and the Owner.

22. CONTRACT SECURITY:

- a. The Contractor shall, within ten (10) days after the receipt of the Notice of Award, furnish the Owner with a performance bond and a payment (statutory) bond in penal sums equal to the amount of the contract price, conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions and agreements of the contract documents and upon the prompt payment by the Contractor to all persons supplying labor and materials in the performance of the work required by the contract documents. Such bonds shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the State in which the work is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds", as published in Treasury Department Circular Number 570. The expense of these bonds shall be borne by the Contractor. If, at any time, a surety on any such bond is declared bankrupt or loses its right to do business in the State in which the work is to be performed or is removed from the list of Surety Companies Acceptable on Federal Bonds, Contractor shall, within ten (10) days after notice from the Owner, substitute another bond and surety, both of which must be acceptable to Owner. The premiums on such bond shall be paid by the Contractor. No further payment shall be deemed due nor made until the new surety or sureties shall have furnished an acceptable bond to the Owner.

23. ASSIGNMENTS: Neither the Contractor nor the Owner shall sell, transfer, assign or otherwise dispose of the contract or any portion thereof or of any right, title or interest therein or any obligations thereunder without written consent of the other party.

24. INDEMNIFICATION:

- a. The Contractor will indemnify and hold harmless the Owner and the engineer and their agents and employees from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claims, damages, loss or expense is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property, including the loss of use resulting therefrom, which is caused in whole

or in part by any negligent or willful act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

- b. In any and all claims against the Owner or the engineer or any of their agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under the Workers' Compensation Act, disability benefits acts or other employee benefits acts.
- c. The obligation of the Contractor under this paragraph shall not extend to the liability of the engineer, its agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications.

25. SEPARATE CONTRACTS:

- a. The Owner reserves the right to let other contracts in connection with this project. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate the work with theirs. If the proper execution or results of any part of the Contractor's work depends upon the work of any other contractor, the Contractor shall inspect and promptly report to the engineer any defects in such work that render it unsuitable for such proper execution and results.
- b. The Owner may perform additional work related to the project or the Owner may let other contracts containing provisions similar to these. The Contractor will afford the other contractors who are parties to such contracts (or the Owner, if the Owner is performing the additional work) reasonable opportunity for the introduction and storage of materials and equipment and the execution of work and shall properly connect and coordinate the work with theirs.
- c. If the performance of additional work by other contractors or the Owner is not noted in the contract documents prior to the execution of the contract, written notice thereof shall be given to the Contractor prior to starting any such additional work. If the Contractor believes the performance of such additional work by the Owner or other involves it in additional expense or entitles it to an extension of the contract time, the Contractor may make a claim therefor as provided in Sections 14 and 15.

## 26. SUBCONTRACTING:

- a. The Contractor may utilize the services of specialty subcontracts on those parts of the work which, under normal contracting practices, are performed by specialty subcontractors.
- b. The Contractor shall not award work to subcontractor(s) in excess of fifty (50) percent of the contract price or in excess of fifty (50) percent of the labor and equipment required to install the project without prior written approval of the Owner.
- c. The Contractor shall be as fully responsible to the Owner for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them as the Contractor is for the acts and omissions of persons directly employed by the Contractor.
- d. the Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power regarding termination of any subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.
- e. Nothing contained in this contract shall create any contractual relationship between any subcontractor and the Owner.

## 27. ENGINEER'S AUTHORITY:

- a. The engineer shall act as the Owner's representative during the construction period, shall decide questions which may arise as to quality and acceptability of materials furnished and work performed and shall interpret the intent of the contract documents in a fair and unbiased manner. The engineer will make visits to the site and determine if the work is proceeding in accordance with the contract documents.
- b. The Contractor will be held strictly to the intent of the contract documents in regard to the quality of materials, workmanship and execution of the work. Inspections may be made at the factory or fabrication plant of the source of material supply.
- c. The engineer will not be responsible for the construction means, controls, techniques, sequences, procedures or construction safety.

- d. The engineer shall promptly make decisions relative to interpretation of the contract documents.

28. LAND AND RIGHTS-OF-WAY:

- a. Prior to issuance of the Notice to Proceed, the Owner shall obtain all land and right-of-way necessary for the carrying out and completion of the work to be performed pursuant to the contract documents, unless otherwise mutually agreed.
- b. The Owner shall provide the Contractor with information that delineates and describes the lands owned and right-of-way acquired.
- c. The Contractor shall provide, at its own expense and without liability to the Owner, any additional land and access thereto that the Contractor may desire for temporary construction facilities or for storage of materials.

29. GUARANTEE: The Contractor shall guarantee all materials and equipment furnished and work performed for a period of one (1) year from the date of substantial completion. The Contractor warrants and guarantees for a period of one (1) year from the date of substantial completion of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects, including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event the Contractor should fail to make such corrections, the Owner may do so and charge the Contractor the costs thereby incurred. The performance bond shall remain in full force and effect throughout the guarantee period.

30. ARBITRATION BY MUTUAL AGREEMENT:

- a. All claims, disputes and other matters in question arising out of or relating to the contract documents or the breach thereof, except for claims which have been waived by making an acceptance of final payment as provided in Section 20, may be decided by arbitration if the parties mutually agree. Any agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final and judgment may be rendered upon it in any court having jurisdiction thereof.
- b. Notice of the request for arbitration shall be filed in writing with the other party to the contract documents and a copy shall be filed with the engineer. Request for arbitration shall in no event be made on any claim, dispute or other matter in question that would be barred by the applicable statute of limitations.

c. The Contractor will carry on the work and maintain the progress schedule during any arbitration proceedings unless otherwise mutually agreed in writing.

31. TAXES: The Contractor will pay all sales, consumer, use and other similar taxes required by the laws of the place where the work is performed.

## SUPPLEMENTAL GENERAL CONDITIONS

The provisions of the Supplemental General Conditions as described herein change, amend or supplement the General Conditions and shall supersede any conflicting provisions of this contract. All provisions of the General Conditions which are not changed, amended or supplemented remain in force.

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| 1. Contract Approval                   | 12. State Energy Policy                     |
| 2. Contract Change Orders              | 13. Equal Opportunity                       |
| 3. Partial Payment Estimates           | 14. Non-Resident Contractor<br>Registration |
| 4. Conflict of Interest                | 15. Payment for Materials<br>Stored on Site |
| 5. Protection of Lives & Property      | 16. Change order Approval                   |
| 6. Remedies                            | 17. Final Inspection                        |
| 7. Gratuities                          | 18. Partial Occupancy & Use                 |
| 8. Audit & Access to Records           | 19. Permits Requiring Time<br>Schedule      |
| 9. Small Minority & Women's Businesses | 20. Clean Up Release                        |
| 10. Anti-Kickback                      |   |
| 11. Violating Facilities               |   |

## 1. CONTRACT APPROVAL:

- a. The Owner and the Contractor will furnish the Owner's attorney such evidence as is required to enable the Owner's attorney to complete and execute "Certificate of Owner's Attorney" (Section 14).
- b. When a performance bond and payment bond are provided, the United States, acting through HUD, will be named as co-obligee in these bonds unless prohibited by State law. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the State where the project is located.
- c. This contract is expected to be funded in part with funds from HUD. Neither the United States nor any of its departments, agencies or employees is or will be a party to this contract or any subcontract.

## 2. CONTRACT CHANGE ORDERS:

- a. All changes affecting the project's construction cost or modifications of the terms or conditions of the contract must be authorized by means of a written contract change order that is mutually agreed to by the Owner and the Contractor. The contract change order will include extra work, work for which quantities have been altered from those shown on the bidding schedule and decreases or increases in the quantities of installed units which are different than those shown in the bidding schedule because of final measurements. All changes

must be recorded on a contract change order before they can be included in a partial payment estimate.

- b. A "Contract Change Order" shall be used to record contract changes.
- c. When the contract sum is in whole or in part based on unit prices, the Owner reserves the right to increase or decrease a unit price quantity as may be deemed reasonable or necessary in order to complete the work.

3. PARTIAL PAYMENT ESTIMATES:

- a. "Partial Payment Estimates" shall be used when estimating periodic payments due the Contractor.
- b. The Owner may, after consultation with the architect/engineer, withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any approved partial payment estimate to such extent as may be necessary to protect the Owner from loss on account of:
  - (1) Defective work not remedied;
  - (2) Claims filed;
  - (3) Failure of Contractor to make payments properly to subcontractors or suppliers;
  - (4) A reasonable doubt that the work can be completed for the balance then unpaid;
  - (5) Damage to another contractor;
  - (6) Performance of work in violation of the terms of the contract documents.
- c. Where work on unit price items is substantially complete but lacks testing, clean-up and/or corrections, amounts shall be deducted from unit prices in partial payment estimates to amply cover such testing, cleanup and/or corrections.
- d. When the items in 3.b. and 3.c. are cured, payment shall be made for amounts withheld because of them.
- e. Payments will not be made that would deplete the retainage or place in escrow any funds required for retainage or invest the retainage for the benefit of the contract.

4. CONFLICT OF INTEREST:

- a. Unacceptable Bidders:

- (1) No engineer or architect (individual or firm, including persons they employ) who has prepared plans and specifications will be considered an acceptable bidder. Any firm or corporation in which such engineer or architect (including persons they employ) is an officer or an employee or holds or controls a substantial interest will not be considered an acceptable bidder.
  - (2) Contracts or purchases by the Contractor shall not be awarded or made to a supplier or manufacturer if the engineer or architect (firm or individual) who prepared the plans and specifications has a corporate or financial affiliation with the supplier or manufacturer. Bids will not be awarded to firms or corporations owned or controlled wholly or in part by a member of the governing body of the Owner or to an individual who is such a member.
- b. None of the Owner's officers, employees or agents shall engage in the award or administration of this contract if a conflict of interest, real or apparent would be involved. Such a conflict would arise when the employee, officer or agent, any member of his immediate family, his partner or an organization which employs him or is about to employ him, or any of the above, has a financial or other interest in the Contractor. None of the Owner's officers, employees or agents shall solicit or accept gratuities, favors or anything of monetary value from the Contractor or subcontractor.

5. PROTECTION OF LIVES AND PROPERTY:

- a. In order to protect the lives and health of its employees under the contract, the Contractor shall comply with all pertinent provisions of the Occupational Safety and Health Administration (OSHA) and any State safety and health agency requirements.
- b. The Contractor alone shall be responsible for the safety, efficiency and adequacy of its plant, appurtenances and methods and for any damage which may result from their failure or their improper construction, maintenance or operation.

6. REMEDIES: Unless otherwise provided in this contract, all claims, counterclaims, disputes and other matters in question between the Owner and the Contractor arising out of or relating to this contract or the breach thereof will be decided by arbitration, if the parties mutually agree, or in a court of competent jurisdiction with the State in which the Owner is located.

- a. The arbitration provisions of this section may be initiated by either party to this contract by filing with the other party and the engineer/architect a written request for arbitration.

- b. Each party to this contract will appoint one arbitrator and the two arbitrators will select the third arbitrator.
  - c. The arbitrators will select a hearing location as close to the Owner's locale as possible.
  - d. The procedure for conducting the hearing will follow the Construction Industry Arbitration Rules of the American Arbitration Association.
7. GRATUITIES:
- a. If the Owner finds, after a notice and hearing, that the Contractor or any of the Contractor's agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the Owner in an attempt to secure this contract or favorable treatment in awarding, amending or making any determinations related to the performance of this contract, the Owner may, by written notice to the Contractor, terminate this contract. The Owner may also pursue other rights and remedies that the Law or this contract provides. However, the existence of the facts on which the Owner bases such findings shall be an issue and may be reviewed in proceedings under the remedies clause of this contract.
  - b. In the event this contract is terminated as provided in paragraph 7.a., the Owner may pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, the Owner may pursue exemplary damages in an amount determined by the Owner, which shall be not less than three nor more than ten times the cost the Contractor incurs in providing any gratuities to any such officer or employee.
8. AUDIT AND ACCESS TO RECORDS: For all negotiated contracts except those of \$10,000 or less, HUD, the Comptroller General, the Owner or any of their duly-authorized representatives shall have access to any books, documents, papers and records of the Contractor which are pertinent to the contract for the purpose of making audits, examination, excerpts and transcriptions. The Contractor shall maintain all required records for three years after final payment is made and all other pending matters are closed.
9. SMALL, MINORITY AND WOMEN'S BUSINESSES: If the Contractor intends to let any subcontracts for a portion of the work, the Contractor shall take affirmative steps to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction and services. Affirmative steps shall consist of:

- a. Including qualified small, minority and women's businesses on solicitation lists;
  - b. Assuring that small, minority and women's businesses on solicited whenever they are potential sources;
  - c. Dividing total requirements when economically feasible;
  - d. Establishing delivery schedules where the requirements of the work permit, which will encourage participation by small, minority and women's businesses.
  - e. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce;
  - f. Requiring each party to a subcontract to take the affirmative steps of this section; and
  - g. Contractors are encouraged to procure goods and services from labor surplus area firms.
10. ANTI-KICKBACK: The Contractor shall comply with the Copeland Anti-Kickback Act (18 USC §874) as supplemented in Department of Labor regulations 929 CFR 3). This Act provides that each Contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion or repair of public facilities to give up any part of the compensation to which they are otherwise entitled. The Owner shall report all suspected or reported violations to FmHA.
11. VIOLATING FACILITIES: Where this contract exceeds \$100,000, the Contractor shall comply with all applicable standards, orders or requirements issued under the Clean Water Act (33 USC §1368), Executive Order 11738 and Environmental Protection Agency regulations (40 CFR 15), which prohibit the awarding of non-exempt Federal contracts, grants or loans to facilities included on the EPS's list of violating facilities. The Contractor will report violations to the EPA.
12. STATE ENERGY POLICY: The Contractor shall comply with the Energy Policy and Conservation Act (P.L. 94-163). Mandatory standards and policies relating to energy efficiency contained in the State Energy Conservation Plan shall be utilized.
13. EQUAL OPPORTUNITY REQUIREMENTS: For all contracts in excess of \$10,000, the Contractor shall comply with Executive Order 11246 entitled "Equal Employment Opportunity", as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR 60).
- a. The Contractor's compliance with Executive Order 11246 shall be based on its implementation of the Equal Opportunity

Clause, specific affirmative action obligations required by the Standard Federal Equal Employment Opportunity Construction Contract Specifications as set forth in 41 CFR 60-4, and its efforts to meet the goals established for the geographical area where the contract is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract and throughout each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hour performed.

- b. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Program within 10 working days of the award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, employer identification number, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract and the geographical area in which the contract is to be performed.
14. NON-RESIDENT CONTRACTOR REGISTRATION: Any non-resident Contractor doing business in the State of Oklahoma shall register with the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the State Industrial Court and the County Assessor of each county in which contract work will be performed. This must be done prior to commencing work under the contract.
15. PAYMENT FOR MATERIAL STORED ON SITE: The following items will be required if the Contractor requests payment for material stored on the site (see Paragraph 19.b. of the General Conditions):
- a. Invoices, approved and initialed by the consulting engineer and the Owner, showing the quantity, size, cost, etc., of the material;
  - b. Payment will be made only for material stored in a location approved by the Owner. The storage area must provide adequate protection from the elements and the material must be stored so it can be promptly inspected. Material strung throughout the job site will not be considered properly stored.
  - c. The ten percent retainer that applies to material installed will also apply to materials stored on the site;
  - d. When payment for material stored on the site is received, a paid invoice for that payment from the supplier must be

submitted to the Owner prior to the payment of the next partial pay estimate.

16. CHANGE ORDER APPROVAL: All change orders must be approved by the Owner.
17. FINAL INSPECTION: A final inspection will be made by the Owner before final payment is made. Final payment will not be made until the Owner certifies in writing that the construction has been completed as planned. If the Oklahoma State Department of Health has issued a permit and approved the plans and specifications on this project, they must concur in the final inspection.
18. PARTIAL OCCUPANCY AND USE: The Owner, upon advance written notification to the Contractor, shall have the right to occupy and use any completed or partially-completed portions of the project, regardless of the percentage of completion of the entire project, when such occupancy and use is to the Owner's best interest. Such partial occupancy and use shall be upon the following terms:
  - a. The engineer shall make an inspection of the portion or portions of the project concerned and report to the Owner his findings as to the acceptability and completeness of the work. The engineer's report shall include a list of items to be completed or corrected before final payment.
  - b. The Owner, upon acceptance of the engineer's report, shall give written notice to the Contractor of the Owner's intent to occupy and use said portions of the project. The Owner's notice shall include a copy of the engineer's report, shall clearly identify the portions of the project to be occupied and used and shall establish the date of said occupancy and use.
  - c. From the date thus established, the Owner shall assume all responsibilities for operation, maintenance and the furnishing of water, gas and electrical power for the portions of the project thus occupied and used. The Owner shall have the right to exclude the Contractor from those portions of the project but shall provide the Contractor with reasonable access to complete or correct necessary items of work.
  - d. The guarantee required by the General Conditions shall not begin until completion and final acceptance of the entire project except as to items of equipment specified, such as instrumentation, electrical and mechanical equipment, which are thus used by the Owner. For said equipment, the warranty shall start from the date established in the written notice from the Owner.
  - e. Occupancy or use of any space in the project shall not constitute acceptance of work not performed in accordance with the contract or relieve the Contractor of liability to perform

any work required by the contract but not completed at the time of said occupancy and use.

- f. The Contractor shall not be held responsible for fair wear and tear or damage resulting from said occupancy except to the extent such damage is covered by the warranty.
  - g. The partial occupancy and use of any portion or portions of the project by the Owner shall not constitute grounds for claims by the Contractor for release of any amounts retained from payments under the provisions of the contract. The retained amounts will not be due until completion of the entire project for final acceptance and final payment as set forth in the General Conditions.
19. PERMITS REQUIRING TIME SHHEDULE: The Contractor shall be responsible for contacting all Federal, State, County or railroad personnel required to be contacted and as set forth in any permits with respect to time schedule before commencing any work for which a permit is required.
20. CLEAN-UP RELEASE: The Contractor shall secure a cleanup release satisfactory to the Owner from any Federal, State, county or railroad agency after the work for which a permit has been obtained has been completed.

**INSERT WAGE RATES HERE**

TO BE PROVIDED  
BY Addendum  
WITHIN 1 WEEK  
OF BID DATE

## Federal Labor Standards Provisions (Construction Contracts)

### Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1.(i) **Minimum Wages.** All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project) will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account, except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR Part 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator or an authorized representative will approve, modify or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator or an authorized representative will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of this paragraph shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met.

The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project). Such records shall contain the name, address and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section (b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee

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programs, the registration of the apprentices and trainees and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii)(a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract but, if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance" signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(i) and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3.(ii)(b) of this section.

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(ii) The Contractor or subcontractor shall make the records required under paragraph A.3.(i) of this section available for inspection, copying or transcription by authorized representative of HUD or its designee or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any

Contracts

further payment, advance or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

4.(1) Apprentices and Trainees. Apprentices, Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate who is not registered or otherwise employed as stated above shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training or a State Apprenticeship Agency recognized by the Bureau withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor,

Employment and Training Administration. The ratio of trainees to Journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may, by appropriate instructions, require and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes

clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor or the employees or their representatives.

10.(i) **Certification of Eligibility.** By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12 (a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part "Whoever, for the purpose of...influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. **Complaints, Proceedings or Testimony by Employees.** No laborer or mechanic to whom the wage, salary or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek, whichever is greater.

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor

responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety**

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).

(3) The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

EQUAL OPPORTUNITY PROVISIONS

## I. ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246, AS AMENDED (APPLICABLE TO FEDERALLY-ASSISTED CONSTRUCTION CONTRACTS AND RELATED SUBCONTRACTS \$10,000 AND UNDER):

During the performance of this contract, the Contractor agrees as follows:

- A. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- B. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

## II. EXECUTIVE ORDER 11246 (CONTRACTS/SUBCONTRACTS ABOVE \$10,000):

A. Section 202 - Equal Opportunity (EEO) Clause: During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability or covered veteran status. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, disability or covered veteran status. Such action shall include but not be limited to the following: Employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
2. The Contractor will, in all solicitations or advertisements for employment placed by or on behalf of the

Contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, national origin, disability or covered veteran status.

3. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules and regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by ODOC and the Secretary of Labor for purposes of investigation and to ascertain compliance with such rules, regulations and orders.
6. In the event of the Contractor's non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended, in whole or in part, and the Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor or as otherwise provided by law.
7. The Contractor will include the provisions of the sentence immediately preceding paragraph II.A.1. and the provisions of paragraphs II.A.1.-7. In every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as ODOC may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided, however, that in the event a Contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by ODOC, the Contractor may request the United States to

enter into such litigation to protect the interest of the United States.

B. Notice of Requirement For Affirmative Action to Ensure EEO (Executive Order 11246) (Applicable to Contracts/Subcontracts Exceeding \$10,000):

1. The offeror's or bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. Goals and Timetables: Contractor must make good faith efforts to meet their AA goals for employment of minorities and women in the construction industry.
  - a. The goals and timetables for minority and female participation, expressed in percentage terms, for the Contractor's aggregate work force in each trade on all construction work in the covered area are as follows:

Goals for Minority Participation For Each Trade	Goals for Female Participation For Each Trade
6.9%	6.9%

- b. These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the Contractor performs construction work in a geographic area located outside the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the Contractor is also subject to the goals for both its Federally involved and non-Federally-involved construction.
- c. The Contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and

female employment and training must be substantially uniform throughout the length of the contract and in each trade and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, employer identification number of the subcontractor, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract and the geographical area in which the contract is to be performed.
4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed, giving the State, County and City, if any).

C. Standard Federal EEO Construction Contract Specifications (Executive Order 11246):

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Forms 941;
  - d. "Minority" includes:

- (1) Black: All persons having origins in any of the black racial groups of Africa;
  - (2) Asians: All persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam;
  - (3) American Indian or Alaskan Natives: All persons having origins in any of the original peoples of North and South America (including Central America) and maintaining identifiable tribal affiliations through membership and participation or community identification;
  - (4) Native Hawaiian or Other Pacific Islanders: All persons having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands;
  - (5) Whites: All persons having origins in any of the original peoples of Europe, the Middle East or North Africa;
  - (6) Hispanics or Latinos: All persons of Cuba, Mexican, Puerto Rican, South or Central American, or other Spanish cultures or origins, regardless of race.
  - (7) Not Hispanics or Latinos: All persons not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish cultures or origins, regardless of race.
2. Whenever the Contractor or any subcontractor at any tier subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
  3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area, either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to

demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO Clause and under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to make good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs II.C.7.a.-p. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors performing contracts in geographical areas where they do not have a Federal or Federally assisted construction contract shall apply the minority and the female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of the apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period and the Contractor must have made the commitment to employ the apprentices and the trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its efforts to achieve maximum results from its actions. The Contractor shall document

these efforts fully and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation or coercion at all sites and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such working environment, with specific attention to minority or female individuals working at such sites or in such facilities;
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available and maintain a record of the organization's responses;
- c. Maintain a current file of the names, addresses and telephone number of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or a community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor or when the Contractor has other information that the Union referral process has impeded the Contractor's efforts to meet its obligation.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the U.S. Department of Labor. The Contractor

shall provide notice of these programs to the sources compiled under II.C.7.b. above;

- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations by including it in any policy manual and collective bargaining agreement, by publicizing it in the company newspaper, annual report, etc., by specific review of the policy with all management personnel and with all minority and female employees at least once a year and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Conduct at least an annual review of the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions, including specific review of these items with on-site supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business;
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. No later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process;
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vaca-

- tion employment to minority and female youth on the site and in other areas of a Contractor's work force;
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3;
  - l. Conduct at least an annual inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities through appropriate training, etc.
  - m. Ensure that seniority practices, job classifications, work assignment and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out;
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilets and necessary changing facilities shall be provided to assure privacy between the sexes;
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations;
  - p. Conduct an annual review of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (II.C.7.a.-p.). The efforts of a contractor association, joint contractor-union, contractor-community or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under II.C.7.a.-p. of these specifications, provided the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables and can provide access to documentation which demonstrates

the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minorities groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women, generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is under-utilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion or national origin.
11. The Contractor shall not enter into any subcontract with any person or firm debarred from government contract pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontractors, as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph II.C.7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records for each employee shall include at least the name; address; telephone number; construction trade; union

affiliation, if any; employee identification number, where assigned; social security number; race; sex; status, e.g., mechanic, apprentice trainee, helper or laborer; dates of changes in status; hours worked per week in the indicated trade; rate of pay and location at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents, e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program.

### III. CERTIFICATION OF NON-SEGREGATED FACILITIES (OVER \$10,000):

By submission of this bid, the bidder, offeror, applicant or subcontractor certifies that (s)he does not maintain or provide for his/her employees any segregated facility at any of his/her establishments and that (s)he does not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. (S)he certifies further that (s)he will not maintain or provide for employees any segregated facilities at any of his/her establishments and (s)he will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants or other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated on the basis of race, color or religion or are, in fact, segregated on the basis of race, color, religion or otherwise. (S)he further agrees that, except where (s)he has obtained identifiable certifications from proposed subcontractors for specific time periods, (s)he will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000, which are not exempt from the provisions of the Equal Opportunity Clause; that (she) will retain such certifications in his/her files; and that (s)he will forward the following notice to such proposed subcontractors, except where proposed subcontractors have submitted identical certifications for specific time periods.

### IV. CIVIL RIGHTS ACTION OF 1964:

Under Title VI of the Civil Rights Act of 1967, no person shall, on the grounds of race, color or national origin; be excluded from

participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance.

V. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974:

No person in the United States shall, on the grounds of race, color, national origin, religion or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Title.

VI. "SECTION 3" COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES:

- A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC §1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns located in or owned in substantial part by persons residing in the area of the project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 134 and all applicable rules and orders of ODOC issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.
- C. The Contractor will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- D. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135. The Contractor will not subcontract with any subcontractor unless the subcontractor has first agreed to comply with the requirements of these regulations.

- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135 and all applicable rules and orders of ODOC issued hereunder prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successor and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors or subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided and to such sanctions as are specified by 24 CFR 125.

VII. SECTION 504 DISABLED (IF \$2,500 OR OVER) - AFFIRMATIVE ACTION FOR DISABLED WORKERS

- A. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- B. The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- C. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- D. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notice in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment and protect the rights of those applicants and employees.
- E. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973 and is committed to taking affirmative action to employ and advance in employment physically and mentally disabled individuals.
- F. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless

exempted by rules, regulations or orders of the Secretary issued pursuant to Section 503 of the Act so such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provision, including action for non-compliance.

#### VIII. AGE DISCRIMINATION ACT OF 1975

No person in the United States shall be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance because of age.

#### IX. SECTION 402, VETERANS OF THE VIETNAM ERA (IF \$10,000 OR OVER) - AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

- A. The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam Era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam Era without discrimination based upon their disability or veteran status in all employment practices such as employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- B. The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently-operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment opportunities as may be required.
- C. Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant or any job applicant from any particular group of applicants and nothing herein is intended to relieve

the Contractor from any requirements of Executive Orders or regulations regarding non-discrimination in employment.

- D. The reports required by paragraph B. of this clause shall include but not be limited to periodic reports which shall be filed at least quarterly with the appropriate local officer or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. For each hiring location, such reports shall indicate:
1. The number of individuals hired during the reporting period;
  2. The number of non-disabled veterans of the Vietnam Era hired;
  3. The number of disabled veterans of the Vietnam Era hired; and
  4. The total number of disabled veterans hired.

The reports should include covered veterans hired for on-the-job training under 38 USC §1787. The Contractor shall submit a report within thirty (30) days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruit and placement.

- E. Whenever the Contractor becomes contractually bound to the listing provision of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.
- F. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.
- G. The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

- H. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- I. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era for employment and to protect the rights of those applicants and employees.
- J. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other understanding that the Contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act and is committed to taking affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.
- K. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act so such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

STATE OF OKLAHOMA  
HOLD HARMLESS CLAUSE

Contractor shall, within limitations placed on such entities by State law, save harmless the State of Oklahoma, its agents, officers and employees from all claims and actions and all expenses defining same that are brought as a result of any injury or damage sustained by any person or property in consequence of any act or omission by the Contractor. Contractor shall, within limitations placed on such entities by State law, save harmless the State of Oklahoma, its agents, officer and employees from any claim or amount recovered as a result of infringement of patent, trademark or copyright or from any claim or amounts arising or recovered under Workers' Compensation law or any other law. In any agreement with any subcontractor or any agent for Contractor, Contractor will specify that such subcontractors or agents shall hold harmless the State of Oklahoma, its agents, officers and employees for all the hereinbefore-described expenses, claims action or amounts recovered.

## CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(Applicable to Federally-assisted construction contracts and related subcontracts exceeding \$100,000.)

Compliance with Air and Water Acts

During the performance of this contract, the Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended (42 USC §§1857, et seq.), the Federal Water Pollution Control Act, as amended (33 USC §§1251, et seq.) and the regulations of the Environmental Protection Agency (EPA) with respect thereto at 40 CFR 15, as amended.

In addition to the foregoing requirements, all non-exempt contractors and subcontractors shall furnish to the Owner, the following:

1. A stipulation by the Contractor or subcontractors that any facility to be utilized in the performance of any non-exempt contract or subcontract is not listed on the List of Violating Facilities issued by the EPA pursuant to 40 CFR 15.20.
2. Agreement by the Contractor comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 USC §1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 USC §1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in Section 114 and Section 308 and all regulations and guidelines issued thereunder.
3. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA list of Violating Facilities.
4. Agreement by the Contractor that he will include or cause to be included by the criteria and requirements in paragraphs 1-4 of this section in every non-exempt subcontract and will take such action as the government may direct as a means of enforcing such provisions.

SPECIAL CONDITIONS PERTAINING TO  
HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION

1. Lead-Based Paint Hazards (Applicable to Contract for Construction or Rehabilitation of Residential Structures): The construction or rehabilitation of residential structures is subject to the U.S. Department of Housing and Urban Development Lead-Based Paint regulations, 24 CFR 35. The Contractor and subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under Subpart B of said regulations. The owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.
  
2. Use of Explosives (Modify as Required):
  - a. When the use of explosives is necessary for the performance of the work, the Contractor shall observe all local, State and Federal laws in purchasing and handling explosives. The Contractor shall take all necessary precautions to protect completed work, neighboring property, waterlines or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel or rope mats.
  
  - b. At least eight (8) hours before blasting is done, the Contractor shall notify all owners of public utility property of the intent to use explosives close to such property. Any supervision or direction of use of explosives by the engineer does not in any reduce the responsibility of the Contractor or his surety for damages that may be caused by such use.

(Use the address below for projects in Oklahoma)

To: Director, Office of Federal Contract Compliance Programs  
U.S. Department of Federal Contract Compliance Programs  
U.S. Department of Labor (DOL)  
Washington, DC

We submit the following information relative to a construction contract in excess of \$10,000:

1. Contractor's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_  
 Employer's Identification Number: \_\_\_\_\_
  
2. Contract for: \$ \_\_\_\_\_  
 Starting Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_  
 Contract Number: \_\_\_\_\_ City: \_\_\_\_\_  
 DOL Region: VI

The Contractor is required to submit a completed copy of this page to the DOL upon issuance of the Notice to Proceed. Form CC-257 is to be completed upon request by the DOL.

FOR PROJECT IN OKLAHOMA, SEND TO:

Association Regional Administrator  
USDL/OFCCP  
555 Griffin Square Building  
Room 506  
Dallas, TX 75202  
Telephone 214-767-4771

RELEASE OF CLAIMANTS

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

Project: \_\_\_\_\_  
\_\_\_\_\_

Dear Sir:

I hereby acknowledge receipt of \_\_\_\_\_ dollars (\$\_\_\_\_\_) in full payment of my contract dated \_\_\_\_\_ for improvement work which I did for you and which is described in my contract.

I certify that I have paid in full for all materials purchased and all labor employed in the performance of this contract and that there are no claims against me as an employer under this contract on account of injuries sustained by workmen employed by me thereunder. I hereby release you from any claims arising by virtue of this contract.

WARNING

The making of any false statement or misrepresentation herein may be a crime punishable under Title 18 USC §1001, which provides in part: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully makes any false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined no more than \$10,000 or imprisoned not more than five years, or both."

Sincerely,

\_\_\_\_\_  
Contractor



## **SPECIAL PROVISIONS**

## **SPECIAL PROVISIONS**

### GENERAL

This project consists of furnishing labor and materials and related incidental work required to make improvements to **Year 13 – SMALL CITIES SET ASIDE ROADWAY, SANITARY SEWER AND WATERLINE REPLACEMENT PROJECT**. The bid schedule contains further information identifying the work to be completed. Each particular item of work is described in some detail in the specifications. Throughout the specifications, types of materials may be specified by manufacturer's name or catalog number in order to establish standards of quality and performance and not for the purpose of limiting competition. Unless specifically stated otherwise, the Bidder may assume the phrase "or approved equal", except that the burden is on the bidder to prove such equality. If the bidder elects to do this, he must request the Engineer's approval in writing to substitute such items for the specified item, stating the cost difference involved with supporting data, and samples, if required, to permit a fair evaluation of the proposed substitute with respect to quality, serviceability, warranty, and cost. All materials shall be new, unless specifically approved by the Engineer in writing.

### PROJECT DURATION

The work shall be commenced five (5) days from the date on which a Work Order is issued and completed on or before **90** calendar days from commencement thereof. Liquidated damages shall begin after this date. Amount of liquidated damages is \$100.00 per day.

### INSURANCE

The Contractor shall purchase and maintain insurance in accordance with the General Provisions.

### LAWS AND ORDINANCES

- A. All work performed under this contract shall be in full accordance with the laws and ordinances pertinent to such work. In case of any conflict wherein the methods or standards of installation or materials specified do not equal or exceed the requirements of the laws or ordinances, the laws or ordinances shall govern. All items required by the laws or ordinances but not specified or shown on the drawings shall be furnished without extra charge as if shown on specifications, plans and drawings.
- B. The words "laws and ordinances" as used herein shall mean all local, state, or national codes, laws, ordinances, standards, rules, or regulations of any nature which are in any way pertinent to, or regulatory over, the work covered by this section of the specifications.

## INTERPRETATION OF PLANS AND SPECIFICATIONS

The plans, these specifications, the proposal, Special Provisions and all supplementary documents are intended to describe a complete work and are essential parts of the contract. A requirement occurring in any of them is binding. In case of discrepancies, figured dimensions shall govern over scaled dimensions; plans shall govern over specifications; Special Provisions shall govern over both General and Standard Specifications; and the plans and quantities shown on the plans shall govern over those shown on the proposal. The Contractor shall take no advantage of any apparent error or omission in the plans and specifications, and the Engineer shall be permitted to make such corrections or interpretations as may be deemed necessary for the fulfillment of the intent of the plans and specifications.

In the event the Contractor discovers any apparent error or discrepancy, he shall immediately call such error or discrepancy to the attention of the Engineer, and request in writing an interpretation thereof by the Engineer at least five days before incurring any expense thereunder. Failure to so request shall be a complete defense to and waiver of any claim for damages by the Contractor.

## RIGHTS-OF-WAY

The necessary rights-of-way for the project will be provided by the City. The Contractor shall confine his construction operations to the immediate vicinity of the location shown on the plans and shall use care in placing construction tools, equipment, excavated materials, pipe materials, and supplies so as to cause the least possible damage to property and interference with traffic. The placing of such tools, equipment, and materials shall be subject to the approval of the Engineer.

Any additional temporary construction right-of-way required shall be obtained by the City. The additional temporary right-of-way must be obtained prior to entering upon the property and doing any work.

## FIELD CHECK OF EXISTING STRUCTURES

It shall be the responsibility of the Contractor to check all dimensions and elevations of existing structures, pipelines, equipment, or other existing items affected by or affecting the work under this contract. This shall be done prior to the start of construction or ordering of materials and equipment affected thereby.

The Contractor's attention is directed to the Information for Bidders which requires that each bidder visit the site of the work to familiarize himself with the arrangement and condition of existing construction.

The Contractor shall be solely responsible for determining the extent and costs of all removal and salvage operations. Any delay or extra expense to the Contractor due to encountering construction, piping, or equipment not shown or in locations different from those indicated on the plans shall not constitute a claim for extra work, additional payment, or damages.

## PROTECTION OF PUBLIC AND PRIVATE PROPERTY

The Contractor shall protect, shore, brace, support, and maintain all underground pipes, conduits, drains, and other underground construction uncovered or otherwise affected by the construction work performed by him. All pavement, surfacing, driveway, curbs, walks, buildings, utility poles, guy wires, fences, and other surface structures affected by construction operations, together with all sod and shrubs in yards and parking areas, shall be restored to their original condition as determined and approved by the Engineer, whether within or outside the Owner's right-of-way. All replacements shall be made with new materials. The Contractor shall be responsible for all damage to streets, roads, highways, shoulders, ditches, embankments, culverts, bridges, and other public or private property, regardless of location or character, which may be caused by transporting equipment, materials, or men to or from the work or any part of it thereof, whether by him or his subcontractors. The Contractor shall make satisfactory and acceptable arrangements with the owner of, or the agency or authority having jurisdiction over, the damaged property concerning its repair or replacement, or payment of costs incurred in connection with the damage.

## WATER

All water that is required in connection with the work to be done under this Contract will be furnished in the vicinity of the site, by the Owner, provided:

- A. The Contractor shall procure such water in the location and in the manner designated by the Engineer.
- B. The Contractor at his own expense shall make authorized connections and provide means for delivering the water to the work site.
- C. The Contractor shall pay the established rate in accordance with the General Provisions required by the City.

## EXPERIENCED CONTRACTOR

The Contractor must furnish personnel and equipment suitable for the work to be done.

The Contractor shall keep on the work during its progress a competent, qualified general superintendent and any necessary assistants, all satisfactory to the City and the Engineer. The General Superintendent shall not be changed without consent of the City and the Engineer unless he proves to be unsatisfactory to the Contractor and ceases to be in his employ. The General Superintendent shall represent the Contractor in his absence, and shall have complete authority to make decisions requiring immediate action. All directions given to him by the Engineer shall be as binding as if given to the Contractor. Important directions shall be confirmed in writing to the Contractor. Other directions shall be so confirmed on written request in each case. The General Superintendent shall coordinate the work of the subcontractors and be responsible for all their activities. The Contractor shall give efficient supervision to the work, using his best skill and attention. He shall carefully study and compare all drawings, specifications, and other instructions, and shall report at once to the Engineer any error, inconsistency, or omission which he may discover.

## PROJECT LOCATION

Location is between Main Street (SH-66) and Cedar Avenue on 10<sup>th</sup> Street.

## QUANTITY

The City of Yukon, Oklahoma does not guarantee any specific quantities of items. All listed quantities are estimated only. Claims will be processed to cover work as it is completed during the contract period.

## MATERIALS

All materials must meet the requirements of the Special Provisions and the current standard specifications of the 1995 City of Yukon standard specifications for construction. Where these are in conflict, the Special Provisions will govern.

## AWARD OF CONTRACT

Award of contract shall be to the lowest and best total bid.

## APPROVAL OF MATERIALS

Immediately after the contract is signed and before ordering materials, the Contractor shall make written request to the Engineer for and obtain his approval of the use of any materials, construction, etc., other than those mentioned as standard in the specifications or so indicated on the drawings and obtain his approval of materials, construction, etc., proposed for use when "approved" materials or work are specified without mentioning any standard by name.

The terms "approved" or "approved equal" shall mean approved by the Engineer. Approval shall be based on performance specifications, availability of fully manned maintenance facilities within 100 miles of the site, and manufacturer's experience as further specified herein. Manufacturers must have at least five (5) years experience with five (5) functionally satisfactorily completed systems in this state unless otherwise specified. Sub-contractors and suppliers shall make all requests for approval through the Contractor.

Whenever a material or article is specified or described by using the name of a proprietary product or the name of a particular manufacturer or vendor, the specific item mentioned shall be understood as establishing the type, function, and quality desired. Other manufacturers' products will be accepted, provided sufficient information is submitted to allow the Engineer to determine that the proposed products are equivalent to those named. Such items shall be submitted for approval by the procedure set forth in the General Provisions. The words "or equal", although possibly not indicated after each proprietary specification, are implied as a result of the preceding statements in this paragraph.

## OPERATING DATA AND PROCEDURES INFORMATION

Prior to final acceptance of the project, the Contractor shall furnish the Engineer with four (4) copies of catalogs, parts lists, a recommended spare parts list, operation and maintenance instructions and any other pertinent and useful information for all major items of equipment. This information and data will be incorporated into an instruction manual for future reference covering the operation and maintenance of the facility.

## GUARANTEE

The Contractor shall guarantee the work for the length of time as set forth below and shall leave the work in acceptable condition. Neither the final certificate nor payment nor any provisions in the contract documents shall relieve him of responsibility for negligence or faulty materials or workmanship within the extent and period provided; and upon written notice from the Engineer or the Owner, he shall remedy any defects due thereto and pay all expenses for any damages to other work resulting therefrom.

A Maintenance Bond will be required for all improvements, for a period of two (2) years from the date of final acceptance of the project by the City. Said bond shall be as stated on the maintenance bond form.

## CLEAN-UP

Upon completion of the work and before acceptance and final payment will be made, the Contractor shall clean and remove from the site of the work surplus and discarded materials, temporary structures, stumps or portions of trees, and debris of any kind. He shall leave the site of the work in a neat and orderly fashion as close as possible to its original condition. Waste materials removed from the site of the work shall be disposed of at locations satisfactory to the Engineer.

Immediately before final acceptance of the work as a whole, the Contractor shall clean all surfaces of foreign matter. All brick, stone, metal or concrete surfaces shall be cleaned of all mortar, splashed concrete, stains, etc., and left in a neat, clean, workmanlike manner, to the satisfaction of the Engineer.

## MATERIALS AND WORKMANSHIP

All materials shall be new, of the best grade of their respective kinds, free from all defects, and of the quality specified. The Contractor shall not start delivery of materials until the Engineer has approved the source of supply. Only materials conforming to the requirements of the City shall be used in the work and such materials shall be used only after written approval has been given by the Engineer and only, so long as the quality of said materials remains equal to the requirements of the City. The Contractor shall furnish approved materials from other sources if, for any reason, the product from any source at any time before commencing or during the prosecution of the work proves unacceptable. After approval, any material which has become mixed with or coated with dirt or any other foreign substances during its delivery and handling shall not be used in the work.

The workmanship shall be in all respects of the highest grade, and all construction shall be done by skilled technicians according to the best practice of the trade. All interface measurements and connections shall be the sole responsibility of the Contractor. The

Oklahoma Department of Environmental Quality Standards shall be considered as part of these specifications and shall be in effect with respect to this project.

#### REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK

All work which has been rejected or condemned shall be repaired, or if it cannot be satisfactorily repaired, it shall be removed and replaced at the Contractor's expense. Defective materials shall be removed immediately from the site of work.

Work done without proper inspection or any extra or unclassified work done without written authority and prior agreement in writing as to prices, will be done at the Contractor's risk and will be considered unauthorized, and at the option of the Engineer, may not be measured and paid for and may be ordered removed at the Contractor's expense.

Upon the failure of the Contractor to satisfactorily repair or to remove and replace, if so directed, any rejected, unauthorized or condemned work or materials immediately after receiving notice from the Engineer, the Engineer shall, after giving written notice to the Contractor, have the authority to cause defective work to be remedied or removed and replaced or to cause unauthorized work to be removed and to deduct the cost thereof from any compensation due or to become due the Contractor. If the Engineer and City deem it inexpedient to correct work injured or done not in accordance with the contract, an equitable deduction from the contract price shall be made therefore.

#### CORRECTION OF WORK AFTER FINAL PAYMENT

Neither the final certificate nor payment nor any provision in the Contract Documents shall relieve the Contractor of responsibility of faulty materials or workmanship and, unless otherwise specified, he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of substantial completion. The City shall give notice of observed defects with reasonable promptness.

#### MEASUREMENT AND PAYMENT

The method of measurement and basis of payment for each item shall be as stipulated in the Proposal and include work sheets specified.

Percentage of work completed shall be indicated for each pay item.

The Contractor or his authorized representative at the end of each work day or as otherwise approved by the Engineer, shall establish and agree upon, with the inspector, the amount of those quantities which cannot be measured when the job is completed. These quantities are to be entered in the inspector's daily report and shall be the basis for the final estimate.

#### WAGE RATES

Davis-Bacon Act wage rates are to be used for this project. The final Davis-Bacon wage rates will be included via addendum.

#### PRE-BIDDING INSPECTION OF SITE

Contractor shall visit site and familiarize himself with all conditions affecting his work and include in his bid an amount sufficient to cover all work.

#### BID REJECTION

The City of Yukon reserves the right to reject any part of the bid or reject all bids.

#### RETAINAGE

Pursuant to paragraphs 2 and 3 of the contract, the retainage will be reduced to 5% for the project, provided work is proceeding in a satisfactory manner.

#### REMOVE AND REPLACE FENCES

If it is necessary for the Contractor to remove and replace fences at certain locations along the construction alignment, all fences that are moved or disturbed by construction operations shall be replaced or repaired in place in their original condition as soon as possible after the construction is completed. The cost of removal and replacement of fences shall be included in the cost for other pay items.

#### BARRICADES AND WARNING SIGNS

Where work is carried on in or adjacent to any street, alley, or public place, the Contractor shall furnish and erect such barricades, fences, lights and danger signals; shall provide such watchmen and take such other precautionary measures for the protection of persons or property and of the work as are necessary. Barricades shall be renewed as often as necessary to keep the work substantially covered. A sufficient number of barricades shall be erected to keep vehicles from being driven on or into any work under construction. The Contractor shall furnish watchmen in sufficient numbers to protect any new work. Failure to comply with these requirements will result in the Engineer shutting down the work until the Contractor shall have provided the necessary protection. Payment will be made by item lump sum "Traffic Control".

#### PROTECTION OF EXISTING STRUCTURES

The Contractor shall provide all necessary sheeting, shoring, and other bracing and supports to protect improvements adjacent to the construction. This work shall be incidental and shall not be paid for separately but shall be included in the unit price bid for other items.

#### LAYOUT OF WORK AND SURVEYS

- A. From the control points established by the Engineer, the Contractor shall complete the layout of the work and shall be responsible for all measurements that may be required for the execution of the work to the location and limit marks prescribed in the specifications or on the contract drawings, subject to such modifications as the Engineer may require to meet changed conditions or as a result of necessary modifications to the contract work.
- B. The Contractor shall furnish such stakes, templates, platforms, equipment, tools and materials, and all labor as may be required in laying out any part of the work from the control points established by the Engineer. Payment will be made by pay item "Staking"

lump sum. It shall be the responsibility of the Contractor to maintain and preserve all stakes and other marks established by the Engineer until authorized to remove them. If such marks are destroyed by the Contractor or through his negligence removed or altered prior to their authorized removal, they may be replaced by the Engineer, at his discretion, and the expense of replacement will be charged to the Contractor. The Engineer may require that work be suspended at any time when location and limit marks established by the Contractor are not reasonably adequate to permit checking of work.

#### PROTECTION AND RESTORATION OF PROPERTY

The Contractor shall not enter upon private property for any purpose without first obtaining permission, and he shall be responsible for the preservation of and shall use every precaution necessary to prevent damage to all trees, fences, culverts, bridges, pavement, driveways, sidewalks, etc., to all water, sewer, gas or electric lines, or appurtenance thereof and to all other public or private property along or adjacent to the work. The Contractor shall notify the proper representatives of any public service corporation, and company or any individual not less than twenty-four (24) hours in advance of any work which might damage or interfere with the operation of their or his property, along or adjacent to the work. He shall be responsible for all damage or injury to property of any character resulting from any act, omission, neglect, or misconduct in the manner or method of executing the work or due to his non-execution of the work or at any time due to defective work or materials, and said responsibility shall not be released until the work shall have been completed and accepted. When and where any direct or indirect damage or injury is done to public or private property on account of any act, omission, neglect, or misconduct in the execution of the work or in consequence of non-execution thereof, on the part of the Contractor, he shall restore at his expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring as may be directed or he shall make good such damage for injury in an acceptable manner.

## **CONTRACT AND BONDS**

**CONTRACT**

THIS CONTRACT and AGREEMENT, made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF YUKON, party of the first part, hereinafter termed "City" and \_\_\_\_\_ party of the second part, hereinafter termed "Principal."

WITNESSETH:

WHEREAS, the CITY OF YUKON has caused to be prepared in accordance with law, certain plans, specifications, and other bidding documents for the work hereinafter described and has approved and adopted all of said bidding documents, and has caused Solicitation for Bids to be given and advertised as required by law, and has received sealed proposals for the furnishing of all labor and materials for:

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CITY OF YUKON, OKLAHOMA**

as outlined and set out in the bidding documents and in accordance with the terms and provisions of this contract; and

WHEREAS, Principal, in response to said Solicitation for Bids, published in the \_\_\_\_\_ has submitted to the CITY OF YUKON in the manner and at the time specified, a sealed proposal in accordance with the terms of this contract, and

WHEREAS, the CITY OF YUKON in the manner provided by law, has publicly opened, examined, and canvassed the proposals submitted and has determined and declared the above-named Principal to be the lowest and best responsible bidder on the above-described project, and has duly awarded this contract to said Principal for the sum named in the proposal, to wit:

\_\_\_\_\_ DOLLARS (\$\_\_\_\_\_).

NOW, THEREFORE, for and in consideration of the mutual agreements and covenants herein contained, the parties to this contract have agreed and hereby agree as follows:

1. The Principal shall, in a good and first-class, workmanlike manner, at his own cost and expense, furnish all labor, materials, tools, and equipment required to perform and complete said work in strict accordance with the Principal's proposal and bid and with the plans, specifications, and other bidding documents adopted and approved by the City, all of which documents are on file in the office of the City Clerk of Yukon and are made a part of this contract as fully as if the same were herein set out at length, with the following additions and/or exceptions: (if none, so state) \_\_\_\_\_

2. The City shall make payments to the Principal in the following manner: On or about the first day of each month, the Engineer, or other appropriate person, will make accurate estimates of the value, based on contract prices, of work done and materials incorporated in the work and of materials suitably stored at the site thereof during the preceding calendar month. The Principal shall furnish to the Engineer or other person, such detailed information as he may request to aid him as a guide in the preparation of the monthly estimates. The Principal shall be paid according to the estimate less 5% retainage for the contract amount.

3. On completion of the work, but prior to the acceptance thereof by the CITY OF YUKON, it shall be the duty of the Engineer, or other appropriate person, to determine that said work has been completely and fully performed in accordance with said Contract Documents, and upon making such determination, said official shall make his final certificate to the City. The Principal shall furnish proof that all claims and obligations incurred by him in connection with the performance of said work have been fully paid which shall bear the approval of the surety on the contract bonds for payment of the final estimate to the Principal; thereupon, the final estimate (including retainages) will be approved and paid and the same shall be in full for all claims of every kind and description said Principal may have by reason of having entered into or arising out of this contract.

The sworn and notarized statement below must be signed and notarized before the contract will become effective.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in three (3) duplicate originals, the day and year first above written.



**CONSTRUCTION BOND**

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_,  
as Principal, and \_\_\_\_\_, as  
Surety, are held and firmly bound unto the CITY OF YUKON of the State of Oklahoma,  
hereinafter referred to as the Government, in the full and just sum of  
\_\_\_\_\_ DOLLARS  
(\$\_\_\_\_\_) for the payment of which, well and truly to be made, we and  
each of us, bind ourselves, our heirs, executors and assigns, themselves, and its successors  
and assigns, jointly and severally, firmly by these presents.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_\_.

The conditions of this obligation are such, that whereas, said Principal is the lowest and  
best bidder for the making of the following municipal work and improvement, viz:

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and has entered into a certain written contract with the CITY OF YUKON on the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_\_, for the erection and construction of said work and  
improvement all in compliance with the plans and specifications therefor, made a part of said  
contract and on file in the office of the City Clerk, and said contract is hereby made a part and  
parcel of this bond as if literally written herein.

NOW, THEREFORE, if the said Principal, \_\_\_\_\_ shall fully and faithfully execute the work and perform said contract according to its terms, conditions and covenants, and in exact accordance with the bid of said Principal, and according to certain plans and specifications heretofore made, adopted and placed on file in the office of the City Clerk of THE CITY OF YUKON and shall promptly pay or cause to be paid, all labor, material and/or repairs and all bids for labor performed on said work, whether by sub-contract or otherwise; and shall protect and save harmless the said Government and all interested property owners against all claims, demands, causes of action, losses or damage, and expense to life or property suffered or sustained by any person, firm or corporation by reason of negligence of the Principal or his or its agents, servants, or employees in the construction of said work, or by or in consequence of any improper execution of the work or act of omission or use of inferior materials by said Principal, or his or its agents, servants, or employees; and shall protect and save the Government harmless from all suits and claims of infringement or alleged infringement of patent rights or processes, then this obligation shall be void. Otherwise this obligation shall remain in full force and effect.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers; and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact, duly authorized so to do, the day and year first above written.

ATTEST:

\_\_\_\_\_

Secretary

By \_\_\_\_\_  
Principal

ATTEST:

\_\_\_\_\_

Secretary

By \_\_\_\_\_  
Surety

Approved as to form this \_\_\_\_ day of \_\_\_\_\_, A.D., 20 \_\_\_\_.

\_\_\_\_\_  
City Attorney

Approved by the CITY OF YUKON this \_\_\_\_ day of \_\_\_\_\_, A.D., 20 \_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

Secretary

**MAINTENANCE BOND**

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_,  
as Principal, and \_\_\_\_\_, as  
Surety, are held and firmly bound unto the CITY OF YUKON of the State of Oklahoma, in the  
full and just sum of \_\_\_\_\_  
DOLLARS (\$\_\_\_\_\_), such sum being equal to the contract amount for  
a period of one (1) year and thereafter for a period of one (1) year for the sum of  
\_\_\_\_\_  
DOLLARS (\$\_\_\_\_\_), such sum being not less than 15% of the contract price, for  
the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs,  
executors, and assigns, themselves, and its successors and assigns, jointly and severally,  
firmly by these presents.

Dated this \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

The conditions of this obligation are such, that whereas, said Principal, has a certain  
contract between \_\_\_\_\_  
and the CITY OF YUKON dated this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, agreed to construct in the City of Yukon:

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all in compliance with the plans and specifications therefore, made a part of said Contract and  
on file in the office of the City Clerk of the City of Yukon; and to maintain the said improvement  
in the amounts set forth above against any failure due to workmanship or material for a period  
of **two (2) years** from the date of acceptance of the completed project by the CITY OF YUKON.

NOW, THEREFORE, if the said Principal shall pay or cause to be paid to the Authority all damage, loss, and expense which may result by reason of defective materials and/or workmanship in connection with said work, occurring within a period of **two (2) years** from and after acceptance of said project by the Authority; and if Principal shall pay or cause to be paid all labor and materials, including the prime contractor and all sub-contractors; and if Principal shall save and hold the Authority harmless from all damages, loss, and expense occasioned by or resulting from any failure whatsoever of said Principal, then this obligation shall be null and void, otherwise to be and remain in full force and effect.

It is further agreed that if the said Principal or Surety herein shall fail to maintain said improvements against any failure due to defective workmanship and/or materials for a period of **two (2) years** and at any time repairs shall be necessary that the cost of making repairs shall be determined by the CITY OF YUKON, or some person(s) designated by them to ascertain the same, and if, upon thirty (30) days notice, the said amount ascertained shall not be paid by the Principal or Surety herein, or if the necessary repairs are not made, that said amount shall become due upon the expiration of thirty (30) days and suit may be maintained to recover the amount so determined in any Court of competent jurisdiction. And that the amount so determined shall be conclusive upon the parties as to the amount due on this bond for the repair or repairs included therein, and that the cost of all repairs shall be so determined from time to time during the life of this bond as the condition of the improvements may require.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers, and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact, duly authorized so to do, the day and year first above written.

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Secretary By \_\_\_\_\_  
Principal

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Secretary By \_\_\_\_\_  
Surety

Approved as to form this \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

\_\_\_\_\_  
City Attorney

Approved by the CITY OF YUKON this \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Secretary

**STATUTORY BOND**

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_,  
as Principal, and \_\_\_\_\_,  
as Surety, are held and firmly bound unto the STATE OF OKLAHOMA in the sum of \_\_\_\_\_  
\_\_\_\_\_ DOLLARS (\$\_\_\_\_\_)

for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, executors and assigns, themselves, and its successors and assigns, jointly and severally, firmly by these presents.

Dated this \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_\_.

The conditions of this obligation are such, that whereas, the above Bonded Principal \_\_\_\_\_ is the lowest and best bidder for the making of the following municipal work and improvements:

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and has entered into a certain written contract with the CITY OF YUKON on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for the erection and construction of said work and improvement, in exact accordance with the bid of said Principal, and according to certain plans and specifications heretofore made, adopted and placed on file in the office of the City Clerk of the CITY OF YUKON.

NOW, THEREFORE, if the said Principal, shall fail or neglect to pay all indebtedness incurred by said Principal or subcontractor of said Principal who perform work in the performance of such, for labor and materials furnished by any supplier and consumed in the performance of said contract, and such repairs to and rental of machinery and equipment as may be furnished by a sub-contractor or to the person or persons contracting with this Authority within thirty (30) days after the same becomes due and payable, the person, firm or corporation entitled thereto may sue and recover on this bond, the amount so due and unpaid.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers; and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact, duly authorized so to do, the day and year first above written.

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
By \_\_\_\_\_  
Principal

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
By \_\_\_\_\_  
Surety

Approved as to form this \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

\_\_\_\_\_  
City Attorney

Approved by the CITY OF YUKON this \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Mayor

LIST OF DOCUMENTS REQUIRED FOR THIS BID

**YEAR 13 – SMALL CITIES SET ASIDE  
ROADWAY, SANITARY SEWER AND WATERLINE REPLACEMENT PROJECT  
CITY OF YUKON, OKLAHOMA**

**Project No. E109.13**

The Bidder is responsible for reviewing this list of required documents and any requirements of the General Provisions and assuring that each and every required document is properly completed, signed, and submitted with the Bid. Forms and Affidavits should be completed and submitted in accordance with provisions of the "Signature Requirements for Bidding Documents." Bids not submitted in accordance with these requirements will be recommended for rejection.

**DOCUMENTS REQUIRED FOR THIS BID**

Bid Form  
Detailed Bid Form (if provided in the Bidding Documents)  
Bid Bond  
Anticollusion Affidavit  
Statement of Yard Compliance  
Affidavit of Surety  
Contractor's Certificate  
Certificate of Non-Discrimination  
Section 3 Plan (Page GP-84)

For the purpose of determining that a bid is properly submitted, Bidder should submit the properly completed and executed documents listed on this page. Bidder should also review the General Provisions and the Special Provisions for any other required documents. Failure to submit a document required in the General or Special Provisions may be cause for rejection of the bid. However, the contracting public entity reserves the right to require timely submission of document(s) required in the Special Provisions.

Forms Not in Packet. If an item is listed on this page or in the Special Provisions and the form is not included in this packet, it is the Bidder's responsibility to obtain the form from the Office of the City Clerk for The City of Yukon or such other office noted in the Notice to Bidders.

Forms to be Used. Bidder shall use the forms in this Bid Package or shall photocopy the forms and complete them. No alterations can be made to the forms except to add additional signature lines as required. Any other alteration or amendment of these forms may invalidate the Bid.

**BID FORM**

Project Number: **Triad Design Group, Inc. Project No. E109.13**

Description: **YEAR 13 - SMALL CITIES SET ASIDE  
ROADWAY, SANITARY SEWER AND WATERLINE REPLACEMENT  
PROJECT**

**CITY OF YUKON, OKLAHOMA**

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

To the Mayor and Council of the **City of Yukon**:

Gentlemen:

The undersigned, as bidder, declares that before preparing this Bid, the Bidder read carefully the Requirements for Bidders, and the general and detailed Plans and Specifications, the Bid Form and Affidavits and Certificates and any other documentation or information to be submitted, and has examined the form of the Contract and the several Bonds, and that the bidder is familiar with and able to comply with all the provisions of the same and with all the requirements of the complete Contract to be entered into and Bonds to be executed. Said bidder proposes and agrees to furnish all labor, materials, and equipment, and to perform all operations necessary to complete the work as required by said Contract Documents for the Total Bid Price.

Total Base Bid Price (Part A Plus Part B Plus Alternate 1): \_\_\_\_\_  
(\$ \_\_\_\_\_ ).

**NOTE: BIDS SHALL INCLUDE SALES TAX AND ALL OTHER APPLICABLE TAXES AND FEES.**

Said Bidder acknowledges receipt of addendum numbers \_\_\_\_\_ issued during the time of bidding and has included the several changes in this Bid.

In submitting the Bid, it is understood that the right is reserved by the **City of Yukon** to reject any and all bids, and it is agreed that this Bid may not be withdrawn for a period of forty-five (45) days after date of filing same. Said Bidder proposes and agrees that if his Bid is accepted, the Bidder will enter in to the contract with the **City of Yukon**, and properly submit the required Bonds within seven (7) days after acceptance of his Bid and the award to the Bidder.

Bidder hereby agrees to commence work within five (5) days after the Work Order is issued by the **City of Yukon** and to complete same as stated in the Special Provisions after commencement thereon. We herewith enclose Bidder's Bond, or Certified Check, or Cashier's Check in the amount of \$ \_\_\_\_\_ as required in the Contract Specifications.



**Name and Address of Major Subcontractors**

Each subcontractor and manufacturer listed below is capable of bonding his portion of the work and will be retained by the Prime Contractor if awarded the contract for construction. Substitution of subcontractors will not be made unless express written consent of the Engineer is received.

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_

**YEAR 13 – SMALL CITIES SET ASIDE  
ROADWAY, SANITARY SEWER AND WATERLINE REPLACEMENT PROJECT  
CITY OF YUKON, OKLAHOMA**

**DETAILED BID FORM**

**YEAR 13  
Base Bid Part A**

Item No.	Estimated Quantity	Unit	Item	Unit Price	Item Total
1	88.00	L.F.	Curb and Gutter (1'-8")(6" Barrier)		
				Dollars	\$ _____
2	753.00	S.Y.	Portland Cement Concrete Pavement (6")		
				Dollars	\$ _____
3	17.00	S.Y.	Remove And Replace Driveway (Asphalt)		
				Dollars	\$ _____
4	153.00	S.Y.	Remove And Replace Driveway (Concrete)		
				Dollars	\$ _____
5	37.00	S.Y.	Remove And Replace Driveway (Gravel)		
				Dollars	\$ _____
6	15.00	L.F.	Remove Storm Sewer (CGMP) (12")		
				Dollars	\$ _____
7	30.00	L.F.	Remove Storm Sewer (CGMP) (15")		
				Dollars	\$ _____
8	24.00	L.F.	Remove Storm Sewer (RCP) (21")		
				Dollars	\$ _____
9	40.00	L.F.	Remove Storm Sewer (RCPA) (21" X 12")		
				Dollars	\$ _____

Item No.	Estimated Quantity	Unit	Item	Unit Price	Item Total
10	15.00	L.F.	Storm Sewer Pipe (CGMP) (12")		
				Dollars \$	\$
11	30.00	L.F.	Storm Sewer Pipe (CGMP) (15")		
				Dollars \$	\$
12	24.00	L.F.	Storm Sewer Pipe (RCP) (24")		
				Dollars \$	\$
13	40.00	L.F.	Storm Sewer Pipe (RCPA) (21" X 12")		
				Dollars \$	\$
14	1.00	LSUM	Mobilization		
				Dollars \$	\$
15	1.00	LSUM	Roadway Earthwork		
				Dollars \$	\$
16	1.00	LSUM	Traffic Control		
				Dollars \$	\$
17	1000.00	S.Y.	Solid Slab Sod		
				Dollars \$	\$
18	200.00	L.F.	Saw Cut		
				Dollars \$	\$
19	700.00	L.F.	Filter Fabric Silt Fence		
				Dollars \$	\$
20	800.00	S.Y.	Asphalt Pavement Removal		
				Dollars \$	\$

DBF 2

Item No.	Estimated Quantity	Unit	Item	Unit Price	Item Total
----------	--------------------	------	------	------------	------------

21	300.00	TBSC	Traffic Bound Surface Course		
				Dollars \$	\$

Total Base Bid Part A: \$ \_\_\_\_\_

**YEAR 13**  
**Base Bid Part B Sanitary Sewer**

Item No.	Estimated Quantity	Unit	Item	Unit Price	Item Total
1	320.00	L.F.	4" Sewer Pipe		
				Dollars \$ _____	\$ _____
2	7.00	EA.	8" X 4" WYE		
				Dollars \$ _____	\$ _____
3	41.00	S.Y.	Pavement Cut And Permenant Repair (Asphalt)		
				Dollars \$ _____	\$ _____
4	386.62	L.F.	Pipe Bursting (8")		
				Dollars \$ _____	\$ _____
5	1.00	EA.	Sanitary Sewer Manhole (4')		
				Dollars \$ _____	\$ _____

Total Base Bid Part B: \$ \_\_\_\_\_

Total Base Bid Part A PLUS Part B: \$ \_\_\_\_\_

**YEAR 13**

**Alternate No. 1      Waterline**

<u>Item No.</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Item</u>	<u>Unit Price</u>	<u>Item Total</u>
1	1.00	EA	6" Gate Valve and Box (MJ)		
				Dollars \$ _____	\$ _____
2	1.00	EA.	6" Plug (MJ)		
				Dollars \$ _____	\$ _____
3	2.00	EA.	6" Tap (MJ)		
				Dollars \$ _____	\$ _____
4	2.00	EA.	6" Taping Valve And Box		
				Dollars \$ _____	\$ _____
5	2.00	EA.	6" X 6" Tapping Sleeve		
				Dollars \$ _____	\$ _____
6	1.00	EA.	6" X 6" Tee (MJ)		
				Dollars \$ _____	\$ _____
7	8.00	EA.	Mega Lug Series 2006PV		
				Dollars \$ _____	\$ _____
8	9.00	S.Y.	Pavement Cut And Repair (Concrete)		
				Dollars \$ _____	\$ _____
9	31.00	S.Y.	Remove And Replace Driveway (Asphalt)		
				Dollars \$ _____	\$ _____
10	5.00	S.Y.	Remove And Reset Meter		
				Dollars \$ _____	\$ _____

Item No.	Estimated Quantity	Unit	DBF 5 Item	Unit Price	Item Total
11	2.00	S.Y.	Water Service Connection		
				Dollars \$	\$

Total Alternate No. 1: \$ \_\_\_\_\_

Total Bid (Part A plus Part B plus Alternate No. 1): \$ \_\_\_\_\_

DBF 6

**CONTRACTOR'S AFFIDAVITS AND CERTIFICATES  
(TO BE INCLUDED IN BID PACKET)**

**BID BOND**

**YEAR 13 – SMALL CITIES SET ASIDE  
ROADWAY, SANITARY SEWER AND WATERLINE REPLACEMENT PROJECT  
CITY OF YUKON, OKLAHOMA  
Triad Design Group, Inc. Project No. E109.13**

5% BID BOND, CERTIFIED OR CASHIER'S CHECK \$ \_\_\_\_\_

TOTAL BID \$ \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Work shall commence within **five (5) calendar days** after the Work Order is issued by the **City of Yukon** and completed as required by the Contract.

(SEAL) if Corporation

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signed \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

By \_\_\_\_\_  
Agent

\_\_\_\_\_  
Address

Affidavits Attached



**STATEMENT OF YARD COMPLIANCE**

Indicate choice of Items 1, 2, or 3:

\_\_\_\_\_ 1. Yard Location: \_\_\_\_\_  
\_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Phone No.: \_\_\_\_\_ After Hours Phone No.: \_\_\_\_\_

Name of Employee(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ 2. 15% (Cash) Retainage to be deposited in advance of contract award and retained for duration of maintenance period.

Name of Surety:  
\_\_\_\_\_

Address of Surety:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ 3. Non-Resident Contractors Defect Maintenance Bond will be posted.

Name of Surety:  
\_\_\_\_\_

Address of Surety:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Approved  
City of Yukon, Oklahoma

**AFFIDAVIT OF SURETY**

\_\_\_\_\_  
Date

City of Yukon, Oklahoma

Gentlemen:

\_\_\_\_\_ is currently bidding or is desirous of bidding work for the City of Yukon and this is to advise you that based upon information we have at this time, we are willing to execute bonds for this company on construction contracts for the City of Yukon up to the sum of \$\_\_\_\_\_.

In the past, we have handled bonding requirements for this company in the amount of \$\_\_\_\_\_.

In the event information comes to our attention which would change the bonding ability of this firm, we will advise you of such change.

We are attaching a copy of our Power of Attorney.

\_\_\_\_\_  
Name of Company of Agency

\_\_\_\_\_  
Signature and Title

\_\_\_\_\_  
Address

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_



## CERTIFICATE OF NON-DISCRIMINATION

In connection with the performance of work under this contract, the Contractor agrees as follows:

1. The Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, or ancestry. The Contractor shall take affirmative action to insure that employees are treated without regard to their race, creed, color, national origin, age, or ancestry. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruiting or recruitment, advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. The Contractor and Sub-Contractor shall agree to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the County Clerk of the County of Oklahoma setting forth provisions of this section.
  
2. In the event of the Contractor's noncompliance with this non-discrimination clause, the contract may be canceled or terminated by the Oklahoma Tax Commission. The Contractor may be declared by the Oklahoma County Commission ineligible for further contracts with the said agency until satisfactory proof of intent to comply shall be made by the Contractor.
  
3. The Contractor agrees to include this non-discrimination clause in any sub-contracts connected with the performance of this agreement.

I have read the above-stated clauses and agree to abide by its requirements.

\_\_\_\_\_  
Contractor

ATTEST:

\_\_\_\_\_  
Secretary



**LETTER AGREEMENT  
FOR PROFESSIONAL SERVICES**

January 20, 2014

City of Yukon, Oklahoma  
Attn: Mr. Grayson Bottom  
City Manager  
PO Box 850500  
Yukon, Oklahoma 73085

**Re: LETTER AGREEMENT FOR PROFESSIONAL SERVICES**  
Yukon Athletic Complex (the "Project")  
Investigative Services – Yukon, Oklahoma

Dear Mr. Bottom:

It is our understanding that the City of Yukon ("Client") requests Olsson Associates, Inc. ("Olsson") to perform the services described herein pursuant to the terms of this Letter Agreement for Professional Services, Olsson's General Provisions and any exhibits attached hereto (all documents constitute and are referred to herein as the "Agreement") for the Project.

Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions and any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, and the General Provisions regarding the services to be performed by Olsson, the terms of the General Provisions shall take precedence.

Olsson shall provide the following services ("Scope of Services") to Client for the Project as more specifically described in "Scope of Services" attached hereto. Should Client request, in writing, work in addition to the Scope of Services, Olsson shall invoice Client for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

**SCHEDULE FOR OLSSON'S SERVICES**

Unless otherwise agreed, Olsson expects to perform its services under the Agreement when directed by the Client. This is assumed to be immediately upon notice to proceed.

**COMPENSATION**

Client shall pay to Olsson a fixed fee and hourly time and material not-to-exceed for the performance of the Scope of Services attached plus Olsson's reimbursable expenses as noted in scope of services and general provisions. Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

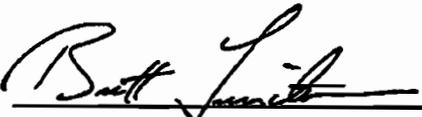
**TERMS AND CONDITIONS OF SERVICE**

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

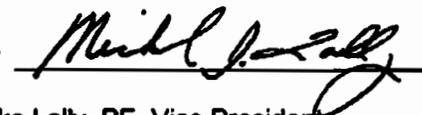
Client's designated Project Representative(s) shall be Grayson Bottom and Public Facilities Investment Corporation ("PFIC").

Olsson acknowledges and agrees that PFIC is not liable or responsible for Client's obligations hereunder, including without limitation, payment of compensation due Olsson. Olsson shall look solely to Client (City of Yukon, Oklahoma) for all such obligations, including payment of the compensation due Olsson. If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 30 days from the date set forth above, unless changed by us in writing.

**OLSSON ASSOCIATES, INC.**

By 

Brett Lauritsen, PE

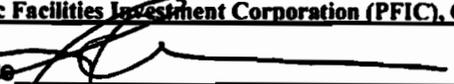
By 

Mike Lally, PE, Vice President

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

**CITY OF YUKON, OKLAHOMA**

By Public Facilities Investment Corporation (PFIC), City of Yukon, Oklahoma's Agent

Signature 

Print Name Jeffrey TANKIN

Title PRESIDENT

Dated 1/26/15

**Attachments**

Scope of Services & Accompanying Exhibits  
General Provisions

**Phase 200 – Survey Services**

Task 201: Design Topographical Survey. Olsson shall perform and prepare a Topographic Survey of approximately 251 acres in the north half of Section 24, Township 12 North, Range 6 West. The survey shall depict contours at a 1' vertical interval, all physical improvements including buildings, roads, driveways, fencing, vegetation, and visible utilities, as well as underground utilities as located by Oklahoma One-Call system. Survey shall be tied vertically to the NAVD 1988 Vertical Datum and horizontally to the Oklahoma State Plane Coordinate System NAD 83–North Zone-US Survey foot.

**Fee \$24,500.00**

Task 202: Boundary Verification. Olsson has been provided a survey performed by Kenneth Hauk, PLS #1300, dated 10/2/14, by the client with the intention of using this survey for the project. Olsson shall perform a boundary verification of this survey to check for any gross errors or blunders since the boundary will be used by Olsson Associates for site development.

**Fee \$2,900.00**

**Phase 300 – Geotechnical Investigation**

Task 301: Geotechnical (Soil Borings) Report. Olsson will complete borings on site as indicated in an attached exhibit.

**Fee \$28,500.00**

Task 302: Well Compound Indication Study. Olsson will obtain samples at three well pads located on site. Samples will be tested for total petroleum hydrocarbonates (TPH) and results examined for environmental compliance in accordance with the Phase 1 assessment as provided to Olsson Associates.

**Fee \$4,800.00**

**Phase 400 – Traffic Study & Analysis**

Task 401: Traffic Report. Olsson will complete a traffic analysis for the proposed athletic complex in coordination with surrounding improvements and the proposed I-40 interchange at Frisco Road. This analysis will include traffic generation and turn lane recommendations for the Department of Transportation and City of Yukon. Exact scope of study to be determined by Yukon and ODOT upon master plan completion.

**Fee \$19,500.00**

**TOTAL INVESTIGATIVE SERVICES FEE:**  
**\$126,600.00**

**PROJECT ASSUMPTIONS**

We have made several assumptions in the preparation of this proposal. These assumption and subsequent explanations are as follows:

1. The existing well pads are, or will be, abandoned prior to construction and no additional environmental remediation will be necessary.
2. Olsson assumes the master plan will be created (revised) by HKS and provided to Olsson. This can be completed by Olsson if requested as additional scope.
3. Access to the site is unrestricted to Olsson Associates.
4. Public infrastructure upgrade design information and schedule (sanitary and water utilities, Frisco Road) will be available to Olsson and determined to be efficient for the anticipated complex uses. Off-site public utility extensions and/or capacity studies are not included with this proposal less improvements required on Route 66.
5. Design development and site construction documents and construction assistance and admin will be included in a subsequent proposal at a later date for scope to be more defined.

**ENGINEERING EXCLUSIONS**

The following items are excluded:

- A. Civil Design
- B. MEP Design
- C. Construction documents
- D. Full construction estimate
- E. Public Infrastructure Design (Frisco Road, utilities)
- F. US CORPS Permitting
- G. US FEMA Flood Study
- H. US Wetland Study
- I. Environmental Studies (Re: Existing Well pads)
- J. Traffic Signal Design
- K. Platting or additional ALTA survey(s)

**OLSSON ASSOCIATES, INC.**

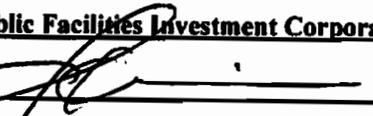
By   
Brett H. Lauritsen, P.E.

  
Mike Lally, PE, Vice President

If you accept this Scope of Services, please sign:

**CITY OF YUKON, OKLAHOMA**

By Public Facilities Investment Corporation (PFIC), City of Yukon, Oklahoma's Agent

Name 

Title PRESIDENT

Dated: 1/26/15

If different from above,

\_\_\_\_\_  
Client's Designated Project Representative

## **GEOTECHNICAL SCOPE EXHIBIT**

At the time of this proposal, the site is in the preliminary design phase. As such, the number, size and type of playing fields, structures and parking areas have yet to be finalized. The following is based on a preliminary site layout.

1. We propose to drill the following borings at the site for the project.
  - Parking Areas – 1 boring for every 3 acres of proposed parking (a minimum of 1 boring for each general parking area regardless of size)
  - Drive Lanes – 1 boring for every 750 linear feet.
  - Soccer Fields – 1 boring for every 2 standard sized soccer fields (this assumes the fields will be in close proximity to one another)
  - Baseball/Softball Fields – 1 boring per field
  - Concession Structures – 1 boring per structure
  - Retention Pond – 1 boring for every 5 acres
  - Club House – 1 boring per every 10,000 sq. ft
  - Aquatics Center – 1 boring per every 10,000 sq ft.
  - Structural Bleachers – 1 boring per every 150 linear feet (more borings may be required for large scale, multi-tier structures)
  
2. We will use a truck or ATV mounted drill rig to perform the borings. The borings will generally be drilled to the depths listed below. The borings will be terminated if practical auger refusal is encountered prior to reaching the planned depths.
  - Parking/Drive Lanes – 5 to 10 feet depending on grades.
  - Playing Fields – 5 to 10 feet depending on grades.
  - Structures – 15 to 20 feet depending on structure type and grades.
  - Retention Pond – 5 feet below pond subgrade elevation at boring (assumes a maximum depth of 20 feet)
  
3. Samples will be obtained using split barrel or thin walled tube sampling techniques at 2.5 foot intervals in the upper 5 feet and at 5 foot intervals thereafter.
  
4. Water level readings will be obtained in each boring during drilling and upon completion of drilling.
  
5. We will contact Oklahoma public utility locating service to locate public utility lines on the site. We will also coordinate borings with the existing park personnel.

## **Laboratory Testing Services**

1. Proposed laboratory testing will include visual soil classification, unconfined compression tests, density tests, moisture content tests and Atterberg limits test.

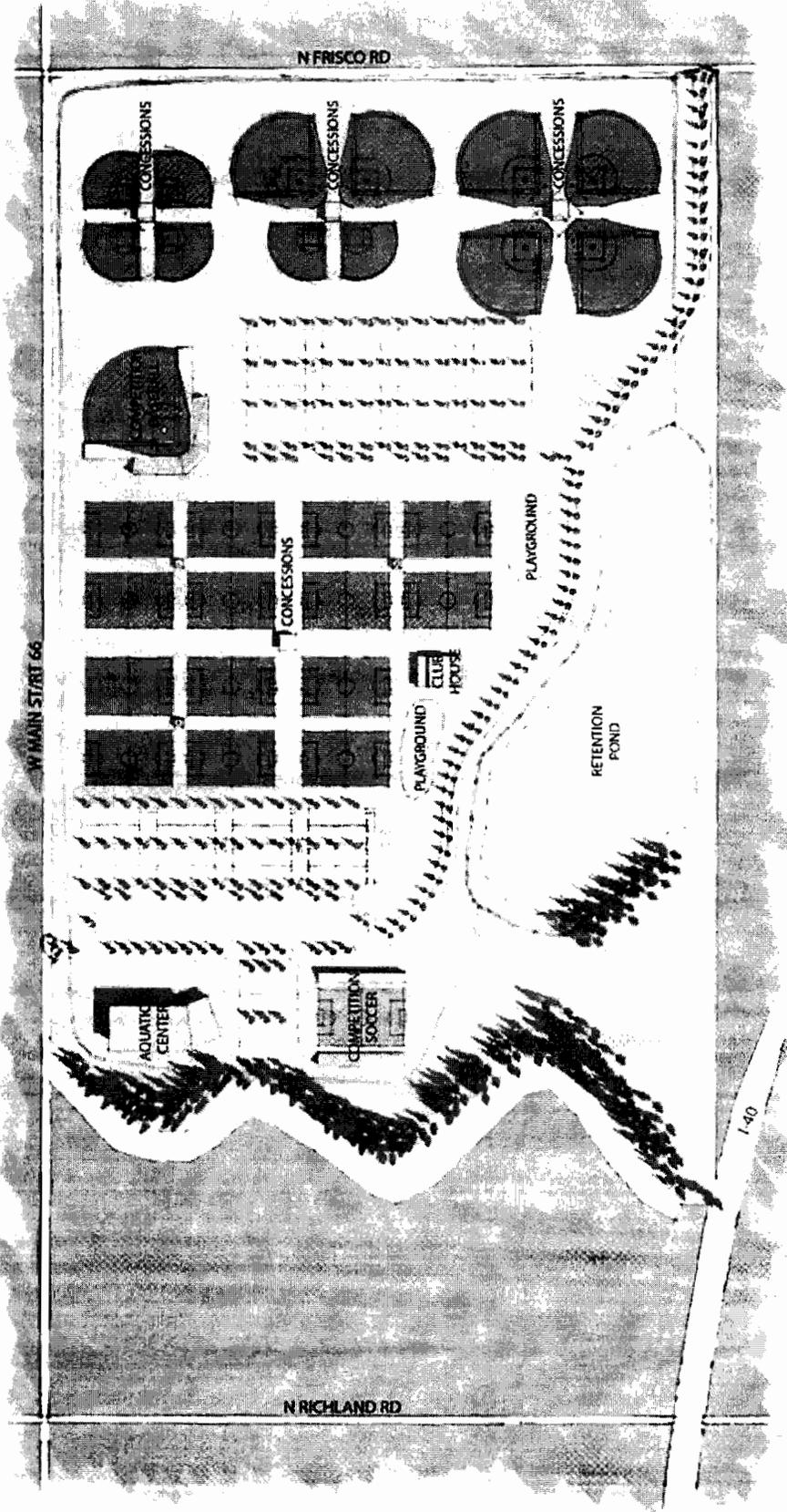
## **Engineering Analysis and Report**

1. Upon completion of the laboratory testing program, we will prepare a geotechnical engineering report for Client's review and approval. The report will contain a discussion of the subsurface soil and bedrock conditions encountered and will provide the following geotechnical recommendations:
  - a. Foundation design parameters for the structures, including:
    - i. Allowable bearing capacity
    - ii. Estimates to total and differential settlement
    - iii. Minimum sizes and depths for frost protection
    - iv. IBC Soil Site Classification
  - b. Earthwork Recommendations, including:
    - i. Floor slab and pavement subgrade preparation
    - ii. Estimates of minimum pavement thickness
    - iii. Generalized geotechnical site preparation concerns addressing fill subgrade preparation, earthwork placement, fill compaction criteria, excavatability of any bedrock and suitability of on-site materials for use as structural fill
    - iv. Generalized subsurface drainage requirements for fill, buildings, playing fields and pavement areas.

**The fees listed below assume on mobilization to the site.**

- **Parking/Drive Lanes - \$250 per boring**
- **Playing Fields - \$250 per boring**
- **Structures - \$500 per boring**
- **Retention Pond - \$500 per boring**

Olsson is committed to providing quality service to its clients, commensurate with their wants, needs and desired level of risk. If a portion of this proposal does not meet your needs, or if those needs have changed, Olsson stands ready to consider appropriate modifications, subject to the standards of care to which we adhere as professionals. If you have any questions or concerns regarding this scope of work please call.



**Yukon Sports Complex**

Yukon, Oklahoma

**PFIC**

HKS

## RATE SCHEDULE

### LABOR RATES

#### Description

Principal.....	150
Project Manager.....	125
Project Professional.....	110
Assistant Professional.....	65
Designer.....	95
CAD Operator.....	35
Survey.....	50
Construction Services.....	80
Administrative/Clerical.....	35

### REIMBURSABLE EXPENSES

The expenses incurred by Olsson or Olsson's independent professional associates or consultants directly or indirectly in connection with the Project shall be included in periodic billing as follows:

<u>Classification</u>	<u>Costs</u>
Automobiles	\$0.565/mile*
Suburbans and Pick-Ups	\$0.75/mile*
Duplication	
In-house	Actual Cost
Outside	Actual Cost
Meals	Actual Cost
Postage & Shipping Charges for Project Related Materials	Actual Cost
Film and Photo Developing	Actual Cost
Telephone and Fax Transmissions	Actual Cost
Miscellaneous Materials & Supplies applicable only to this Project	Actual Cost
Subconsultants	Actual Cost

\* Rates consistent with the IRS Mileage Rate Reimbursement Guidelines (Subject to Change).

## GENERAL PROVISIONS

These General Provisions are attached to and made a part of the respective Letter Agreement or Master Agreement, dated ~~December 18, 2014~~ January 20, 2015 between ~~\_\_\_\_\_~~ City of Yukon, Oklahoma ("Client") and Olsson Associates, Inc. ("Olsson") for professional services in connection with the project or projects arising under such Letter Agreement or Master Agreement (the "Project(s)").

As used herein, the term "this Agreement" refers to these General Provisions, the applicable Letter Agreement or Master Agreement, and any other exhibits or attachments thereto as if they were part of one and the same document.

### SECTION 1—OLSSON'S SCOPE OF SERVICES

Olsson's scope of services for the Project(s) is set forth in the applicable Letter Agreement or Master Agreement ("Scope of Services").

### SECTION 2—ADDITIONAL SERVICES

2.1 Unless otherwise expressly included, Scope of Services does not include the categories of additional services set forth in Sections 2.2 and 2.3.

2.2 If Client and Olsson mutually agree for Olsson to perform any optional additional services as set forth in this Section 2.2 ("Optional Additional Services"), Client will provide written approval of the agreed-upon Optional Additional Services, and Olsson shall perform or obtain from others such services and will be entitled to an increase in compensation at rates provided in this Agreement. Olsson may elect not to perform all or any of the Optional Additional Services without cause or explanation:

2.2.1 Preparation of applications and supporting documents for governmental financial support of the Project(s); preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.

2.2.2 Services to make measured drawings of or to investigate existing conditions of facilities.

2.2.3 Services resulting from changes in the general scope, extent or character of the Project(s) or major changes in documentation previously accepted by Client where changes are due to causes beyond Olsson's control.

2.2.4 Services resulting from the discovery of conditions or circumstances which were not contemplated by Olsson at the commencement of this Agreement. Olsson shall notify Client of the newly discovered conditions or circumstances and Client and Olsson shall renegotiate, in good faith, the compensation for this Agreement, if amended terms cannot be agreed upon, Olsson may terminate this Agreement and Olsson shall be paid for its services through the date of termination.

2.2.5 Providing renderings or models.

2.2.6 Preparing documents for alternate bids requested by Client.

2.2.7 Analysis of operations, maintenance or overhead expenses; value engineering; the preparation of rate schedules; earnings or expense statements; cash flow or economic evaluations or; feasibility studies, appraisals or valuations.

2.2.8 Furnishing the services of independent professional associates or consultants for work beyond the Scope of Services.

2.2.9 Services necessary due to the Client's award of more than one prime contract for the Project(s); services necessary due to the construction contract containing cost plus or incentive-savings provisions; services necessary in order to arrange for performance by persons other than the prime contractor; or those services necessary to administer Client's contract(s).

2.2.10 Services in connection with staking out the work of contractor(s).

2.2.11 Services during out-of-town travel or visits to the site beyond those specifically identified in this Agreement.

2.2.12 Preparation of operating and maintenance manuals.

2.2.13 Services to redesign some or all of the Project(s).

2.2.14 Preparing to serve or serving as a consultant or witness or assisting Client with any litigation, arbitration or other legal or administrative proceeding.

2.2.15 Services relating to Construction Observation, Certification, Inspection, Construction Cost Estimating, project observation, construction management, construction scheduling, construction phasing or review of Contractor's performance means or methods.

~~2.3 Whenever, in its sole discretion, Olsson determines additional services as set forth in this Section 2.3 are necessary to avoid a delay in the completion of the Project(s) ("Necessary Additional Services"), Olsson shall perform or obtain from others such services without waiting for specific instructions from Client and Olsson will be entitled to an increase in compensation for such services at the standard hourly billing rate charged for those employees performing the services, plus reimbursable expenses, if any:~~

~~2.3.1 Services in connection with work directive changes and/or change orders directed by the Client to any contractors.~~

~~2.3.2 Services in making revisions to drawings and specifications occasioned by the acceptance of substitutions proposed by contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by contractor(s); or evaluating an unreasonable or extensive number of claims submitted by contractor(s) or others in connection with the Project(s).~~

~~2.3.3 Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.~~

~~2.3.4 Additional or extended services during construction made necessary by (1) work damaged during construction, (2) a defective, inefficient or neglected work by any contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by any contractor.~~

### **SECTION 3—CLIENT'S RESPONSIBILITIES**

3.1. Client shall provide all criteria and full information as to Client's requirements for the Project(s); designate and identify in writing a person to act with authority on Client's behalf in respect of all aspects of the Project(s); examine and respond promptly to Olsson's submissions; and give prompt written notice to Olsson whenever Client observes or otherwise becomes aware of any defect in the Olsson's services.

3.2 Client agrees to pay Olsson the amounts due for services rendered and expenses within thirty (30) days after Olsson has provided its invoice for such services. In the event Client disputes any invoice item, Client shall give Olsson written notice of such disputed item within fifteen (15) days after receipt of such invoice and shall pay to Olsson the undisputed portion of the invoice according to the provisions hereof. If Client fails to pay any undisputed invoiced amounts when due, interest will accrue on each such unpaid amount at the rate of thirteen percent (13%) five percent (5%) per annum from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item, ~~which is finally resolved in Client's favor.~~ Payment of interest shall not excuse or cure any default or delay in payment of amounts due.

3.2.1 If Client fails to make any undisputed payment due Olsson for services and expenses within thirty (30) days after receipt of Olsson's statement therefore, Olsson may, after giving seven (7) days written notice to Client, suspend services to Client under this Agreement until Olsson has been paid in full all undisputed amounts due for services, expenses and charges and Client will not obtain any license to any Work Product or be entitled to retain or use any Work Product pursuant to Section 7.1 unless and until Olsson has been so paid, ~~in full and Client has fully satisfied all of its obligations under this Agreement.~~

3.3 Payments to Olsson shall not be withheld, postponed or made contingent on the construction, completion or success of the Project(s) or upon receipt by the Client of offsetting reimbursements or credit from other parties who may have caused the need for additional services. No withholdings, deductions or offsets shall be made from Olsson's compensation for any reason unless and until Olsson has been found to be legally liable for such amounts.

3.4 Client shall also do the following and pay all costs incident thereto:

3.4.1 Furnish to Olsson any existing and/or required borings, probings or subsurface explorations; hydrographic surveys; laboratory tests or inspections of samples, materials or equipment; appropriate professional interpretations of any of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic or

utility surveys; property descriptions; and/or zoning or deed restrictions; all of which Olsson may rely upon in performing services hereunder.

3.4.2 Guarantee access to and make all provisions for Olsson to enter upon public and private property reasonably necessary to perform its services on the Project(s).

3.4.3 Provide such legal, accounting, independent cost estimating or insurance counseling services as may be required for the Project(s); any auditing service required in respect of contractor(s)' applications for payment; and/or any inspection services to determine if contractor(s) are performing the work legally.

3.4.4 Provide engineering surveys to establish reference points for construction unless specifically included in Olsson's Scope of Services.

3.4.5 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project(s).

3.4.6 If more than one prime contractor is to be awarded the contract for construction, designate a party to have responsibility and authority for coordinating and interfacing the activities of the various prime contractors.

3.5 Client shall pay all costs incident to obtaining bids or proposals from contractor(s).

3.6 Client shall pay all permit application review costs for government authorities having jurisdiction over the Project(s).

3.7 Contemporaneously with the execution of this Agreement, Client shall designate in writing an individual to act as its duly authorized Project(s) representative.

3.8 Client shall bear sole responsibility for:

3.8.1 ~~Jobsite safety. Neither the professional activities of Olsson, nor the presence of Olsson or its employees or sub-consultants at the Project shall impose any duty on Olsson relating to any health or safety laws, regulations, rules, programs or procedures. During Construction will bear the responsibility for Jobsite Safety.~~

3.8.2 Notifying third parties including any governmental agency or prospective purchaser, of the existence of any hazardous or dangerous materials located in or around the Project(s) site.

3.8.3 Providing and updating Olsson with accurate information regarding existing conditions, including the existence of hazardous or dangerous materials, proposed Project(s) site uses, any change in Project(s) plans, and all subsurface installations, such as pipes, tanks, cables and utilities within the Project(s) site.

3.9 Client releases Olsson from liability for any incorrect advice, judgment or decision based on inaccurate information furnished by Client or others.

3.10 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a

material or substance, including hazardous materials, encountered on the site, Olsson may immediately stop work in the affected area and report the condition to Client. Client shall be solely responsible for retaining independent consultant(s) to determine the nature of the material and to abate or remove the material. Olsson shall not be required to perform any services or work relating to or in the area of such material until the material has been removed or rendered harmless and only after approval, if necessary of the government agency with jurisdiction.

~~3.11 Olsson is not providing and assuming all responsibility for interpretation of contract documents; Construction Observations; Certifications; Inspections; Construction Cost Estimating; project observations; construction management; construction scheduling; construction phasing; and review of Contractor's performance, means and methods. Client waives any claims against Olsson and releases Olsson from liability relating to or arising out of such services and agrees, to the fullest extent permitted by law, to indemnify and hold Olsson harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defence costs, relating to such actions and services.~~

#### SECTION 4—MEANING OF TERMS

4.1 The "Cost of Construction" of the entire Project(s) (herein referred to as "Cost of Construction") means the total cost to Client of those portions of the entire Project(s) designed and specified by Olsson, but it will not include Olsson's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include Client's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project(s) or the cost of other services to be provided by others to Client pursuant to Section 3.

4.2 The "Salary Costs": Used as a basis for payment mean salaries and wages (base and incentive) paid to all Olsson's personnel engaged directly on the Project(s), including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

4.3 "Certify" or "a Certification": If included in the Scope of Services, such services shall be limited to a statement of Olsson's opinion, to the best of Olsson's professional knowledge, information and belief, based upon its periodic observations and reasonable review of reports and tests created by Olsson or provided to Olsson. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that any certifications based upon discrete sampling observations and that such observations indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services and certification does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the

contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Olsson shall sign pre-printed form certifications only if (a) Olsson approves the form of such certification prior to the commencement of its services, (b) such certification is expressly included in the Scope of Services, (c) the certification is limited to a statement of professional opinion and does not constitute a warranty or guarantee, express or implied. It is understood that any certification by Olsson shall not relieve the Client or the Client's contractors of any responsibility or obligation they may have by industry custom or under any contract.

4.4 "Construction Cost Estimate": An opinion of probable construction cost made by Olsson. In providing opinions of probable construction cost, it is recognized that neither the Client nor Olsson has control over the costs of labor, equipment or materials, or over the contractor's methods of determining prices or bidding. The opinion of probable construction costs is based on Olsson's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the contractor's bids or the negotiated price of the work on the Project(s) will not vary from the Client's budget or from any opinion of probable cost prepared by Olsson.

4.5 "Day": A calendar day of 24 hours. The term "days" shall mean consecutive calendar days of 24 hours each, or fraction thereof.

4.6 "Construction Observation": If included in the Scope of Services, such services during construction shall be limited to periodic visual observation and testing of the work to determine that the observed work generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of Construction Observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor or for the contractor's safety precautions and programs nor for failure by the contractor to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor. Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor or any subcontractor. Client, or its designees shall notify Olsson at least twenty-four (24) hours in advance of any field tests and observations required by the construction documents.

4.7 "Inspect" or "Inspection": If included in the Scope of Services, such services shall be limited to the periodic visual observation of the contractor's completed work to permit Olsson,

as an experienced and qualified professional, to determine that the observed work, generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Client, or its designees, shall notify Olsson at least twenty-four (24) hours in advance of any inspections required by the construction documents.

4.8 "Record Documents": Drawings prepared by Olsson upon the completion of construction based upon the drawings and other data furnished to Olsson by the Contractor and others showing significant changes in the work on the Project(s) made during construction. Because Record Documents are prepared based on unverified information provided by others, Olsson makes no warranty of the accuracy or completeness of the Record Documents.

## **SECTION 5—TERMINATION**

5.1 Either party may terminate this Agreement, for cause upon giving the other party not less than seven (7) calendar days written notice of default for any of the following reasons; provided, however, that the notified party shall have the same seven (7) calendar day period in which to cure the default:

5.1.1 Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;

~~5.1.2 Assignment of this Agreement or transfer of the Project(s) by either party to any other entity without the prior written consent of the other party;~~

5.1.3 Suspension of the Project(s) or Olsson's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate.

5.2 In the event of a "for cause" termination of this Agreement by either party, the Client shall, within fifteen (15) calendar days after receiving Olsson's final invoice, pay Olsson for all services rendered and all reimbursable costs incurred by Olsson up to the date of termination, in accordance with the payment provisions of this Agreement.

5.2.1 In the event of a "for cause" termination of this Agreement by Client and ~~(a) a final determination of default is entered against Olsson under Section 6.2 and (b) Client has fully satisfied all of its obligations under this Agreement, Olsson shall~~

grant Client a limited-license to use the Work Product pursuant to Section 7.1.

5.3 The Client may terminate this Agreement for the Client's convenience and without cause upon giving Olsson not less than seven (7) calendar days written notice. In the event of any termination that is not the fault of Olsson, the Client shall pay Olsson, ~~in addition to as sole compensation payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by Olsson in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs, any fees, costs or expenses incurred by Olsson in preparing or negotiating any proposals submitted to Client for Olsson's Scope of Services or Optional Additional Services under this Agreement and all other expenses directly resulting from the termination and a reasonable profit of ten percent (10%) of Olsson's actual costs (including overhead) incurred. In no event is Client responsible for Olsson's lost profits or consequential damages under this Agreement.~~

## **SECTION 6—DISPUTE RESOLUTION**

### **6.1. Mediation**

6.1.1 All questions in dispute under this Agreement shall be submitted to mediation. On the written notice of either party to the other of the election to submit any dispute under this Agreement to mediation, each party shall designate their representatives and shall meet within ten (10) days after the service of the notice. The parties themselves shall then attempt to resolve the dispute within ten (10) days of meeting.

6.1.2 Should the parties themselves be unable to agree on a resolution of the dispute, and then the parties shall appoint a third party who shall be a competent and impartial party and who shall be acceptable to each party, to mediate the dispute. Any third party mediator shall be qualified to evaluate the performance of both of the parties, and shall be familiar with the design and construction progress. The third party shall meet to hear the dispute within ten (10) days of their selection and shall attempt to resolve the dispute within fifteen (15) days of first meeting.

6.1.3 Each party shall pay the fees and expenses of the third party mediator and such costs shall be borne equally by both parties.

### **6.2 Arbitration or Litigation**

6.2.1 Olsson and Client agree that from time to time, there may be conflicts, disputes and/or disagreements between them, arising out of or relating to the services of Olsson, the Project(s), or this Agreement (hereinafter collectively referred to as "Disputes") which may not be resolved through mediation. Therefore, Olsson and Client agree that all Disputes shall be resolved by ~~binding arbitration or litigation, at the sole discretion and choice of Olsson. If Olsson chooses arbitration, the arbitration proceeding shall proceed in accordance with the Construction Industry Arbitration Rules of the AAA.~~

6.2.2 Client hereby agrees that Olsson shall have the right to include Client, by consolidation, joinder or other manner, in any arbitration ~~or litigation~~ involving Olsson and a subconsultant or subcontractor of Olsson or Olsson and any

other person or entity, regardless of who originally initiated such proceedings.

6.2.3 ~~If Olsson chooses arbitration or litigation, either may be commenced at any time prior to or after completion of the Project(s), provided that if arbitration or litigation is commenced prior to the completion of the Project(s), the obligations of the parties under the terms of this Agreement shall not be altered by reason of the arbitration or litigation being conducted. Any arbitration hearing or Any litigation shall take place in Lincoln, Nebraska Yukon, Oklahoma, the location of Olsson's home office.~~

6.2.4 The prevailing party in any arbitration or litigation relating to any Dispute shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Dispute.

### 6.3 Certification of Merit

~~Client agrees that it will not assert any claim, including but not limited to, professional negligence, negligence, breach of contract, misconduct, error, omission, fraud, or misrepresentation ("Claim") against Olsson, or any Olsson subconsultant, unless Client has first provided Olsson with a sworn certificate of merit affidavit setting forth the factual and legal basis for such Claim (the "Certificate"). The Certificate shall be executed by an independent engineer ("Certifying Engineer") currently licensed and practicing in the jurisdiction of the Project site. The Certificate must contain: (a) the name and license number of the Certifying Engineer; (b) the qualifications of the Certifying Engineer, including a list of all publications authored in the previous 10 years and a list of all cases in which the Certifying Engineer testified within the previous 4 years; (c) a statement by the Certifying Engineer setting forth the factual basis for the Claim; (d) a statement by the Certifying Engineer of each and every act, error, or omission that the Certifying Engineer contends supports the Claim or any alleged violation of any applicable standard of care; (e) a statement by the Certifying Engineer of all opinions the Certifying Engineer holds regarding the Claim or any alleged violation of any applicable standard of care; (f) a list of every document related to the Project reviewed by the Certifying Engineer; and (g) a list of every individual who provided Certifying Engineer with any information regarding the Project. The Certificate shall be provided to Olsson not less than thirty (30) days prior to any arbitration or litigation commenced by Client or not less than ten (10) days prior to the initial response submitted by Client in any arbitration or litigation commenced by someone other than Client. The Certificate is a condition precedent to the right of Client to assert any Claim in any litigation or arbitration and Client's failure to timely provide a Certificate to Olsson will be grounds for automatic dismissal of the Claim with prejudice.~~

## SECTION 7—MISCELLANEOUS

### 7.1 Reuse of Documents

All documents, including drawings, specifications, reports, boring logs, maps, field data, data, test results, information, recommendations, or opinions prepared or furnished by Olsson (and Olsson's independent professional associates and consultants) pursuant to this Agreement ("Work Product"), are all Olsson's instruments of service, do not constitute goods or

products, and are copyrighted works of Olsson. Olsson shall retain an ownership and property interest in such Work Product whether or not the Project(s) is completed. If Client has fully satisfied all of its obligations made payments as required under this Agreement, Olsson shall grant Client a limited license to use the Work Product and Client may make and retain copies of Work Product for use in connection with the Project(s); however, such Work Product is for the exclusive use and benefit of Client or its agents in connection with the Project(s), are not intended to inform, guide or otherwise influence any other entities or persons with respect to any particular business transactions, and should not be relied upon by any entities or persons other than Client or its agents for any purpose other than the Project(s). ~~Such Work Product is not intended or represented to be suitable for reuse by Client or others on extensions of the Project(s) or on any other Project(s). Client will not distribute or convey such Work Product to any other persons or entities without Olsson's prior written consent which shall include a release of Olsson from liability and indemnification by the third party. Any reuse of Work Product without written verification or adaptation by Olsson for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Olsson, or to Olsson's independent professional associates or consultants, and Client shall indemnify and hold harmless Olsson and Olsson's independent professional associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation of Work Product will entitle Olsson to further compensation at rates to be agreed upon by Client and Olsson.~~

### 7.2 Electronic Files

By accepting and utilizing any electronic file of any Work Product or other data transmitted by Olsson, the Client agrees for itself, its successors, assigns, insurers and all those claiming under or through it, that by using any of the information contained in the attached electronic file, all users agree to be bound by the following terms. All of the information contained in any electronic file is the work product and instrument of service of Olsson, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights, unless the same have previously been transferred in writing to the Client. The information contained in any electronic file is provided for the convenience to the Client and is provided in "as is" condition. The Client is aware that differences may exist between the electronic files transferred and the printed hard-copy original signed and stamped drawings or reports. In the event of a conflict between the signed original documents prepared by Olsson and the electronic files, which may be transferred, the signed and sealed original documents shall govern. Olsson specifically disclaims all warranties, expressed or implied, including without limitation, and any warranty of merchantability or fitness for a particular purpose with respect to any electronic files. It shall be Client's responsibility to confirm the accuracy of the information contained in the electronic file and that it accurately reflects the information needed by the Client. Client shall not retransmit any electronic files, or any portion thereof, without including this disclaimer as part of any such transmissions. In addition, Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Olsson, its officers, directors, employees and sub-consultants against any and all damages, liabilities, claims or costs, including reasonable attorney's and expert witness fees and defense costs, arising from any changes made by anyone other than

~~Olsson or from any reuse of the electronic files without the prior written consent of Olsson.~~

### 7.3 Construction Cost Estimate

Since Olsson has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Olsson's Construction Cost Estimate provided for herein is made on the basis of Olsson's experience and qualifications and represent Olsson's best judgment as an experienced and qualified professional engineer, familiar with the construction industry. Client acknowledges and agrees that Olsson cannot and does not guarantee proposals or bids and that actual total Project(s) or construction costs may reasonably vary from Olsson's Construction Cost Estimate. If prior to the bidding or negotiating phase Client wishes greater assurance as to total Project(s) or construction costs, Client shall may employ an independent cost estimator as provided in paragraph 3.4.3. If Olsson's Construction Cost Estimate was performed in accordance with its standard of care and was reasonable under the total circumstances, any services performed by Olsson to modify the contract documents to bring the construction cost within any limitation established by Client will be considered Optional Additional Services and paid for as such by Client. If, however, Olsson's Construction Cost Estimate was not performed in accordance with its standard of care and was unreasonable under the total circumstances and the lowest negotiated bid for construction of the Project(s) unreasonably exceeds Olsson's Construction Cost Estimate, Olsson shall modify its work as necessary to adjust the Project(s)' size, and/or quality to reasonably comply with the Client's budget at no additional cost to Client. Under such circumstances, Olsson's modification of its work at no cost shall be the limit of Olsson's responsibility with regard to any unreasonable Construction Cost Estimate.

### 7.4 Prevailing Wages

It is Client's responsibility to determine whether the Project(s) is covered under any prevailing wage regulations. Unless Client specifically informs Olsson in writing that the Project(s) is a prevailing wage project and is identified as such in the Scope of Services, Client agrees to reimburse Olsson and to defend, indemnify and hold harmless Olsson from and against any liability, including costs, fines and attorneys' fees, resulting from a subsequent determination that the Project(s) was covered under any prevailing wage regulations.

### 7.5 Samples

All material testing samples shall remain the property of the Client. If appropriate, Olsson shall preserve samples obtained no longer than forty-five (45) days after the issuance of any document that includes the data obtained from those samples. After that date, Olsson may dispose of the samples or return them to Client at Client's cost.

### 7.6 Standard of Care

Olsson will ~~strive to~~ perform its services in a manner consistent with that level of care and skill ordinarily exercised by members of Olsson's profession providing similar services in the same locality under similar circumstances at the time Olsson's

~~services are performed. This Agreement creates no other representation, warranty or guarantee, express or implied.~~

### 7.7 Force Majeure

Any delay in the performance of any of the duties or obligations of either party hereto (except the payment of money) shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused by or is the result of any acts of God, acts of the public enemy, insurrections, riots, embargoes, labor disputes, including strikes, lockouts, job actions, boycotts, fires, explosions, floods, shortages of material or energy, or other unforeseeable causes beyond the control and without the fault or negligence of the party so affected. The affected party shall give prompt notice to the other party of such cause, and shall take promptly whatever reasonable steps are necessary to relieve the effect of such cause. Extension of time is Olsson's sole remedy for delays.

### 7.8 Confidentiality

In performing this Agreement, the parties may disclose to each other written or oral non-public, confidential or proprietary information, including but not limited to, information of a business, planning, marketing or technical nature and models, tools, hardware and software, and any documents, reports, memoranda, notes, files or analyses that contain, summarize or are based upon any proprietary or confidential information (hereafter referred to as the "Information").

7.8.1 Therefore, Olsson and Client agree that the party receiving Information from the other party to this Agreement (the "Receiving Party") shall keep Information confidential and not use the Information in any manner other than in the performance of this Agreement without prior written approval of the party disclosing Information (the "Disclosing Party") unless ~~Client is a public entity and the release of Information is required by law or legal process.~~

7.8.2 The existence of discussions between the parties, the purpose of this Agreement, and this Agreement shall be considered Information subject to the confidentiality provisions of this Agreement.

7.8.3 Notwithstanding anything to the contrary herein, the Receiving Party shall have no obligation to preserve the confidentiality of any Information which:

7.8.3.1 was previously known to the Receiving Party free of any obligation to keep it confidential; or

7.8.3.2 is or becomes publicly available by other than unauthorized disclosures; or

7.8.3.3 is independently developed by the Receiving Party without a breach of this Agreement; or

7.8.3.4 is disclosed to third parties by the Disclosing Party without restrictions; or

7.8.3.5 is received from a third party not subject to any confidentiality obligations.

7.8.4 In the event that the Receiving Party is required by law or legal process to disclose any of information of the Disclosing Party, the Receiving Party required to disclose such information shall provide the Disclosing Party with prompt oral and written notice, unless notice is prohibited by law (in which case such notice shall be provided as early as may be legally permissible), of any such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy.

7.8.5 Nothing contained in this Agreement shall be construed as altering any rights that the Disclosing Party has in the information exchanged with or disclosed to the Receiving Party, and upon request, the Receiving Party will return all information received in tangible form to the Disclosing Party, or at the Receiving Party's option, destroy all such information. If the Receiving Party exercises its option to destroy the information, the Receiving Party shall certify such destruction to the Disclosing Party.

7.8.6 The parties acknowledge that disclosure or use of information in violation of this Agreement could cause irreparable harm for which monetary damages may be difficult to ascertain or constitute an inadequate remedy. Each party therefore agrees that the Disclosing Party shall be entitled in addition to its other rights to seek injunctive relief for any violation of this Agreement.

7.8.7 The obligations of confidentiality set forth herein shall survive termination of this Agreement, but shall only remain in effect for a period of one (1) year from the date the information is first disclosed.

#### 7.9 Damage or Injury to Subterranean Structures or Utilities, Hazardous Materials, Pollution and Contamination

7.9.1 To the extent that work pursuant to this Agreement requires any sampling, boring, excavation, ditching or other disruption of the soil or subsurface at the Site, Olsson shall confer with Client prior to such activity and Client will be responsible for identifying, locating and marking, as necessary, any private subterranean structures or utilities and Olsson shall be responsible for arranging investigation of public subterranean structures or utilities through an appropriate utility one-call provider. Thereafter, Olsson shall take all reasonable precautions to avoid damage or injury to subterranean structures or utilities which were identified by Client or the one-call provider. Olsson shall not be responsible for any damage, liability or costs, for any property damage, injury or economic loss arising or allegedly arising from damages to subterranean structures or utilities caused by subsurface penetrations in locations approved by Client and/or the one call provider or not correctly shown on any plans, drawings or utility clearance provided to Olsson, except for damages caused by the negligence of Olsson in the use of such information.

7.9.2 It is understood and agreed that any assistance Olsson may provide Client in the disposal of waste materials shall not result in Olsson being deemed as a generator, arranger, transporter or disposer of hazardous materials or hazardous waste as defined under any law or regulation. Title to all samples and waste materials remains with Client, and at no time shall Olsson take title to the above material. Client may authorize Olsson to execute Hazardous Waste Manifest, Bill of Lading or other forms as agent of Client. If Client requests Olsson to execute such documents as its agent, the Hazardous

Waste Manifest, Bill of Lading or other similar documents shall be completed in the name of the Client. Client agrees to indemnify and hold Olsson harmless from any and all claims that Olsson is a generator, arranger, transporter, or disposer of hazardous waste as a result of any actions of Olsson, including, but not limited to, Olsson signing a Hazardous Waste Manifest, Bill of Lading or other form on behalf of Client.

7.9.3 At any time, Olsson can request in writing that Client remove samples, cuttings and hazardous substances generated by the Project(s) from the project site or other location. Client shall promptly comply with such request, and pay and be responsible for the removal and lawful disposal of samples, cuttings and hazardous substances, unless other arrangements are mutually agreed upon in writing.

~~7.9.4 Client shall release Olsson of any liability for, and shall defend and indemnify Olsson against any and all claims, liability and expense resulting from operations under this Agreement on account of injury to, destruction of, or loss or impairment of any property right in or to oil, gas, or other mineral substance or water, if at the time of the act or omission causing such injury, destruction, loss or impairment, said substance had not been reduced to physical possession above the surface of the earth, and for any loss or damage to any formation, strata, reservoir beneath the surface of the earth.~~

7.9.5 Notwithstanding anything to the contrary contained herein, it is understood and agreed by and between Olsson and Client that the responsibility for pollution and contamination shall be as follows:

~~7.9.5.1 Unless otherwise provided herein, Client shall assume all responsibility for, including control and removal of, and protect, defend and save harmless Olsson from and against all claims, demands and causes of action of every kind and character arising from pollution or contamination (including naturally occurring radioactive material) which originates above the surface of the land or water from spills of fuels, lubricants, motor oils, pipe dope, paints, solvents, ballast, bilge and garbage, except unavoidable pollution from reserve pits, wholly in Olsson's possession and control and directly associated with Olsson's equipment.~~

~~7.9.5.2 In the event a third party commits an act or omission which results in pollution or contamination for which either Olsson or Client, for whom such party is performing work, is held to be legally liable, the responsibility therefore shall be considered as between Olsson and Client, to be the same as if the party for whom the work was performed had performed the same and all of the obligations regarding defense, indemnity, holding harmless and limitation of responsibility and liability, as set forth herein, shall be specifically applied.~~

#### 7.10 Controlling Law and Venue

The parties agree that this Agreement and any legal actions concerning its validity, interpretation or performance shall be governed by the laws of the State of Nebraska/Oklahoma. It is further agreed that any legal action between the parties arising out of this Agreement or the performance of services shall be brought in a court of competent jurisdiction in Nebraska/Oklahoma.

#### 7.11 Subconsultants

Olsson may utilize as necessary ~~in its discretion~~ with Client's prior approval, subconsultants and other subcontractors. Olsson will be paid for all services rendered by its subconsultants and other subconsultants as set forth in this Agreement.

## 7.12 Assignment

7.12.1 Client and Olsson each are hereby bound and the partners, successors, executors, administrators and legal representatives of Client and Olsson (and to the extent permitted by paragraph 7.12.2 the assigns of Client and Olsson) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.12.2 Neither Client nor Olsson shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Olsson from employing such subconsultants and other subcontractors as Olsson may deem appropriate, with Client's approval, to assist in the performance of services under this Agreement.

7.12.3 Client can assign to an affiliate, other government agency, or lender without Olsson's consent. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and Olsson, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Olsson and not for the benefit of any other party. There are no third-party beneficiaries of this Agreement.

## 7.13 Indemnity

~~Olsson and Client mutually agree~~ Olsson agrees, to the fullest extent permitted by law, to indemnify and hold ~~each other~~ the Client harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to third party personal injury or third party bodily injury, death, property damage and arising from their own negligent acts, errors or omissions in the performance of their services under this Agreement, but only to the extent that ~~each party~~ Olsson is responsible for such damages, liabilities or costs, ~~on a comparative basis of fault.~~

## 7.14 Limitation on Damages

7.14.1 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither party's individual employees, principals, officers or directors shall be subject to personal liability or damages arising out of or connected in any way to the Project(s) or to this Agreement.

7.14.2 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither

Client nor Olsson, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any delay damages, any punitive damages or any incidental, indirect or consequential damages arising out of or connected in any way to the Project(s) or to this Agreement. This mutual waiver of delay damages and consequential damages shall include, but is not limited to, disruptions, accelerations, inefficiencies, increased construction costs, increased home office overhead, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other delay or consequential damages that either party may have incurred from any cause of action including, but not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. Both the Client and Olsson shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project(s).

7.14.3 Notwithstanding any other provision of this Agreement, Client agrees that, to the fullest extent permitted by law, Olsson's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claims expenses of any kind arising from any services provided by or through Olsson under this Agreement, shall ~~not exceed the amount of Olsson's fee earned under this Agreement~~ be limited to \$2,000,000. ~~Client acknowledges that such causes include, but are not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. This limitation of liability applies to the negligent performance of Olsson's professional services and does not apply to the losses and claims arising out of the gross negligence, willful misconduct or fraud of Olsson or its consultants. This limitation of liability shall apply to all phases of Olsson's services performed in connection with the Project(s), whether subsequent to or prior to the execution of this Agreement.~~

## 7.15 Insurance

Olsson will provide:

- (1) Worker's Compensation with statutory limits
- (2) Commercial General Liability with a limit of not less than \$2,000,000, where Client is named, by endorsement, as an additional insured
- (3) Professional Errors and Omissions Liability in an amount not less than \$2,000,000

## 7.16 Entire Agreement

This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the Client and Olsson.

P:\\_GENERAL PROVISIONS.docx



## LETTER AGREEMENT FOR PROFESSIONAL SERVICES

March 27, 2015

City of Yukon, Oklahoma  
Attn: Mr. Grayson Bottom  
City Manager  
PO Box 850500  
Yukon, Oklahoma 73085

Re: **LETTER AGREEMENT FOR PROFESSIONAL SERVICES**  
Yukon Athletic Complex (the "Project")  
Pricing Design Services – Yukon, Oklahoma

Dear Mr. Bottom:

It is our understanding that the City of Yukon ("Client") requests Olsson Associates, Inc. ("Olsson") to perform the services described herein pursuant to the terms of this Letter Agreement for Professional Services, Olsson's General Provisions and any exhibits attached hereto (all documents constitute and are referred to herein as the "Agreement") for the Project.

Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions and any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, and the General Provisions regarding the services to be performed by Olsson, the terms of the General Provisions shall take precedence.

Olsson shall provide the following services ("Scope of Services") to Client for the Project as more specifically described in "Scope of Services" attached hereto. Should Client request, in writing, work in addition to the Scope of Services, Olsson shall invoice Client for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

**SCHEDULE FOR OLSSON'S SERVICES**

Unless otherwise agreed, Olsson expects to perform its services under the Agreement when directed by the Client. This is assumed to be immediately upon notice to proceed.

**COMPENSATION**

Client shall pay to Olsson a fixed fee and hourly time and material not-to-exceed for the performance of the Scope of Services attached plus Olsson's reimbursable expenses as noted in scope of services and general provisions. Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

**TERMS AND CONDITIONS OF SERVICE**

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

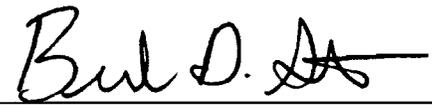
Client's designated Project Representative(s) shall be Grayson Bottom and Public Facilities Investment Corporation ("PFIC").

Olsson acknowledges and agrees that PFIC is not liable or responsible for Client's obligations hereunder, including without limitation, payment of compensation due Olsson. Olsson shall look solely to Client (City of Yukon, Oklahoma) for all such obligations, including payment of the compensation due Olsson. If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 30 days from the date set forth above, unless changed by us in writing.

**OLSSON ASSOCIATES, INC.**

By 

Brett Lauritsen, PE

By 

Brad Strittmatter, PE, President

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

**CITY OF YUKON, OKLAHOMA**

By Public Facilities Investment Corporation (PFIC), City of Yukon, Oklahoma's Agent

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

Attachments

Scope of Services & Accompanying Exhibits  
General Provisions

# SCOPE OF SERVICES

## PROJECT DESCRIPTION AND LOCATION

Project will be located at: SWC Frisco Road/State Route 66, Yukon, OK  
Project Description: Athletic Complex

## SCOPE OF SERVICES

Olsson shall provide the following design services (Scope of Services) to Client for the design development of a 251-acre athletic complex.

Design development scope includes preliminary design and consulting with team and Joe Hall Construction to develop a preliminary project cost estimate for presentation to the City manager of Yukon.

The athletic complex plan (as of December 1, 2014) consists of:

- 14 tournament soccer fields
- 12 baseball/softball fields
- 1 Competition Soccer and 1 Competition Baseball facility (excluded, future)
- 1 Aquatics Center (excluded, future)
- Playgrounds, Concession Stands, Maintenance Facilities, Aesthetic Pond/Water Feature, parking, trails, and other infrastructure improvements as determined necessary in conjunction with pending phasing and master plan modifications.

Additionally, this project will require the demolition of three existing well pads and potential relocation of an existing pipeline. Should Client request work not described and included in the above Description of Services, such as Additional Services, Consultant shall prepare a supplemental agreement. OA shall not commence work on Additional Services without Client's prior approval in writing.

*This contract excludes construction documents and consulting services after pricing, as well as design for future Aquatics Center and competition facilities. The plan is currently being modified and will be contingent on a market feasibility study yet to be completed. This contract fee, combined with due diligence contract previously signed, represents the fee approved by Yukon City Council (\$693,900). The contract for Olsson Master Planning services is independent of the two.*

## Phase 100 – Preliminary Civil Engineering Design Services

Task 101: Grading Design. Olsson will develop initial grading plans and models necessary for the contractor and design team to determine optimal scheme and field locations. It is assumed there will be four or less iterations and site plan modifications based on the on-going due diligence, feasibility findings and design considerations. This initial design will be created from the completed topographic survey.

**Fee \$38,000.00**

Task 102: Drainage Design. In conjunction with City of Yukon and the State of Oklahoma requirements, Olsson will analyze both existing and proposed drainage conditions.

This study will include initial review of existing implications of Shell Creek. Neither a flood study, wetland determination, nor CORPS 404 permit is anticipated, as design is assumed to exclude structures and placement of fill within limitations established by FEMA and potentially sensitive areas.

A pond is anticipated in the south central region of the athletic complex site. At the time of this proposal the size, depth and footprint of said pond are undetermined. This pond will serve both as an aesthetic feature as well as provide storm water storage from site runoff. This scope includes recommendations for, and design options for the pond lining system, aeration system, and relationship to the existing creek and groundwater table.

**Fee \$35,600.00**

Task 103: Civil Engineering Design. Olsson will design and create draft site plans and design information necessary for the contractor to create a construction budget for the complex for City approval purposes. Preliminary design of the site includes all amenities, parking, fields, roads and infrastructure necessary for the project. The design will also incorporate necessary accommodations for future amenities such as the aquatic center and competition fields.

Full Civil construction documents and park signage design are excluded from this scope and it is assumed Frisco Road and public utilities are being designed by others.

**Fee \$140,000.00**

Task 104: Landscape Design. This scope includes the development of a general landscaping theme and preliminary design for the 251 acre property. Landscape at the entrances, along the perimeter, near the pond and everywhere else on the complex site is included. Playground and trail concepts and placement and are also included in the design scope. This will be coordinated with preliminary irrigation and site design.

**Fee \$76,800.00**

Task 105: Roadway (Route 66) Improvements Design. Olsson will develop schematic design for pricing of any improvements to existing Route 66. These will be coordinated with Oklahoma Department of Transportation requirements and contingent upon the results of traffic analysis and coordination with the City of Yukon and City engineer.

No improvements or design along Frisco Road given the pending public construction project are included in this scope. Any design required for a traffic signal is also excluded.

**Fee \$47,300.00**

### **Phase 200 – Preliminary MEP Engineering Design Services**

Task 201: Club House Design. Design included for a 4,000 SF single level building, seating area, serving kitchen, bar, public toilets, heated and cooled by a split-system with DX cooling and electric or gas heat. HVAC, plumbing, fire protection, power, one-line diagrams, lighting, special systems, details, and schedules. Book outline specifications for major pieces of equipment.

**Fee \$19,100**

Task 202: Concession Building Design (6). Design included for a 12,000 SF single level building, concessions area heated and cooled with through wall electric unit, public toilets naturally ventilated. HVAC, plumbing, power, one-line diagrams, lighting, special systems, details, and schedules. Book outline specifications for major pieces of equipment. Design fee and scope is for one typical building that is site adapted for all locations. Fire sprinkler design is not included in the scope.

**Fee \$6,500.00**

Task 203: Roadway and Parking Lighting Design. Scope includes lighting layout and photometric analysis for parking lots and the drive between W Main St/RT 66 and N Frisco RD. Book outline specifications for major pieces of equipment (and recommendations for landscape lighting and trail lighting if desired) is included in scope.

**Fee \$14,300.00**

Task 204: Field and Site Irrigation Design. Scope includes conceptual layout, estimated demand requirements, pump and facility locations and field operation considerations for site irrigation system. Options for heads, pumps, and backflow will be presented for budget purposes. Olsson assumes water flow and pressure data will be available for use in preliminary design.

**Fee \$4,000.00**

Task 205: Sanitary Grinder Pump & Force Main Design. Olsson will review site at full-build out potential and develop concept for pump and grinder house on site with estimated flow and pump sizing. This preliminary design will be coordinated with Yukon City Engineer and adjacent public improvements completed by others.

**Fee \$5,800.00**

Task 206: Site Visit. This task includes time for two engineers to travel to Yukon on one occasion and meet with utility company and design team about the project during design development.

**Fee \$4,500.00**

### **Phase 300 – Preliminary Field Lighting and Site Electrical Design Services**

Task 301: Field Lighting Design. All Sports field lighting designs will be based on MUSCO Light System Green. Olsson's experience has found this product to be the most energy efficient system on the market, a leader in providing high quality sports lighting with a minimum of light trespass and sky glow, a solid 25 year warranty and control/monitoring systems that see each fixture on every field and allows field scheduling on the internet.

The sports field lighting designs for the Yukon Sports Complex shall be designed as with the following guidelines:

- *Competition Soccer Venue. The lighting design for this facility shall meet the requirements of the IESNA Recommended Practice for Sports and Recreational Area Lighting, IESNA RP-6-01 for a Class I soccer facility (75 FC, CV = 0.13 or less, Max to Min = 1.7:1 or less).*

- *Competition Baseball Venue. The lighting design for this venue shall meet the requirements of IESNA RP-6-01 for a Class II ballfield (100 FC infield, CV = 0.10 or less, Max to Min 1.5:1 or less and 70 FC outfield, CV = 0.17 or less, Max to Min 2:1 or less.*
- *Tournament Grade Soccer Fields. The lighting design for these 14 fields shall meet the requirements of IESNA RP-6-01 for Class II soccer fields (50 FC, CV = 0.21 or less, Max to Min 2.5:1 or less).*
- *6 Baseball and 6 Softball Fields. The lighting design for these fields shall meet the requirements of IESNA RP-6-01 for Class III ballfields (50 FC infield, CV = 0.17 or less, Max to Min 2:1 or less and 30 FC outfield, CV = 0.21 or less, Max to Min = 2.5:1 or less).*
- *Sports Lighting Controls. The design for all lighted sports fields (Tasks 701 through 703) shall include control systems for each individual field; system performance monitoring and internet based scheduling capabilities. The systems shall be MUSCO Light Structure Green Control/Monitoring with the MUSCO Control-Link Website scheduling.*

**Fee \$95,400.00**

Task 302: Site Lighting Infrastructure Design. Preliminary design shall include coordination with electric utility company regarding service to the site, UG primary distribution on the site, pad-mount transformer locations, available fault current, metering requirements, service entrance section (SES) locations and access and ancillary issues. Additional scope in this task includes:

- *Electric service to each field and electric distribution for each field's sports lighting system and scoreboards on stand-alone fields to support the proposed level of design.*
- *Service entrance sections and distribution switchboard design to support the proposed level of design.*
- *One line diagram for the site including all sports fields, the aquatics center, concession/restroom facilities and maintenance buildings to support the proposed level of design.*
- *Sports lighting, site electrical infrastructure and SES/Control details to support the proposed level of design.*

**Fee \$80,000.00**

### **Phase 400 – Expenses**

Task 401: Expenses. Olsson will invoice expenses at-cost in accordance with the general provisions. Expenses include vehicle mileage, printing and plan duplication, color prints, and copies.

**Fee \$billed**

**TOTAL DESIGN FEE FOR PRICING:**  
**\$567,300.00 + Expenses Phase**

### **PROJECT ASSUMPTIONS**

We have made several assumptions in the preparation of this proposal. These assumptions and subsequent explanations are as follows:

1. Olsson assumes the site property will be annexed into Yukon by the City of Yukon.

2. This scope and fee does not include plan revisions or multiple issues to achieve a budget. Olsson assumes plan and design adjustments for budgeting purposes will be undertaken during the next phase of full design (construction documents).
3. A full construction estimate is expected to be completed by Joe Hall Construction.
4. If redesign or revised easement documentation is necessary for the existing CO2 line in the center of the site (operated by Merit Energy) it will be done by Merit Energy or others and provided to Olsson.
5. The existing well pads will be, abandoned prior to construction and will be assumed irrelevant in preliminary design.
6. Access to the site remains unrestricted to Olsson Associates.
7. All building design and structural recommendations will be completed by HKS.
8. Public infrastructure upgrade design and plans (new City of Yukon or Oklahoma City sanitary and water utilities, Frisco Road) will be available to Olsson and determined to be efficient for the anticipated complex uses. Off-site public utility extensions and/or full capacity studies are not included with this proposal (less improvements required on Route 66.)
9. Full Design (100% site construction plans and pertinent documents) as well as construction assistance and administration services will be included in a subsequent proposal at a later date for scope, schedule and phasing to be more defined.

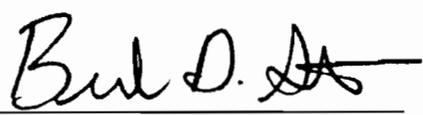
**ENGINEERING EXCLUSIONS**

The following items are excluded:

- A. Construction documents
- B. Public Infrastructure Design (Frisco Road and public utilities)
- C. US CORPS Permitting (404 Permit)
- D. US FEMA Flood Study
- E. US Wetland Study
- F. Traffic Signal Design
- G. Platting or additional ALTA survey(s)/Easements

**OLSSON ASSOCIATES, INC.**

By   
 Brett Lauritsen, PE

  
 Brad Strittmatter, PE, President

If you accept this Scope of Services, please sign:

**PFIC**

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Dated: \_\_\_\_\_

If different from above,

\_\_\_\_\_  
 Client's Designated Project Representative

## RATE SCHEDULE

### LABOR RATES

#### Description

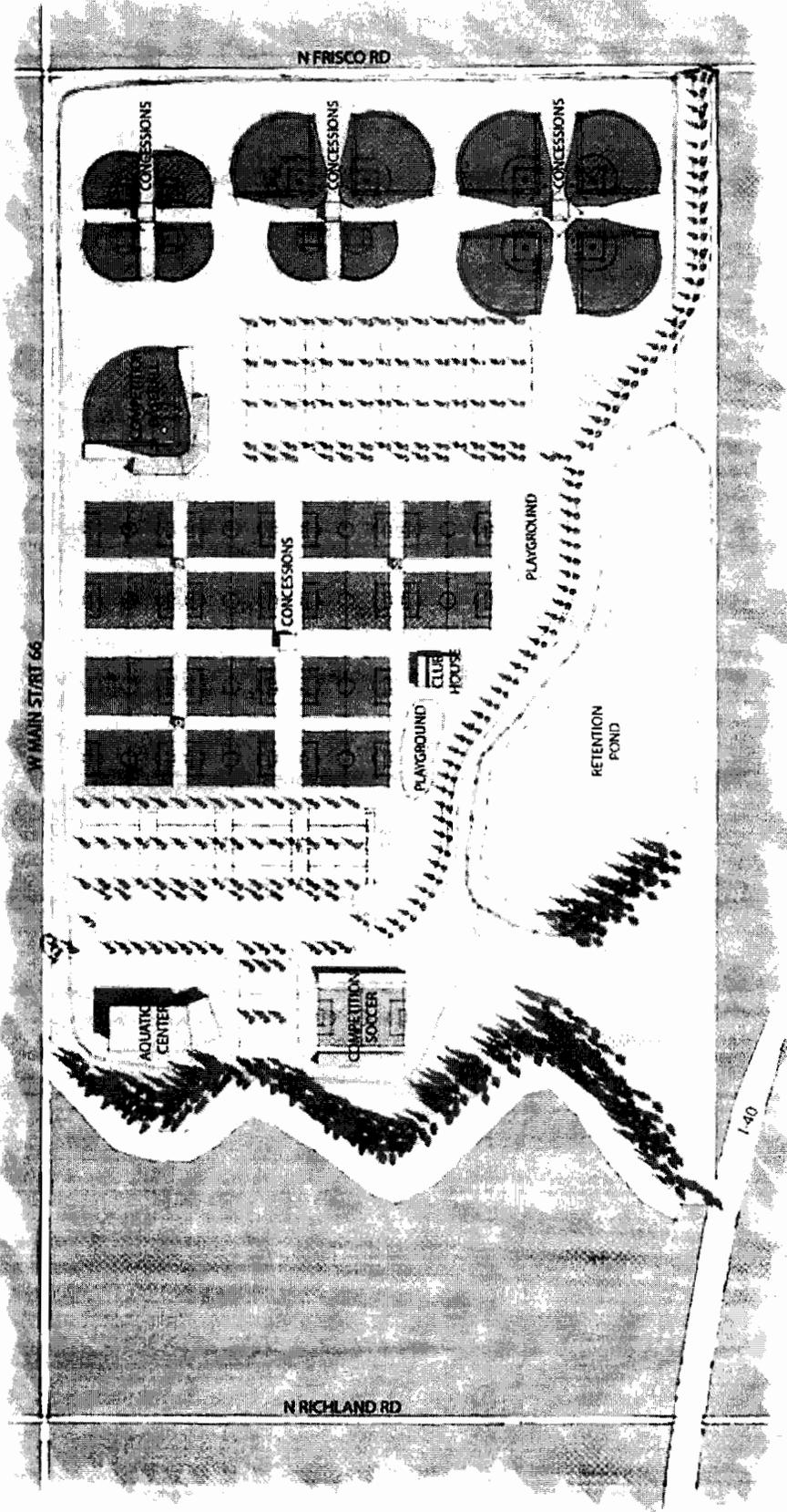
Principal.....	145.00	-	300.00
Project Manager.....	135.00	-	160.00
Project Professional.....	101.00	-	137.00
Assistant Professional.....	68.00	-	130.00
Designer.....	90.00	-	130.00
CAD Operator.....	46.00	-	100.00
Survey.....	52.00	-	115.00
Construction Services.....	53.00	-	170.00
Administrative/Clerical.....	44.00	-	100.00

### REIMBURSABLE EXPENSES

The expenses incurred by Olsson or Olsson's independent professional associates or consultants directly or indirectly in connection with the Project shall be included in periodic billing as follows:

<u>Classification</u>	<u>Costs</u>
Automobiles	\$0.565/mile*
Suburbans and Pick-Ups	\$0.75/mile*
Duplication	
In-house	Actual Cost
Outside	Actual Cost
Meals	Actual Cost
Postage & Shipping Charges for Project Related Materials	Actual Cost
Film and Photo Developing	Actual Cost
Telephone and Fax Transmissions	Actual Cost
Miscellaneous Materials & Supplies applicable only to this Project	Actual Cost
Subconsultants	Actual Cost

\* Rates consistent with the IRS Mileage Rate Reimbursement Guidelines (Subject to Change).



1 mile  
 2 miles  
 20 acres  
 2,800 spaces

Small Track -  
 Large Track -  
 Lake -  
 Parking -

1 1 1 1  
 100 100  
 14 JANUARY 2013 N

**Yukon Sports Complex**  
 Yukon, Oklahoma

**PFIC**

**HKS**

## GENERAL PROVISIONS

These General Provisions are attached to and made a part of the respective Letter Agreement or Master Agreement, dated March 27, 2015 between City of Yukon, Oklahoma ("Client") and Olsson Associates, Inc. ("Olsson") for professional services in connection with the project or projects arising under such Letter Agreement or Master Agreement (the "Project(s)").

As used herein, the term "this Agreement" refers to these General Provisions, the applicable Letter Agreement or Master Agreement, and any other exhibits or attachments thereto as if they were part of one and the same document.

### **SECTION 1—OLSSON'S SCOPE OF SERVICES**

Olsson's scope of services for the Project(s) is set forth in the applicable Letter Agreement or Master Agreement ("Scope of Services").

### **SECTION 2—ADDITIONAL SERVICES**

2.1 Unless otherwise expressly included, Scope of Services does not include the categories of additional services set forth in Sections 2.2 and 2.3.

2.2 If Client and Olsson mutually agree for Olsson to perform any optional additional services as set forth in this Section 2.2 ("Optional Additional Services"), Client will provide written approval of the agreed-upon Optional Additional Services, and Olsson shall perform or obtain from others such services and will be entitled to an increase in compensation at rates provided in this Agreement. Olsson may elect not to perform all or any of the Optional Additional Services without cause or explanation:

2.2.1 Preparation of applications and supporting documents for governmental financial support of the Project(s); preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.

2.2.2 Services to make measured drawings of or to investigate existing conditions of facilities.

2.2.3 Services resulting from changes in the general scope, extent or character of the Project(s) or major changes in documentation previously accepted by Client where changes are due to causes beyond Olsson's control.

2.2.4 Services resulting from the discovery of conditions or circumstances which were not contemplated by Olsson at the commencement of this Agreement. Olsson shall notify Client of the newly discovered conditions or circumstances and Client and Olsson shall renegotiate, in good faith, the compensation for this Agreement, if amended terms cannot be agreed upon, Olsson may terminate this Agreement and Olsson shall be paid for its services through the date of termination.

2.2.5 Providing renderings or models.

2.2.6 Preparing documents for alternate bids requested by Client.

2.2.7 Analysis of operations, maintenance or overhead expenses; value engineering; the preparation of rate schedules; earnings or expense statements; cash flow or economic evaluations or; feasibility studies, appraisals or valuations.

2.2.8 Furnishing the services of independent professional associates or consultants for work beyond the Scope of Services.

2.2.9 Services necessary due to the Client's award of more than one prime contract for the Project(s); services necessary due to the construction contract containing cost plus or incentive-savings provisions; services necessary in order to arrange for performance by persons other than the prime contractor; or those services necessary to administer Client's contract(s).

2.2.10 Services in connection with staking out the work of contractor(s).

2.2.11 Services during out-of-town travel or visits to the site beyond those specifically identified in this Agreement.

2.2.12 Preparation of operating and maintenance manuals.

2.2.13 Services to redesign some or all of the Project(s).

2.2.14 Preparing to serve or serving as a consultant or witness or assisting Client with any litigation, arbitration or other legal or administrative proceeding.

2.2.15 Services relating to Construction Observation, Certification, Inspection, Construction Cost Estimating, project observation, construction management, construction scheduling, construction phasing or review of Contractor's performance means or methods.

### **SECTION 3—CLIENT'S RESPONSIBILITIES**

3.1. Client shall provide all criteria and full information as to Client's requirements for the Project(s); designate and identify in writing a person to act with authority on Client's behalf in respect of all aspects of the Project(s); examine and respond promptly to Olsson's submissions; and give prompt written notice to Olsson whenever Client observes or otherwise becomes aware of any defect in the Olsson's services.

3.2 Client agrees to pay Olsson the amounts due for services rendered and expenses within thirty (30) days after Olsson has provided its invoice for such services. In the event Client disputes any invoice item, Client shall give Olsson written notice of such disputed item and shall pay to Olsson the undisputed portion of the invoice according to the provisions hereof. If Client fails to pay any undisputed invoiced amounts when due, interest will accrue on each such unpaid amount at the rate of five percent (5%) per annum from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item. Payment of interest

shall not excuse or cure any default or delay in payment of amounts due.

3.2.1 If Client fails to make any undisputed payment due Olsson for services and expenses within thirty (30) days after receipt of Olsson's statement therefore, Olsson may, after giving seven (7) days written notice to Client, suspend services to Client under this Agreement until Olsson has been paid in full all undisputed amounts due for services, expenses and charges and Client will not obtain any license to any Work Product or be entitled to retain or use any Work Product pursuant to Section 7.1 unless and until Olsson has been so paid..

3.3 Payments to Olsson shall not be withheld, postponed or made contingent on the construction, completion or success of the Project(s) or upon receipt by the Client of offsetting reimbursements or credit from other parties who may have caused the need for additional services. No withholdings, deductions or offsets shall be made from Olsson's compensation for any reason unless and until Olsson has been found to be legally liable for such amounts.

3.4 Client shall also do the following and pay all costs incident thereto:

3.4.1 Furnish to Olsson any existing and/or required borings, probings or subsurface explorations; hydrographic surveys; laboratory tests or inspections of samples, materials or equipment; appropriate professional interpretations of any of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic or utility surveys; property descriptions; and/or zoning or deed restrictions; all of which Olsson may rely upon in performing services hereunder.

3.4.2 Guarantee access to and make all provisions for Olsson to enter upon public and private property reasonably necessary to perform its services on the Project(s).

3.4.3 Provide such legal, accounting, independent cost estimating or insurance counseling services as may be required for the Project(s); any auditing service required in respect of contractor(s)' applications for payment; and/or any inspection services to determine if contractor(s) are performing the work legally.

3.4.4 Provide engineering surveys to establish reference points for construction unless specifically included in Olsson's Scope of Services.

3.4.5 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project(s).

3.4.6 If more than one prime contractor is to be awarded the contract for construction, designate a party to have responsibility and authority for coordinating and interfacing the activities of the various prime contractors.

3.5 Client shall pay all costs incident to obtaining bids or proposals from contractor(s).

3.6 Client shall pay all permit application review costs for government authorities having jurisdiction over the Project(s).

3.7 Contemporaneously with the execution of this Agreement, Client shall designate in writing an individual to act as its duly authorized Project(s) representative.

3.8 Client shall bear sole responsibility for:

3.8.1 Durins Construction will bear the responsibility for Jobsite Safety.

3.8.2 Notifying third parties including any governmental agency or prospective purchaser, of the existence of any hazardous or dangerous materials located in or around the Project(s) site.

3.8.3 Providing and updating Olsson with accurate information regarding existing conditions, including the existence of hazardous or dangerous materials, proposed Project(s) site uses, any change in Project(s) plans, and all subsurface installations, such as pipes, tanks, cables and utilities within the Project(s) site.

3.9 Client releases Olsson from liability for any incorrect advice, judgment or decision based on inaccurate information furnished by Client or others.

3.10 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including hazardous materials, encountered on the site, Olsson may immediately stop work in the affected area and report the condition to Client. Client shall be solely responsible for retaining independent consultant(s) to determine the nature of the material and to abate or remove the material. Olsson shall not be required to perform any services or work relating to or in the area of such material until the material has been removed or rendered harmless and only after approval, if necessary of the government agency with jurisdiction.

3.11 Olsson is not providing interpretation of contract documents; Construction Observations; Certifications; Inspections; Construction Cost Estimating; project observations; construction management; construction scheduling; construction phasing; and review of Contractor's performance, means and methods.

#### **SECTION 4—MEANING OF TERMS**

4.1 The "Cost of Construction" of the entire Project(s) (herein referred to as "Cost of Construction") means the total cost to Client of those portions of the entire Project(s) designed and specified by Olsson, but it will not include Olsson's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include Client's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project(s) or the cost of other services to be provided by others to Client pursuant to Section 3.

4.2 The "Salary Costs": Used as a basis for payment mean salaries and wages (base and incentive) paid to all Olsson's personnel engaged directly on the Project(s), including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory

benefits, including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

4.3 "Certify" or "a Certification": If included in the Scope of Services, such services shall be limited to a statement of Olsson's opinion, to the best of Olsson's professional knowledge, information and belief, based upon its periodic observations and reasonable review of reports and tests created by Olsson or provided to Olsson. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that any certifications based upon discrete sampling observations and that such observations indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services and certification does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Olsson shall sign pre-printed form certifications only if (a) Olsson approves the form of such certification prior to the commencement of its services, (b) such certification is expressly included in the Scope of Services, (c) the certification is limited to a statement of professional opinion and does not constitute a warranty or guarantee, express or implied. It is understood that any certification by Olsson shall not relieve the Client or the Client's contractors of any responsibility or obligation they may have by industry custom or under any contract.

4.4 "Construction Cost Estimate": An opinion of probable construction cost made by Olsson. In providing opinions of probable construction cost, it is recognized that neither the Client nor Olsson has control over the costs of labor, equipment or materials, or over the contractor's methods of determining prices or bidding. The opinion of probable construction costs is based on Olsson's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the contractor's bids or the negotiated price of the work on the Project(s) will not vary from the Client's budget or from any opinion of probable cost prepared by Olsson.

4.5 "Day": A calendar day of 24 hours. The term "days" shall mean consecutive calendar days of 24 hours each, or fraction thereof.

4.6 "Construction Observation": If included in the Scope of Services, such services during construction shall be limited to periodic visual observation and testing of the work to determine that the observed work generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were

performed. Performance of Construction Observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor or for the contractor's safety precautions and programs nor for failure by the contractor to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor. Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor or any subcontractor. Client, or its designees shall notify Olsson at least twenty-four (24) hours in advance of any field tests and observations required by the construction documents.

4.7 "Inspect" or "Inspection": If included in the Scope of Services, such services shall be limited to the periodic visual observation of the contractor's completed work to permit Olsson, as an experienced and qualified professional, to determine that the observed work, generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Client, or its designees, shall notify Olsson at least twenty-four (24) hours in advance of any inspections required by the construction documents.

4.8 "Record Documents": Drawings prepared by Olsson upon the completion of construction based upon the drawings and other data furnished to Olsson by the Contractor and others showing significant changes in the work on the Project(s) made during construction. Because Record Documents are prepared based on unverified information provided by others, Olsson makes no warranty of the accuracy or completeness of the Record Documents.

## **SECTION 5—TERMINATION**

5.1 Either party may terminate this Agreement, for cause upon giving the other party not less than seven (7) calendar days written notice of default for any of the following reasons;

provided, however, that the notified party shall have the same seven (7) calendar day period in which to cure the default:

5.1.1 Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;

5.1.3 Suspension of the Project(s) or Olsson's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate.

5.2 In the event of a "for cause" termination of this Agreement by either party, the Client shall, within fifteen (15) calendar days after receiving Olsson's final invoice, pay Olsson for all services rendered and all reimbursable costs incurred by Olsson up to the date of termination, in accordance with the payment provisions of this Agreement.

5.2.1 In the event of a "for cause" termination of this Agreement by Client Client has fully satisfied all of its obligations under this Agreement, Olsson shall grant Client a license to use the Work Product pursuant to Section 7.1.

5.3 The Client may terminate this Agreement for the Client's convenience and without cause upon giving Olsson not less than seven (7) calendar days written notice. In the event of any termination that is not the fault of Olsson, the Client shall pay Olsson, as sole compensation, payment for services rendered and reimbursable costs incurred. In no event is Client responsible for Olsson's lost profits or consequential damages under this Agreement.

## **SECTION 6—DISPUTE RESOLUTION**

### **6.1. Mediation**

6.1.1 All questions in dispute under this Agreement shall be submitted to mediation. On the written notice of either party to the other of the election to submit any dispute under this Agreement to mediation, each party shall designate their representatives and shall meet within ten (10) days after the service of the notice. The parties themselves shall then attempt to resolve the dispute within ten (10) days of meeting.

6.1.2 Should the parties themselves be unable to agree on a resolution of the dispute, and then the parties shall appoint a third party who shall be a competent and impartial party and who shall be acceptable to each party, to mediate the dispute. Any third party mediator shall be qualified to evaluate the performance of both of the parties, and shall be familiar with the design and construction progress. The third party shall meet to hear the dispute within ten (10) days of their selection and shall attempt to resolve the dispute within fifteen (15) days of first meeting.

6.1.3 Each party shall pay the fees and expenses of the third party mediator and such costs shall be borne equally by both parties.

### **6.2 Litigation**

6.2.1 Olsson and Client agree that from time to time, there may be conflicts, disputes and/or disagreements between

them, arising out of or relating to the services of Olsson, the Project(s), or this Agreement (hereinafter collectively referred to as "Disputes") which may not be resolved through mediation. Therefore, Olsson and Client agree that all Disputes shall be resolved by litigation. .

6.2.2 Client hereby agrees that Olsson shall have the right to include Client, by consolidation, joinder or other manner, in any litigation involving Olsson and a subconsultant or subcontractor of Olsson or Olsson and any other person or entity, regardless of who originally initiated such proceedings.

6.2.3 Any litigation shall take place in Yukon, Oklahoma.

6.2.4 The prevailing party in any litigation relating to any Dispute shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Dispute.

## **SECTION 7—MISCELLANEOUS**

### **7.1 Reuse of Documents**

All documents, including drawings, specifications, reports, boring logs, maps, field data, data, test results, information, recommendations, or opinions prepared or furnished by Olsson (and Olsson's independent professional associates and consultants) pursuant to this Agreement ("Work Product"), are all Olsson's instruments of service, do not constitute goods or products, and are copyrighted works of Olsson. Olsson shall retain an ownership and property interest in such Work Product whether or not the Project(s) is completed. If Client has made payments as required under this Agreement, Olsson shall grant Client a limited license to use the Work Product and Client may make and retain copies of Work Product for use in connection with the Project(s); however, such Work Product is for the exclusive use and benefit of Client or its agents in connection with the Project(s), are not intended to inform, guide or otherwise influence any other entities or persons with respect to any particular business transactions, and should not be relied upon by any entities or persons other than Client or its agents for any purpose other than the Project(s).

### **7.2 Electronic Files**

By accepting and utilizing any electronic file of any Work Product or other data transmitted by Olsson, the Client agrees for itself, its successors, assigns, insurers and all those claiming under or through it, that by using any of the information contained in the attached electronic file, all users agree to be bound by the following terms. All of the information contained in any electronic file is the work product and instrument of service of Olsson, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights, unless the same have previously been transferred in writing to the Client. The information contained in any electronic file is provided for the convenience to the Client and is provided in "as is" condition. The Client is aware that differences may exist between the electronic files transferred and the printed hard-copy original signed and stamped drawings or reports. In the event of a conflict between the signed original documents prepared by Olsson and the electronic files, which may be transferred, the signed and sealed original documents shall govern. Olsson

specifically disclaims all warranties, expressed or implied, including without limitation, and any warranty of merchantability or fitness for a particular purpose with respect to any electronic files.

### **7.3 Construction Cost Estimate**

Since Olsson has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Olsson's Construction Cost Estimate provided for herein is made on the basis of Olsson's experience and qualifications and represent Olsson's best judgment as an experienced and qualified professional engineer, familiar with the construction industry. Client acknowledges and agrees that Olsson cannot and does not guarantee proposals or bids and that actual total Project(s) or construction costs may reasonably vary from Olsson's Construction Cost Estimate. If prior to the bidding or negotiating phase Client wishes greater assurance as to total Project(s) or construction costs, Client may employ an independent cost estimator as provided in paragraph 3.4.3. If Olsson's Construction Cost Estimate was performed in accordance with its standard of care and was reasonable under the total circumstances, any services performed by Olsson to modify the contract documents to bring the construction cost within any limitation established by Client will be considered Optional Additional Services and paid for as such by Client. If, however, Olsson's Construction Cost Estimate was not performed in accordance with its standard of care and was unreasonable under the total circumstances and the lowest negotiated bid for construction of the Project(s) unreasonably exceeds Olsson's Construction Cost Estimate, Olsson shall modify its work as necessary to adjust the Project(s)' size, and/or quality to reasonably comply with the Client's budget at no additional cost to Client. Under such circumstances, Olsson's modification of its work at no cost shall be the limit of Olsson's responsibility with regard to any unreasonable Construction Cost Estimate.

### **7.4 Prevailing Wages**

It is Client's responsibility to determine whether the Project(s) is covered under any prevailing wage regulations. Unless Client specifically informs Olsson in writing that the Project(s) is a prevailing wage project and is identified as such in the Scope of Services, Client agrees to reimburse Olsson and to defend, indemnify and hold harmless Olsson from and against any liability, including costs, fines and attorneys' fees, resulting from a subsequent determination that the Project(s) was covered under any prevailing wage regulations.

### **7.5 Samples**

All material testing samples shall remain the property of the Client. If appropriate, Olsson shall preserve samples obtained no longer than forty-five (45) days after the issuance of any document that includes the data obtained from those samples. After that date, Olsson may dispose of the samples or return them to Client at Client's cost.

### **7.6 Standard of Care**

Olsson will perform its services in a manner consistent with that level of care and skill ordinarily exercised by members of Olsson's profession providing similar services in the same

locality under similar circumstances at the time Olsson's services are performed.

### **7.7 Force Majeure**

Any delay in the performance of any of the duties or obligations of either party hereto (except the payment of money) shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused by or is the result of any acts of God, acts of the public enemy, insurrections, riots, embargoes, labor disputes, including strikes, lockouts, job actions, boycotts, fires, explosions, floods, shortages of material or energy, or other unforeseeable causes beyond the control and without the fault or negligence of the party so affected. The affected party shall give prompt notice to the other party of such cause, and shall take promptly whatever reasonable steps are necessary to relieve the effect of such cause. Extension of time is Olsson's sole remedy for delays.

### **7.8 Confidentiality**

In performing this Agreement, the parties may disclose to each other written or oral non-public, confidential or proprietary information, including but not limited to, information of a business, planning, marketing or technical nature and models, tools, hardware and software, and any documents, reports, memoranda, notes, files or analyses that contain, summarize or are based upon any proprietary or confidential information (hereafter referred to as the "Information").

7.8.1 Therefore, Olsson and Client agree that the party receiving Information from the other party to this Agreement (the "Receiving Party") shall keep Information confidential and not use the Information in any manner other than in the performance of this Agreement without prior written approval of the party disclosing Information (the "Disclosing Party") unless the release of Information is required by law or legal process.

7.8.2 The existence of discussions between the parties, the purpose of this Agreement, and this Agreement shall be considered Information subject to the confidentiality provisions of this Agreement.

7.8.3 Notwithstanding anything to the contrary herein, the Receiving Party shall have no obligation to preserve the confidentiality of any Information which:

7.8.3.1 was previously known to the Receiving Party free of any obligation to keep it confidential; or

7.8.3.2 is or becomes publicly available by other than unauthorized disclosures; or

7.8.3.3 is independently developed by the Receiving Party without a breach of this Agreement; or

7.8.3.4 is disclosed to third parties by the Disclosing Party without restrictions; or

7.8.3.5 is received from a third party not subject to any confidentiality obligations.

7.8.4 In the event that the Receiving Party is required by law or legal process to disclose any of Information of the Disclosing Party, the Receiving Party required to disclose such Information shall provide the Disclosing Party with prompt oral and written notice, unless notice is prohibited by law (in which case such notice shall be provided as early as may be legally permissible), of any such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy.

7.8.5 Nothing contained in this Agreement shall be construed as altering any rights that the Disclosing Party has in the Information exchanged with or disclosed to the Receiving Party, and upon request, the Receiving Party will return all Information received in tangible form to the Disclosing Party, or at the Receiving Party's option, destroy all such Information. If the Receiving Party exercises its option to destroy the Information, the Receiving Party shall certify such destruction to the Disclosing Party.

7.8.6 The parties acknowledge that disclosure or use of Information in violation of this Agreement could cause irreparable harm for which monetary damages may be difficult to ascertain or constitute an inadequate remedy. Each party therefore agrees that the Disclosing Party shall be entitled in addition to its other rights to seek injunctive relief for any violation of this Agreement.

7.8.7 The obligations of confidentiality set forth herein shall survive termination of this Agreement, but shall only remain in effect for a period of one (1) year from the date the Information is first disclosed.

#### **7.9 Damage or Injury to Subterranean Structures or Utilities, Hazardous Materials, Pollution and Contamination**

7.9.1 To the extent that work pursuant to this Agreement requires any sampling, boring, excavation, ditching or other disruption of the soil or subsurface at the Site, Olsson shall confer with Client prior to such activity and Client will be responsible for identifying, locating and marking, as necessary, any private subterranean structures or utilities and Olsson shall be responsible for arranging investigation of public subterranean structures or utilities through an appropriate utility one-call provider. Thereafter, Olsson shall take all reasonable precautions to avoid damage or injury to subterranean structures or utilities which were identified by Client or the one-call provider. Olsson shall not be responsible for any damage, liability or costs, for any property damage, injury or economic loss arising or allegedly arising from damages to subterranean structures or utilities caused by subsurface penetrations in locations approved by Client and/or the one call provider or not correctly shown on any plans, drawings or utility clearance provided to Olsson, except for damages caused by the negligence of Olsson.

7.9.2 It is understood and agreed that any assistance Olsson may provide Client in the disposal of waste materials shall not result in Olsson being deemed as a generator, arranger, transporter or disposer of hazardous materials or hazardous waste as defined under any law or regulation. Title to all samples and waste materials remains with Client, and at no time shall Olsson take title to the above material. Client may authorize Olsson to execute Hazardous Waste Manifest, Bill of Lading or other forms as agent of Client. If Client requests Olsson to execute such documents as its agent, the Hazardous

Waste Manifest, Bill of Lading or other similar documents shall be completed in the name of the Client.

7.9.3 At any time, Olsson can request in writing that Client remove samples, cuttings and hazardous substances generated by the Project(s) from the project site or other location. Client shall promptly comply with such request, and pay and be responsible for the removal and lawful disposal of samples, cuttings and hazardous substances, unless other arrangements are mutually agreed upon in writing.

7.9.5 Notwithstanding anything to the contrary contained herein, it is understood and agreed by and between Olsson and Client that the responsibility for pollution and contamination shall be as follows:

#### **7.10 Controlling Law and Venue**

The parties agree that this Agreement and any legal actions concerning its validity, interpretation or performance shall be governed by the laws of the State of Oklahoma. It is further agreed that any legal action between the parties arising out of this Agreement or the performance of services shall be brought in a court of competent jurisdiction in Oklahoma.

#### **7.11 Subconsultants**

Olsson may utilize as necessary with Client's prior approval, subconsultants and other subcontractors. Olsson will be paid for all services rendered by its subconsultants and other subconsultants as set forth in this Agreement.

#### **7.12 Assignment**

7.12.1 Client and Olsson each are hereby bound and the partners, successors, executors, administrators and legal representatives of Client and Olsson (and to the extent permitted by paragraph 7.12.2 the assigns of Client and Olsson) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.12.2 Neither Client nor Olsson shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Olsson from employing such subconsultants and other subcontractors as Olsson may deem appropriate, with Client's approval, to assist in the performance of services under this Agreement.

7.12.3 Client can assign to an affiliate, other government agency, or lender without Olsson's consent. Nothing under this Agreement shall be construed to give any

rights or benefits in this Agreement to anyone other than Client and Olsson, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Olsson and not for the benefit of any other party. There are no third-party beneficiaries of this Agreement.

### **7.13 Indemnity**

Olsson agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to third party personal injury or third party bodily injury, death, property damage and arising from their own negligent acts, errors or omissions in the performance of their services under this Agreement, but only to the extent that Olsson is responsible for such damages, liabilities or costs.

### **7.14 Limitation on Damages**

7.14.1 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither party's individual employees, principals, officers or directors shall be subject to personal liability or damages arising out of or connected in any way to the Project(s) or to this Agreement.

7.14.2 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither Client nor Olsson, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any delay damages, any punitive damages or any incidental, indirect or consequential damages arising out of or connected in any way to the Project(s) or to this Agreement. This mutual waiver of delay damages and consequential damages shall include, but is not limited to, disruptions, accelerations, inefficiencies, increased construction costs, increased home office overhead, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other delay or consequential damages that either party may have incurred from any cause of action including, but not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. Both the Client and Olsson shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project(s).

7.14.3 Notwithstanding any other provision of this Agreement, Client agrees that, to the fullest extent permitted by law, Olsson's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claims expenses of any kind arising from any services provided by or through Olsson under this Agreement, shall be limited to \$2,000,000. This limitation of liability applies to the negligent performance of Olsson's professional services and does not apply to the losses and claims arising out of the gross negligence, willful misconduct or fraud of Olsson or its consultants. This limitation of liability shall apply to all phases of Olsson's services performed in connection with the Project(s), whether subsequent to or prior to the execution of this Agreement.

### **7.15 Insurance**

Olsson will provide:

- (1) Worker's Compensation with statutory limits
- (2) Commercial General Liability with a limit of not less than \$2,000,000, where Client is named, by endorsement, as an additional insured
- (3) Professional Errors and Omissions Liability in an amount not less than \$2,000,000

### **7.16 Entire Agreement**

This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the Client and Olsson.



**LETTER AGREEMENT  
FOR PROFESSIONAL SERVICES**

February 16, 2014

City of Yukon, Oklahoma  
Attn: Mr. Grayson Bottom  
City Manager  
PO Box 850500  
Yukon, Oklahoma 73085

Re: **LETTER AGREEMENT FOR PROFESSIONAL SERVICES**  
Yukon Athletic Complex (the "Project")  
Master Plan Revision Services – Yukon, Oklahoma

Dear Mr. Bottom:

It is our understanding that the City of Yukon ("Client") requests Olsson Associates, Inc. ("Olsson") to perform the services described herein pursuant to the terms of this Letter Agreement for Professional Services, Olsson's General Provisions and any exhibits attached hereto (all documents constitute and are referred to herein as the "Agreement") for the Project.

Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions and any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, and the General Provisions regarding the services to be performed by Olsson, the terms of the General Provisions shall take precedence.

Olsson shall provide the following services ("Scope of Services") to Client for the Project as more specifically described in "Scope of Services" attached hereto. Should Client request, in writing, work in addition to the Scope of Services, Olsson shall invoice Client for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

**SCHEDULE FOR OLSSON'S SERVICES**

Unless otherwise agreed, Olsson expects to perform its services under the Agreement when directed by the Client. This is assumed to be immediately upon notice to proceed.

**COMPENSATION**

Client shall pay to Olsson a fixed fee and hourly time and material not-to-exceed for the performance of the Scope of Services attached plus Olsson's reimbursable expenses as noted in scope of services and general provisions. Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

**TERMS AND CONDITIONS OF SERVICE**

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project Representative(s) shall be Grayson Bottom and Public Facilities Investment Corporation ("PFIC").

Olsson acknowledges and agrees that PFIC is not liable or responsible for Client's obligations hereunder, including without limitation, payment of compensation due Olsson. Olsson shall look solely to Client (City of Yukon, Oklahoma) for all such obligations, including payment of the compensation due Olsson. If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 30 days from the date set forth above, unless changed by us in writing.

**OLSSON ASSOCIATES, INC.**

By 

Brett Lauritsen, PE

By 

Mike Lally, PE, Vice President

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

**CITY OF YUKON, OKLAHOMA**

By Public Facilities Investment Corporation (PFIC), City of Yukon, Oklahoma's Agent

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

Attachments

Scope of Services & Accompanying Exhibits

General Provisions

## SCOPE OF SERVICES

This exhibit is hereby attached to and made a part of the Letter Agreement for Professional Services dated February 16, 2015 between PFIC ("Client") and Olsson Associates ("Olsson") providing for professional services. Olsson's Scope of Services for the Agreement is indicated below.

### PROJECT DESCRIPTION AND LOCATION

Project will be located at: SWC Frisco Road/State Route 66, Yukon, OK  
Project Description: Athletic Complex

### SCOPE OF SERVICES

Olsson shall provide the following design services (Scope of Services) to Client for the design development of a 251-acre athletic complex.

Design development scope revisions to existing master plan sketch provided to City of Yukon.

The athletic complex masterplan (as of December 1, 2014) consists of:

- 14 tournament soccer fields
- 12 baseball/softball fields
- 1 Competition Soccer and 1 Competition Baseball facility
- 1 Aquatics Center
- Playgrounds, Concession Stands, Maintenance Facilities, Aesthetic Pond/Water Feature, parking, trails, and other infrastructure improvements as determined necessary in conjunction with pending phasing and master plan modifications.

Should Client request work not described and included in the above Description of Services, such as Additional Services, Consultant shall prepare a supplemental agreement. OA shall not commence work on Additional Services without Client's prior approval in writing.

### Phase 100 – Site Consulting Services

Task 101: Program Review and Site Analysis. Olsson shall review the existing program to determine potential deficiencies, review the surrounding community for determining access and view sheds to site, and review on-site characteristics: grading and drainage, vegetation, utilities, and flood plain.

### Phase 200 – Master Plan

Task 201: Initial Master Plan Development - 2 Concepts. Olsson shall develop and revise the initial master plan in the form of *two* concepts to include:

- Circulation for vehicular and pedestrian (sidewalks and trails)
- Parking lots and drop off areas
- Aquatics Center
- Competition Soccer
- Soccer Fields (14)

- Competition Baseball
- Baseball/Softball (12)
- Pond and potential amenities
- Club House, Restrooms, Concessions, shelters and Maintenance Facilities
- Identity – monumentation, wayfinding, and icons
- Playground
- Accessibility

Task 202: Final Master Plan. Olsson shall revise the accepted initial master plan and update in accordance with requirements and regulations of the City of Yukon to produce the Final Master Plan.

### **Phase 300 – Meetings**

Task 301: Meetings. Attendance in Yukon by Olsson representatives at initial project meetings and presentation of master plan. Services for meetings will be invoiced hourly. Should the Client request Olsson’s presence at additional meetings, these services will be invoiced hourly as an added expense.

### **Phase 600 – Expenses**

Task 601: Expenses. Includes all project related reimbursable expenses as defined in the Reimbursable Expense Schedule of this letter agreement. Olsson has included a cost of \$2,000 for travel and color printing plans. Client shall be notified in writing should this limit need to be exceeded.

**Fee TMNTE \$2,000.00**

**TOTAL MASTER PLAN FEE: \$37,800.00**

**PLUS TASK 301 (HOURLY) AND TASK 601 (TMNTE)**

### **PROJECT EXCLUSIONS AND ADDITIONAL SERVICES**

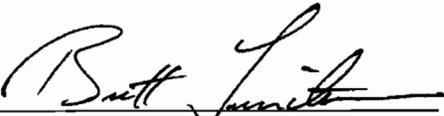
The following items, in addition to any items not specifically listed above are not included in the proposal but can be provided under a supplemental agreement:

- A. Architectural Services/Permitting and Submittal Fees
- B. Design Development and Final Design Documents
- C. Perspective Renderings & 3D Modeling (Hourly if desired)
- D. Master planning locker room, stadiums and field-programming/practice schedule, etc

Should Client request work in addition to the Scope of Services, Olsson shall invoice Client for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client’s prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

**OLSSON ASSOCIATES, INC.**

By   
Brett Lauritsen, PE

  
Mike Lally, PE, Vice President

If you accept this Scope of Services, please sign:

**PFIC**

By \_\_\_\_\_

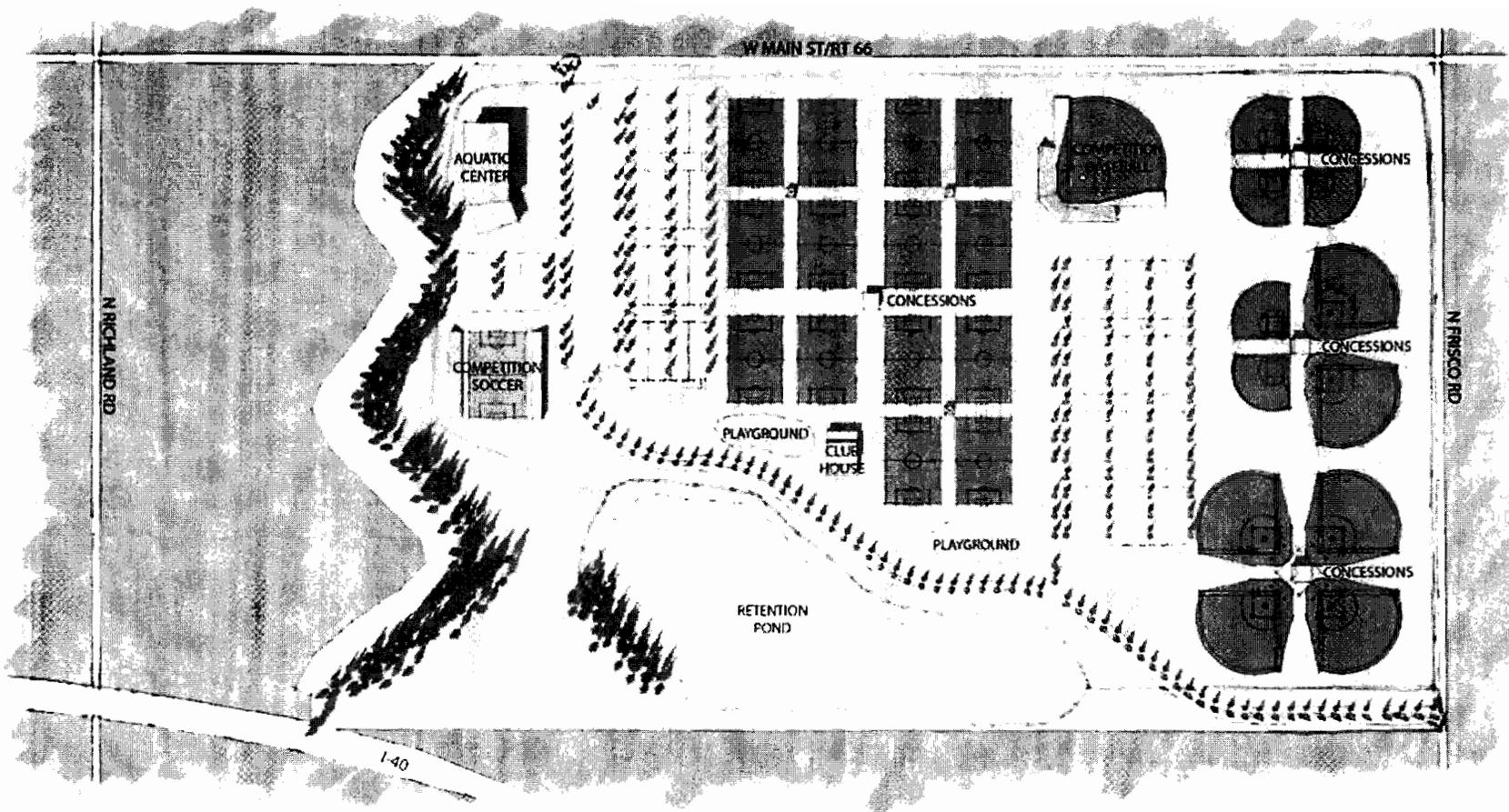
Name \_\_\_\_\_

Title \_\_\_\_\_

Dated: \_\_\_\_\_

If different from above,

\_\_\_\_\_  
Client's Designated Project Representative



Small Track - 1 mile  
 Large Track - 2 miles  
 Lake - 20 acres  
 Parking - 2,800 spaces

0 250 500 1000  
 14 JANUARY 2013 N

**Yukon Sports Complex**

Yukon, Oklahoma

**PFIC**

**HKS**

## RATE SCHEDULE

### LABOR RATES

#### Description

Principal.....	145.00	-	300.00
Project Manager.....	135.00	-	160.00
Project Professional.....	101.00	-	137.00
Assistant Professional.....	68.00	-	130.00
Designer.....	90.00	-	130.00
CAD Operator.....	46.00	-	100.00
Survey.....	52.00	-	115.00
Construction Services.....	53.00	-	170.00
Administrative/Clerical.....	44.00	-	100.00

### REIMBURSABLE EXPENSES

The expenses incurred by Olsson or Olsson's independent professional associates or consultants directly or indirectly in connection with the Project shall be included in periodic billing as follows:

<u>Classification</u>	<u>Costs</u>
Automobiles	\$0.565/mile*
Suburbans and Pick-Ups	\$0.75/mile*
Duplication	
In-house	Actual Cost
Outside	Actual Cost
Meals	Actual Cost
Postage & Shipping Charges for Project Related Materials	Actual Cost
Film and Photo Developing	Actual Cost
Telephone and Fax Transmissions	Actual Cost
Miscellaneous Materials & Supplies applicable only to this Project	Actual Cost
Subconsultants	Actual Cost

\* Rates consistent with the IRS Mileage Rate Reimbursement Guidelines (Subject to Change).

## GENERAL PROVISIONS

These General Provisions are attached to and made a part of the respective Letter Agreement or Master Agreement, dated February 16, 2015 between City of Yukon, Oklahoma ("Client") and Olsson Associates, Inc. ("Olsson") for professional services in connection with the project or projects arising under such Letter Agreement or Master Agreement (the "Project(s)").

As used herein, the term "this Agreement" refers to these General Provisions, the applicable Letter Agreement or Master Agreement, and any other exhibits or attachments thereto as if they were part of one and the same document.

### **SECTION 1—OLSSON'S SCOPE OF SERVICES**

Olsson's scope of services for the Project(s) is set forth in the applicable Letter Agreement or Master Agreement ("Scope of Services").

### **SECTION 2—ADDITIONAL SERVICES**

2.1 Unless otherwise expressly included, Scope of Services does not include the categories of additional services set forth in Sections 2.2 and 2.3.

2.2 If Client and Olsson mutually agree for Olsson to perform any optional additional services as set forth in this Section 2.2 ("Optional Additional Services"), Client will provide written approval of the agreed-upon Optional Additional Services, and Olsson shall perform or obtain from others such services and will be entitled to an increase in compensation at rates provided in this Agreement. Olsson may elect not to perform all or any of the Optional Additional Services without cause or explanation:

2.2.1 Preparation of applications and supporting documents for governmental financial support of the Project(s); preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.

2.2.2 Services to make measured drawings of or to investigate existing conditions of facilities.

2.2.3 Services resulting from changes in the general scope, extent or character of the Project(s) or major changes in documentation previously accepted by Client where changes are due to causes beyond Olsson's control.

2.2.4 Services resulting from the discovery of conditions or circumstances which were not contemplated by Olsson at the commencement of this Agreement. Olsson shall notify Client of the newly discovered conditions or circumstances and Client and Olsson shall renegotiate, in good faith, the compensation for this Agreement, if amended terms cannot be agreed upon, Olsson may terminate this Agreement and Olsson shall be paid for its services through the date of termination.

2.2.5 Providing renderings or models.

2.2.6 Preparing documents for alternate bids requested by Client.

2.2.7 Analysis of operations, maintenance or overhead expenses; value engineering; the preparation of rate schedules; earnings or expense statements; cash flow or economic evaluations or; feasibility studies, appraisals or valuations.

2.2.8 Furnishing the services of independent professional associates or consultants for work beyond the Scope of Services.

2.2.9 Services necessary due to the Client's award of more than one prime contract for the Project(s); services necessary due to the construction contract containing cost plus or incentive-savings provisions; services necessary in order to arrange for performance by persons other than the prime contractor; or those services necessary to administer Client's contract(s).

2.2.10 Services in connection with staking out the work of contractor(s).

2.2.11 Services during out-of-town travel or visits to the site beyond those specifically identified in this Agreement.

2.2.12 Preparation of operating and maintenance manuals.

2.2.13 Services to redesign some or all of the Project(s).

2.2.14 Preparing to serve or serving as a consultant or witness or assisting Client with any litigation, arbitration or other legal or administrative proceeding.

2.2.15 Services relating to Construction Observation, Certification, Inspection, Construction Cost Estimating, project observation, construction management, construction scheduling, construction phasing or review of Contractor's performance means or methods.

### **SECTION 3—CLIENT'S RESPONSIBILITIES**

3.1. Client shall provide all criteria and full information as to Client's requirements for the Project(s); designate and identify in writing a person to act with authority on Client's behalf in respect of all aspects of the Project(s); examine and respond promptly to Olsson's submissions; and give prompt written notice to Olsson whenever Client observes or otherwise becomes aware of any defect in the Olsson's services.

3.2 Client agrees to pay Olsson the amounts due for services rendered and expenses within thirty (30) days after Olsson has provided its invoice for such services. In the event Client disputes any invoice item, Client shall give Olsson written notice of such disputed item and shall pay to Olsson the undisputed portion of the invoice according to the provisions hereof. If Client fails to pay any undisputed invoiced amounts when due, interest will accrue on each such unpaid amount at the rate of five percent (5%) per annum from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item. Payment of interest

shall not excuse or cure any default or delay in payment of amounts due.

3.2.1 If Client fails to make any undisputed payment due Olsson for services and expenses within thirty (30) days after receipt of Olsson's statement therefore, Olsson may, after giving seven (7) days written notice to Client, suspend services to Client under this Agreement until Olsson has been paid in full all undisputed amounts due for services, expenses and charges and Client will not obtain any license to any Work Product or be entitled to retain or use any Work Product pursuant to Section 7.1 unless and until Olsson has been so paid..

3.3 Payments to Olsson shall not be withheld, postponed or made contingent on the construction, completion or success of the Project(s) or upon receipt by the Client of offsetting reimbursements or credit from other parties who may have caused the need for additional services. No withholdings, deductions or offsets shall be made from Olsson's compensation for any reason unless and until Olsson has been found to be legally liable for such amounts.

3.4 Client shall also do the following and pay all costs incident thereto:

3.4.1 Furnish to Olsson any existing and/or required borings, probings or subsurface explorations; hydrographic surveys; laboratory tests or inspections of samples, materials or equipment; appropriate professional interpretations of any of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic or utility surveys; property descriptions; and/or zoning or deed restrictions; all of which Olsson may rely upon in performing services hereunder.

3.4.2 Guarantee access to and make all provisions for Olsson to enter upon public and private property reasonably necessary to perform its services on the Project(s).

3.4.3 Provide such legal, accounting, independent cost estimating or insurance counseling services as may be required for the Project(s); any auditing service required in respect of contractor(s)' applications for payment; and/or any inspection services to determine if contractor(s) are performing the work legally.

3.4.4 Provide engineering surveys to establish reference points for construction unless specifically included in Olsson's Scope of Services.

3.4.5 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project(s).

3.4.6 If more than one prime contractor is to be awarded the contract for construction, designate a party to have responsibility and authority for coordinating and interfacing the activities of the various prime contractors.

3.5 Client shall pay all costs incident to obtaining bids or proposals from contractor(s).

3.6 Client shall pay all permit application review costs for government authorities having jurisdiction over the Project(s).

3.7 Contemporaneously with the execution of this Agreement, Client shall designate in writing an individual to act as its duly authorized Project(s) representative.

3.8 Client shall bear sole responsibility for:

3.8.1 Durins Construction will bear the responsibility for Jobsite Safety.

3.8.2 Notifying third parties including any governmental agency or prospective purchaser, of the existence of any hazardous or dangerous materials located in or around the Project(s) site.

3.8.3 Providing and updating Olsson with accurate information regarding existing conditions, including the existence of hazardous or dangerous materials, proposed Project(s) site uses, any change in Project(s) plans, and all subsurface installations, such as pipes, tanks, cables and utilities within the Project(s) site.

3.9 Client releases Olsson from liability for any incorrect advice, judgment or decision based on inaccurate information furnished by Client or others.

3.10 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including hazardous materials, encountered on the site, Olsson may immediately stop work in the affected area and report the condition to Client. Client shall be solely responsible for retaining independent consultant(s) to determine the nature of the material and to abate or remove the material. Olsson shall not be required to perform any services or work relating to or in the area of such material until the material has been removed or rendered harmless and only after approval, if necessary of the government agency with jurisdiction.

3.11 Olsson is not providing interpretation of contract documents; Construction Observations; Certifications; Inspections; Construction Cost Estimating; project observations; construction management; construction scheduling; construction phasing; and review of Contractor's performance, means and methods.

#### **SECTION 4—MEANING OF TERMS**

4.1 The "Cost of Construction" of the entire Project(s) (herein referred to as "Cost of Construction") means the total cost to Client of those portions of the entire Project(s) designed and specified by Olsson, but it will not include Olsson's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include Client's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project(s) or the cost of other services to be provided by others to Client pursuant to Section 3.

4.2 The "Salary Costs": Used as a basis for payment mean salaries and wages (base and incentive) paid to all Olsson's personnel engaged directly on the Project(s), including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory

benefits, including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

4.3 "Certify" or "a Certification": If included in the Scope of Services, such services shall be limited to a statement of Olsson's opinion, to the best of Olsson's professional knowledge, information and belief, based upon its periodic observations and reasonable review of reports and tests created by Olsson or provided to Olsson. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that any certifications based upon discrete sampling observations and that such observations indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services and certification does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Olsson shall sign pre-printed form certifications only if (a) Olsson approves the form of such certification prior to the commencement of its services, (b) such certification is expressly included in the Scope of Services, (c) the certification is limited to a statement of professional opinion and does not constitute a warranty or guarantee, express or implied. It is understood that any certification by Olsson shall not relieve the Client or the Client's contractors of any responsibility or obligation they may have by industry custom or under any contract.

4.4 "Construction Cost Estimate": An opinion of probable construction cost made by Olsson. In providing opinions of probable construction cost, it is recognized that neither the Client nor Olsson has control over the costs of labor, equipment or materials, or over the contractor's methods of determining prices or bidding. The opinion of probable construction costs is based on Olsson's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the contractor's bids or the negotiated price of the work on the Project(s) will not vary from the Client's budget or from any opinion of probable cost prepared by Olsson.

4.5 "Day": A calendar day of 24 hours. The term "days" shall mean consecutive calendar days of 24 hours each, or fraction thereof.

4.6 "Construction Observation": If included in the Scope of Services, such services during construction shall be limited to periodic visual observation and testing of the work to determine that the observed work generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were

performed. Performance of Construction Observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor or for the contractor's safety precautions and programs nor for failure by the contractor to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor. Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor or any subcontractor. Client, or its designees shall notify Olsson at least twenty-four (24) hours in advance of any field tests and observations required by the construction documents.

4.7 "Inspect" or "Inspection": If included in the Scope of Services, such services shall be limited to the periodic visual observation of the contractor's completed work to permit Olsson, as an experienced and qualified professional, to determine that the observed work, generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Client, or its designees, shall notify Olsson at least twenty-four (24) hours in advance of any inspections required by the construction documents.

4.8 "Record Documents": Drawings prepared by Olsson upon the completion of construction based upon the drawings and other data furnished to Olsson by the Contractor and others showing significant changes in the work on the Project(s) made during construction. Because Record Documents are prepared based on unverified information provided by others, Olsson makes no warranty of the accuracy or completeness of the Record Documents.

## **SECTION 5—TERMINATION**

5.1 Either party may terminate this Agreement, for cause upon giving the other party not less than seven (7) calendar days written notice of default for any of the following reasons;

provided, however, that the notified party shall have the same seven (7) calendar day period in which to cure the default:

5.1.1 Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;

5.1.3 Suspension of the Project(s) or Olsson's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate.

5.2 In the event of a "for cause" termination of this Agreement by either party, the Client shall, within fifteen (15) calendar days after receiving Olsson's final invoice, pay Olsson for all services rendered and all reimbursable costs incurred by Olsson up to the date of termination, in accordance with the payment provisions of this Agreement.

5.2.1 In the event of a "for cause" termination of this Agreement by Client Client has fully satisfied all of its obligations under this Agreement, Olsson shall grant Client a license to use the Work Product pursuant to Section 7.1.

5.3 The Client may terminate this Agreement for the Client's convenience and without cause upon giving Olsson not less than seven (7) calendar days written notice. In the event of any termination that is not the fault of Olsson, the Client shall pay Olsson, as sole compensation, payment for services rendered and reimbursable costs incurred. In no event is Client responsible for Olsson's lost profits or consequential damages under this Agreement.

## **SECTION 6—DISPUTE RESOLUTION**

### **6.1. Mediation**

6.1.1 All questions in dispute under this Agreement shall be submitted to mediation. On the written notice of either party to the other of the election to submit any dispute under this Agreement to mediation, each party shall designate their representatives and shall meet within ten (10) days after the service of the notice. The parties themselves shall then attempt to resolve the dispute within ten (10) days of meeting.

6.1.2 Should the parties themselves be unable to agree on a resolution of the dispute, and then the parties shall appoint a third party who shall be a competent and impartial party and who shall be acceptable to each party, to mediate the dispute. Any third party mediator shall be qualified to evaluate the performance of both of the parties, and shall be familiar with the design and construction progress. The third party shall meet to hear the dispute within ten (10) days of their selection and shall attempt to resolve the dispute within fifteen (15) days of first meeting.

6.1.3 Each party shall pay the fees and expenses of the third party mediator and such costs shall be borne equally by both parties.

### **6.2 Litigation**

6.2.1 Olsson and Client agree that from time to time, there may be conflicts, disputes and/or disagreements between

them, arising out of or relating to the services of Olsson, the Project(s), or this Agreement (hereinafter collectively referred to as "Disputes") which may not be resolved through mediation. Therefore, Olsson and Client agree that all Disputes shall be resolved by litigation. .

6.2.2 Client hereby agrees that Olsson shall have the right to include Client, by consolidation, joinder or other manner, in any litigation involving Olsson and a subconsultant or subcontractor of Olsson or Olsson and any other person or entity, regardless of who originally initiated such proceedings.

6.2.3 Any litigation shall take place in Yukon, Oklahoma.

6.2.4 The prevailing party in any litigation relating to any Dispute shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Dispute.

## **SECTION 7—MISCELLANEOUS**

### **7.1 Reuse of Documents**

All documents, including drawings, specifications, reports, boring logs, maps, field data, data, test results, information, recommendations, or opinions prepared or furnished by Olsson (and Olsson's independent professional associates and consultants) pursuant to this Agreement ("Work Product"), are all Olsson's instruments of service, do not constitute goods or products, and are copyrighted works of Olsson. Olsson shall retain an ownership and property interest in such Work Product whether or not the Project(s) is completed. If Client has made payments as required under this Agreement, Olsson shall grant Client a limited license to use the Work Product and Client may make and retain copies of Work Product for use in connection with the Project(s); however, such Work Product is for the exclusive use and benefit of Client or its agents in connection with the Project(s), are not intended to inform, guide or otherwise influence any other entities or persons with respect to any particular business transactions, and should not be relied upon by any entities or persons other than Client or its agents for any purpose other than the Project(s).

### **7.2 Electronic Files**

By accepting and utilizing any electronic file of any Work Product or other data transmitted by Olsson, the Client agrees for itself, its successors, assigns, insurers and all those claiming under or through it, that by using any of the information contained in the attached electronic file, all users agree to be bound by the following terms. All of the information contained in any electronic file is the work product and instrument of service of Olsson, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights, unless the same have previously been transferred in writing to the Client. The information contained in any electronic file is provided for the convenience to the Client and is provided in "as is" condition. The Client is aware that differences may exist between the electronic files transferred and the printed hard-copy original signed and stamped drawings or reports. In the event of a conflict between the signed original documents prepared by Olsson and the electronic files, which may be transferred, the signed and sealed original documents shall govern. Olsson

specifically disclaims all warranties, expressed or implied, including without limitation, and any warranty of merchantability or fitness for a particular purpose with respect to any electronic files.

### 7.3 Construction Cost Estimate

Since Olsson has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Olsson's Construction Cost Estimate provided for herein is made on the basis of Olsson's experience and qualifications and represent Olsson's best judgment as an experienced and qualified professional engineer, familiar with the construction industry. Client acknowledges and agrees that Olsson cannot and does not guarantee proposals or bids and that actual total Project(s) or construction costs may reasonably vary from Olsson's Construction Cost Estimate. If prior to the bidding or negotiating phase Client wishes greater assurance as to total Project(s) or construction costs, Client may employ an independent cost estimator as provided in paragraph 3.4.3. If Olsson's Construction Cost Estimate was performed in accordance with its standard of care and was reasonable under the total circumstances, any services performed by Olsson to modify the contract documents to bring the construction cost within any limitation established by Client will be considered Optional Additional Services and paid for as such by Client. If, however, Olsson's Construction Cost Estimate was not performed in accordance with its standard of care and was unreasonable under the total circumstances and the lowest negotiated bid for construction of the Project(s) unreasonably exceeds Olsson's Construction Cost Estimate, Olsson shall modify its work as necessary to adjust the Project(s)' size, and/or quality to reasonably comply with the Client's budget at no additional cost to Client. Under such circumstances, Olsson's modification of its work at no cost shall be the limit of Olsson's responsibility with regard to any unreasonable Construction Cost Estimate.

### 7.4 Prevailing Wages

It is Client's responsibility to determine whether the Project(s) is covered under any prevailing wage regulations. Unless Client specifically informs Olsson in writing that the Project(s) is a prevailing wage project and is identified as such in the Scope of Services, Client agrees to reimburse Olsson and to defend, indemnify and hold harmless Olsson from and against any liability, including costs, fines and attorneys' fees, resulting from a subsequent determination that the Project(s) was covered under any prevailing wage regulations.

### 7.5 Samples

All material testing samples shall remain the property of the Client. If appropriate, Olsson shall preserve samples obtained no longer than forty-five (45) days after the issuance of any document that includes the data obtained from those samples. After that date, Olsson may dispose of the samples or return them to Client at Client's cost.

### 7.6 Standard of Care

Olsson will perform its services in a manner consistent with that level of care and skill ordinarily exercised by members of Olsson's profession providing similar services in the same

locality under similar circumstances at the time Olsson's services are performed.

### 7.7 Force Majeure

Any delay in the performance of any of the duties or obligations of either party hereto (except the payment of money) shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused by or is the result of any acts of God, acts of the public enemy, insurrections, riots, embargoes, labor disputes, including strikes, lockouts, job actions, boycotts, fires, explosions, floods, shortages of material or energy, or other unforeseeable causes beyond the control and without the fault or negligence of the party so affected. The affected party shall give prompt notice to the other party of such cause, and shall take promptly whatever reasonable steps are necessary to relieve the effect of such cause. Extension of time is Olsson's sole remedy for delays.

### 7.8 Confidentiality

In performing this Agreement, the parties may disclose to each other written or oral non-public, confidential or proprietary information, including but not limited to, information of a business, planning, marketing or technical nature and models, tools, hardware and software, and any documents, reports, memoranda, notes, files or analyses that contain, summarize or are based upon any proprietary or confidential information (hereafter referred to as the "Information").

7.8.1 Therefore, Olsson and Client agree that the party receiving Information from the other party to this Agreement (the "Receiving Party") shall keep Information confidential and not use the Information in any manner other than in the performance of this Agreement without prior written approval of the party disclosing Information (the "Disclosing Party") unless the release of Information is required by law or legal process.

7.8.2 The existence of discussions between the parties, the purpose of this Agreement, and this Agreement shall be considered Information subject to the confidentiality provisions of this Agreement.

7.8.3 Notwithstanding anything to the contrary herein, the Receiving Party shall have no obligation to preserve the confidentiality of any Information which:

7.8.3.1 was previously known to the Receiving Party free of any obligation to keep it confidential; or

7.8.3.2 is or becomes publicly available by other than unauthorized disclosures; or

7.8.3.3 is independently developed by the Receiving Party without a breach of this Agreement; or

7.8.3.4 is disclosed to third parties by the Disclosing Party without restrictions; or

7.8.3.5 is received from a third party not subject to any confidentiality obligations.

7.8.4 In the event that the Receiving Party is required by law or legal process to disclose any of Information of the Disclosing Party, the Receiving Party required to disclose such Information shall provide the Disclosing Party with prompt oral and written notice, unless notice is prohibited by law (in which case such notice shall be provided as early as may be legally permissible), of any such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy.

7.8.5 Nothing contained in this Agreement shall be construed as altering any rights that the Disclosing Party has in the Information exchanged with or disclosed to the Receiving Party, and upon request, the Receiving Party will return all Information received in tangible form to the Disclosing Party, or at the Receiving Party's option, destroy all such Information. If the Receiving Party exercises its option to destroy the Information, the Receiving Party shall certify such destruction to the Disclosing Party.

7.8.6 The parties acknowledge that disclosure or use of Information in violation of this Agreement could cause irreparable harm for which monetary damages may be difficult to ascertain or constitute an inadequate remedy. Each party therefore agrees that the Disclosing Party shall be entitled in addition to its other rights to seek injunctive relief for any violation of this Agreement.

7.8.7 The obligations of confidentiality set forth herein shall survive termination of this Agreement, but shall only remain in effect for a period of one (1) year from the date the Information is first disclosed.

**7.9 Damage or Injury to Subterranean Structures or Utilities, Hazardous Materials, Pollution and Contamination**

7.9.1 To the extent that work pursuant to this Agreement requires any sampling, boring, excavation, ditching or other disruption of the soil or subsurface at the Site, Olsson shall confer with Client prior to such activity and Client will be responsible for identifying, locating and marking, as necessary, any private subterranean structures or utilities and Olsson shall be responsible for arranging investigation of public subterranean structures or utilities through an appropriate utility one-call provider. Thereafter, Olsson shall take all reasonable precautions to avoid damage or injury to subterranean structures or utilities which were identified by Client or the one-call provider. Olsson shall not be responsible for any damage, liability or costs, for any property damage, injury or economic loss arising or allegedly arising from damages to subterranean structures or utilities caused by subsurface penetrations in locations approved by Client and/or the one call provider or not correctly shown on any plans, drawings or utility clearance provided to Olsson, except for damages caused by the negligence of Olsson.

7.9.2 It is understood and agreed that any assistance Olsson may provide Client in the disposal of waste materials shall not result in Olsson being deemed as a generator, arranger, transporter or disposer of hazardous materials or hazardous waste as defined under any law or regulation. Title to all samples and waste materials remains with Client, and at no time shall Olsson take title to the above material. Client may authorize Olsson to execute Hazardous Waste Manifest, Bill of Lading or other forms as agent of Client. If Client requests Olsson to execute such documents as its agent, the Hazardous

Waste Manifest, Bill of Lading or other similar documents shall be completed in the name of the Client.

7.9.3 At any time, Olsson can request in writing that Client remove samples, cuttings and hazardous substances generated by the Project(s) from the project site or other location. Client shall promptly comply with such request, and pay and be responsible for the removal and lawful disposal of samples, cuttings and hazardous substances, unless other arrangements are mutually agreed upon in writing.

7.9.5 Notwithstanding anything to the contrary contained herein, it is understood and agreed by and between Olsson and Client that the responsibility for pollution and contamination shall be as follows:

**7.10 Controlling Law and Venue**

The parties agree that this Agreement and any legal actions concerning its validity, interpretation or performance shall be governed by the laws of the State of Oklahoma. It is further agreed that any legal action between the parties arising out of this Agreement or the performance of services shall be brought in a court of competent jurisdiction in Oklahoma.

**7.11 Subconsultants**

Olsson may utilize as necessary with Client's prior approval, subconsultants and other subcontractors. Olsson will be paid for all services rendered by its subconsultants and other subconsultants as set forth in this Agreement.

**7.12 Assignment**

7.12.1 Client and Olsson each are hereby bound and the partners, successors, executors, administrators and legal representatives of Client and Olsson (and to the extent permitted by paragraph 7.12.2 the assigns of Client and Olsson) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.12.2 Neither Client nor Olsson shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Olsson from employing such subconsultants and other subcontractors as Olsson may deem appropriate, with Client's approval, to assist in the performance of services under this Agreement.

7.12.3 Client can assign to an affiliate, other government agency, or lender without Olsson's consent. Nothing under this Agreement shall be construed to give any

rights or benefits in this Agreement to anyone other than Client and Olsson, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Olsson and not for the benefit of any other party. There are no third-party beneficiaries of this Agreement.

### **7.13 Indemnity**

Olsson agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to third party personal injury or third party bodily injury, death, property damage and arising from their own negligent acts, errors or omissions in the performance of their services under this Agreement, but only to the extent that Olsson is responsible for such damages, liabilities or costs.

### **7.14 Limitation on Damages**

7.14.1 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither party's individual employees, principals, officers or directors shall be subject to personal liability or damages arising out of or connected in any way to the Project(s) or to this Agreement.

7.14.2 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither Client nor Olsson, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any delay damages, any punitive damages or any incidental, indirect or consequential damages arising out of or connected in any way to the Project(s) or to this Agreement. This mutual waiver of delay damages and consequential damages shall include, but is not limited to, disruptions, accelerations, inefficiencies, increased construction costs, increased home office overhead, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other delay or consequential damages that either party may have incurred from any cause of action including, but not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. Both the Client and Olsson shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project(s).

7.14.3 Notwithstanding any other provision of this Agreement, Client agrees that, to the fullest extent permitted by law, Olsson's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claims expenses of any kind arising from any services provided by or through Olsson under this Agreement, shall be limited to \$2,000,000. This limitation of liability applies to the negligent performance of Olsson's professional services and does not apply to the losses and claims arising out of the gross negligence, willful misconduct or fraud of Olsson or its consultants. This limitation of liability shall apply to all phases of Olsson's services performed in connection with the Project(s), whether subsequent to or prior to the execution of this Agreement.

### **7.15 Insurance**

Olsson will provide:

- (1) Worker's Compensation with statutory limits
- (2) Commercial General Liability with a limit of not less than \$2,000,000, where Client is named, by endorsement, as an additional insured
- (3) Professional Errors and Omissions Liability in an amount not less than \$2,000,000

### **7.16 Entire Agreement**

This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the Client and Olsson.

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