

**CONTRACT DOCUMENTS
AND
SPECIFICATIONS
FOR**

**PROJECT NO. 144628-W, TMUA-W 18-16, SW
2018-03, ES 2019-08 MAINTENANCE ZONE
6028-W TUPELO CREEK DRAINAGE**

ATTENDANCE AT PRE-BID CONFERENCE IS MANDATORY

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CITY OF
Tulsa
A New Kind of Energy™

**PAUL D. ZACHARY, P.E., DIRECTOR
ENGINEERING SERVICES DEPARTMENT**

Account Numbers: 144628.Streets.5453104.6331.42733122-541106

Engineering Services Department
2317 South Jackson Avenue
Tulsa, Oklahoma 74107
(918) 596-9565

CONTRACT DOCUMENTS

PROJECT NO. 144628-W, TMUA-W 18-16, SW 2018-03, ES 2019-08
MAINTENANCE ZONE 6028-w TUPELO CREEK DRAINAGE

ENGINEERING SERVICES DEPARTMENT

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OKLAHOMA DEPARTMENT OF TRANSPORTATION STANDARD
SPECIFICATIONS FOR HIGHWAY CONSTRUCTION, 2019 EDITION.

CITY OF TULSA ENGINEERING SERVICES CONSTRUCTION
SPECIFICATIONS – OCTOBER 2013

SPECIAL PROVISIONS

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1-25
(green sheets)

Published in the Tulsa World and The Oklahoma Eagle:
June 3, 6, 7, 8, 9 and 10, 2022

**NOTICE TO BIDDERS
SEALED BIDS FOR
PROJECT NO. 144628-W, TMUA-W 18-16,
SW 2018-03, ES 2019-08**

Notice is hereby given that pursuant to an order by the Mayor of the City of Tulsa, Oklahoma, sealed bids will be received in Room 260 of the Office of the City Clerk, City of Tulsa, 175 E. 2nd Street, Tulsa, Oklahoma 74103 until 8:30 a.m. the **1st day of July, 2022** for furnishing all tools, materials and labor and performing the work necessary to be done in the construction of the following:

**PROJECT NO. 144628-W, TMUA-W 18-16, SW 2018-03,
ES 2019-08 MZ 6048-W Tupelo Creek Drainage**

The entire cost of the improvement shall be paid from
Account No. 144628.Streets.5453104.6331.42733122-
541106

A **MANDATORY** Pre-Bid Conference is scheduled for **Tuesday, June 14, 2022 at 9:30 a.m.** and will be held through video conferencing with Microsoft Teams, invitation presented on the City of Tulsa's website at this link:

<https://www.cityoftulsa.org/government/departments/engineering-services/construction-bids/>

Attendance at the Pre-Bid Conference is MANDATORY. Bids will not be received from contractors who did not attend the Pre-Bid Conference.

Bids will be accepted by the City Clerk from the holders of valid pre-qualifications certificates from the City of Tulsa in one or more of the following classifications: **A or D**

Drawings, specifications and contract documents for construction of said public improvements of the said project have been adopted by the Mayor of said City. Copies of same may be obtained at the Office of the Director of Engineering Services at the City of Tulsa Engineering Services, 2317 South Jackson, Room 103, North Building, for a non-refundable fee in the amount of **\$50.00** made payable to the City of Tulsa by check or money order.

Contract requirements shall include compliance as required by law pertaining to the practice of non-discrimination in employment.

The overall aspirational Disadvantage Business Enterprise utilization goal for this project is **ten (10)** percent.

Attention is called to Resolution No. 18145 of August 23, 1988, requiring bidders to commit to the goal of employing on the project at least fifty percent bona fide residents of the City of Tulsa and/or MSA in each employment classification.

Attention is called to Resolution 7404 of November 8, 2006, requiring bidders, their subcontractors and their lower-tier subcontractors to hire only citizens of the United States.

The City of Tulsa itself is exempt from the payment of any sales or use taxes, and pursuant to Title 68 O.S. Section 1356(10), direct vendors to the City are also exempt from those taxes. A bidder may exclude from his bid appropriate sales taxes, which he will not have to pay while acting for and on behalf of the City of Tulsa.

A Certified or Cashier's Check or Bidders Surety Bond, in the sum of 5% of the amount of the bid will be required from each bidder to be retained as liquidated damages in the event the successful bidder fails, neglects or refuses to enter into said contract for the construction of said public improvements for said project and furnish the necessary bonds within thirty days from and after the date the award is made.

The bidder to whom a contract is awarded will be required to furnish public liability and workmen's compensation insurance; Performance, Statutory, and Maintenance bonds acceptable to the City of Tulsa, in conformity with the requirements of the proposed contract documents. The Performance, Statutory, and Maintenance bonds shall be for one hundred percent (100%) of the contract price.

All bids will be opened and considered by the Bid Committee of said City at a meeting of said Committee to be held in the City Council Room of City Hall in said City at 9:00 a.m. on the **1st day of July 2022**.

Dated at Tulsa, Oklahoma, this **3rd day of June 2022**.

(SEAL)

Christina Chappell
City Clerk

INSTRUCTIONS TO BIDDERS

B-1. BIDS

Each bid Proposal shall be completed electronically on the electronic media provided, then printed, signed and submitted along with the electronic media and the complete bound copy of the contract documents. In the event of a discrepancy between the pricing on the electronic media and hard copy of a Proposal, the hard copy pricing will govern. If electronic media is not provided and the bid Proposal is manual, the bid Proposal shall be submitted in ink. The written words shall govern over the figures if there is a difference between the two. No alterations, additions, or erasures shall be made on the Proposal. Erroneous entries shall be lined out, initialed by the bidder, and the correct entry inserted. The unit price bid must cover all expense for furnishing the labor, materials, tools, equipment, and apparatus of every description to construct, erect, and furnish all work required by and in conformance with the Drawings and Specifications.

Each bid shall be enclosed in a sealed envelope addressed to the City of Tulsa, 175 E. 2nd Street, Room 260, City Hall, Tulsa, Oklahoma, identified on the outside with the words:

**PROJECT NO. 144628-W, TMUA-W 18-16, SW 2018-03, ES 2019-08
MAINTENANCE ZONE 6028-W TUPELO CREEK DRAINAGE**

Pre-qualification Certificate Number _____.

And shall be filed with the City Clerk in Room 260, City Hall.

All addenda to the contract documents, properly signed by the bidder, shall accompany the bid when submitted.

B-2. BID SECURITY

Each bid shall be accompanied by a cashier's check, a certified check, or bidder's bond, in the amount of five percent (5%) of the total amount bid.

The bid security shall be made payable, without condition, to the City of Tulsa, Oklahoma. The bid security may be retained by and shall be forfeited to the City as liquidated damages if the bid is accepted, a contract based thereon is awarded, and the bidder fails to enter into a contract in the form prescribed, with legally responsible sureties, within thirty (30) days after such award is made by the City.

B-3 RETURN OF BID SECURITY

The bid security of each unsuccessful bidder will be returned when his bid is rejected. The bid security of the bidder to whom the contract is awarded will be returned when he executes a contract and files satisfactory bonds. The bid

security of the second lowest responsible bidder may be retained for a period of time not to exceed sixty (60) days pending the execution of the contract and bonds by the successful bidder.

B-4 WITHDRAWAL OF BIDS

No bidder may withdraw his bid for sixty (60) days after the date and hour set for the opening. A bidder may withdraw his bid any time prior to expiration of the period during which bids may be submitted by making a written request signed in the same manner and by the same person who signed the Proposal.

B-5 REJECTION OF BIDS

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

The City of Tulsa reserves the right to reject any and all bids when such rejection is in the best interest of the City of Tulsa. All bids are received subject to this stipulation and the City reserves the right to decide which bidder shall be deemed lowest responsible bidder.

A violation of any of the following provisions by the bidder shall be sufficient reason for rejecting his bid, or shall make any contract between the City of Tulsa and the Contractor that is based on his bid, null and void: divulging the information in said bid before the bids have been opened; submission of a bid which is incomplete, unbalanced, obscure, incorrect, or which has conditional clauses, additions, or irregularities of any kind not in the original proposal form, or which is not in compliance with the Instruction to Bidders and published Notice to Bidders, or which is made in collusion with another bidder. The City shall have the right to waive any immaterial defects or irregularities in any bid received.

B-6 DISQUALIFICATION OF BIDDERS

No contract will be awarded to any person or persons, firm, partnership, company, or corporation which is in arrears to the City upon any debt of contract, or in default as surety or otherwise upon any obligation to the City.

B-7 SIGNATURE OF BIDDERS

Each bid shall be properly signed with the full name of the company or individual submitting the bid, the bidder's address, and the name and title of all persons signing printed below their signature lines. Bids by partnerships shall be signed with the partnership name followed by the signature and title of one of the partners. Bids by corporations shall be signed with the name of the corporation followed by the signature and title of the president, vice president, chairman, or vice chairman of the Board of Directors with attestation by the corporate secretary or assistant corporate secretary. **Resolution must be dated no more than 30 days prior to date of signature of the contract/ bond etc.** Bids by

joint ventures shall be signed by each participant in the joint venture. Bids by limited liability companies shall be signed with the name of the limited liability company followed by the signature and title of the Manager or Managing Member. Bid by limited partnerships shall be signed with the name of the limited partnership followed by the signature of the general partner. Note: The signature requirements listed above are for Oklahoma entities; entities organized in other states must follow the law of the state in which they are organized.

A bid by a person who affixes to his signature the word "President", "Manager", "General Partner", "Agent", or other title, without disclosing the name of the company for which he is signing, may be held to be the bid of the individual signing.

B-8 INTERPRETATION OF CONTRACT DOCUMENTS

If any person who contemplates submitting a bid is in doubt as to the true meaning of any part of the drawing, specifications, or other proposed contract documents, he may submit to the Engineer a written request for interpretation thereof. The person submitting the request shall be responsible for its prompt delivery. Interpretation of the proposed contract documents will be made only by addendum. A copy of each addendum will be mailed or delivered to each person obtaining a set of contract documents from the Engineer. The City will not be responsible for any other explanations or interpretations of the proposed contract documents.

B-9 LOCAL CONDITIONS AFFECTING WORK

Each bidder shall visit the site of the work and shall completely inform himself relative to construction hazards and procedure, labor, and all other conditions and factors, local and otherwise, which would affect prosecution and completion of the work and its cost. Such considerations shall include the arrangement and condition of existing structures and facilities, the procedure necessary for maintenance of uninterrupted operation of existing structures and facilities, the availability and cost for labor, and facilities for transportation, handling, and storage of materials and equipment. All such factors shall be properly investigated and considered in the preparation of the bid. There will be no subsequent financial adjustment for lack of such prior information.

B-10 TIME OF COMPLETION

The time of completion is an essential part of the contract and it will be necessary for each bidder to satisfy the City of his ability to complete the work within the allowable time set forth in the Bid Form. In this connection, attention is directed to the provisions of the General Conditions and Special Conditions relative to delays, extension of time, and liquidated damages.

B-11 QUALIFICATION OF BIDDERS

No bid will be received and filed by the City Clerk of the City of Tulsa unless the person submitting the bid has been pre-qualified as provided by ordinance, and is the holder of a current certificate of Pre-qualification in force and effect on the date such bid is to be submitted and filed.

B-12 TAXES AND PERMITS

Attention is directed to the requirements of the General Conditions regarding payment of taxes and obtaining permits. Contractor shall comply with all zoning ordinances of the City, as provided in the Tulsa Zoning Code, Title 42 Tulsa Revised Ordinances and conform with all zoning requirements established by the Tulsa Metropolitan Area Planning Commission and the Board of Adjustment. Contractor can call the Indian Nations Council of Governments (INCOG) at (918) 584-7526, to determine if any zoning requirements must be met.

B-13 OKLAHOMA LEGAL REQUIREMENTS

The Contractor must comply with the Oklahoma Scaffolding Law, 40 Oklahoma Statutes, Sections 174 - 177, which cover erection and use of scaffolds, hoists, cranes, stays, ladders, supports, or other mechanical contrivances.

In accordance with Oklahoma Statutes, Title 68, Section 1701-1707, before commencing any work pursuant to this contract, any nonresident contractor shall give written notice by certified mail, return receipt requested, to the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the Workers Compensation Court, and the county assessor of each county in which work will be performed. The notices shall comply with the requirements set forth in said statute.

B-14 BONDS

The bidder to whom a contract is awarded will be required to furnish bonds as follows:

- a. Performance Bond – A Performance Bond to the City in an amount equal to one hundred percent (100%) of the Contract price.
- b. Statutory Bond – A Statutory Bond to the State of Oklahoma in an amount equal to one hundred percent (100%) of the contract price.
- c. Maintenance Bond – A Maintenance Bond to the City in an amount equal to one hundred percent (100%) of the contract price.

The bonds shall be executed on the forms included in the contract documents by a surety company authorized to do business in the State of Oklahoma and acceptable as Surety to the City of Tulsa.

Accompanying the bonds shall be a "Power-of-Attorney" authorizing the attorney-in-fact to bind the Surety Company and certified to include the dates of the bonds.

B-15 BOUND COPY OF CONTRACT DOCUMENTS

The Bid Form or other pages shall not be removed from the bound copy of contract documents. The copy of contract documents filed with each bid shall be complete and shall include all items in the Table of Contents and all addenda.

B-16 EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

Each bidder agrees to comply with the terms of Title 5, Chapter 1, Section 111, of the Tulsa Revised Ordinances relating to Non-Discrimination.

B-17 BASIS FOR AWARD OF CONTRACT

The basis for award of a contract shall be the total base bid submitted by the lowest responsible bidder unless otherwise directed in the form of proposal. The City of Tulsa reserves the right to withhold the awarding of a contract for a reasonable period of time from the date of opening of bids. The awarding of a contract upon a successful bid shall give the bidder no right or action or claim against the City of Tulsa upon such contract until the same shall have been reduced to writing and duly signed by the contracting parties. The award of a contract will not be completed until the contract is duly executed and the necessary bonds and insurance approved.

B-18 TIME FOR AWARDING OF CONTRACT

The awarding of a contract to the lowest responsible bidder will be made within thirty (30) days after the opening of bids unless the City of Tulsa by formal recorded action and for good cause shown, provides for a reasonable extension to that period, which extension period shall not in any event exceed fifteen (15) days where only state or local funds are involved, or not to exceed ninety (90) days on any award of contract for the construction of public improvements where funds are utilized which are furnished by an agency of the federal government.

B-19 SAFETY AND HEALTH REGULATIONS

Bidders should note that they are subject to "Safety and Health Regulations for Construction", Chapter XVII of Title 29, CFR, Part 1926 and that compliance, review and enforcement are the responsibility of the U.S. Department of Labor.

The Contractor is fully responsible for the safety of the work site and is expected to train their employees in all applicable safety issues. This should include but not be limited to: trench safety, confined space entry, head protection, etc. In accordance with construction contracts with the City, Authority, Board, or Commission, all applicable Labor and OSHA safety regulations must be followed.

Work sites must be monitored by the Contractor and safety provisions enforced. Contractors are asked to ensure that all employees are properly informed and trained in construction, work site safety.

B-20 VENDORS AND SUBCONTRACTOR IDENTIFICATION

Where Vendor and Subcontractor Identification Questionnaires are included in the bid documents, each bidder shall submit the Questionnaire directly to the Engineer no later than 5:00 p.m. on the first working day following the bid opening. Failure to submit the questionnaire may render the bid unresponsive and not eligible for award. The award of the Contract will be subject to the acceptability of the vendors and subcontractors listed. If an award is made, the vendors and subcontractors listed on the questionnaire shall be used on the project. No changes in the vendor and subcontractor list will be permitted unless prior consent is obtained from the Engineer.

B-21 U.S. ENVIRONMENTAL PROTECTION AGENCY NPDES REQUIREMENTS FOR STORMWATER DISCHARGES

The bidder's attention is directed to U.S. Environmental Protection Agency (EPA) NPDES requirements for stormwater discharges. The Contractor shall be responsible for filing a Notice of Intent and development and implementation of a Stormwater Pollution Prevention Plan (PPP).

B-22 AMERICANS WITH DISABILITIES ACT

The Contractor shall take the necessary actions to ensure its facilities are in compliance with the requirements of the Americans with Disabilities Act (ADA). It is understood that the program of the Contractor is not a program or activity of the City of Tulsa. The Contractor agrees that its program or activity will comply with the requirements of the ADA. Any costs of such compliance will be the responsibility of the Contractor. Under no circumstances will the Contractor conduct any activity, which it deems non-compliant with the ADA.

RESOLUTION NO. 18145

A RESOLUTION REQUIRING THE INCLUSION IN PLANS AND SPECIFICATIONS FOR PUBLIC IMPROVEMENT CONTRACTS OF PROVISIONS PROVIDING FOR THE EMPLOYMENT OF BONA FIDE RESIDENTS OF THE CITY OF TULSA; AND/OR THE MSA; ALSO PROVIDING THAT AT LEAST OF FIFTY PERCENT (50%) OF EACH CLASS OF EMPLOYEES USED ON A PROJECT BE BONA FIDE RESIDENTS OF THE CITY OF TULSA AND/OR THE MSA; THAT THE DIRECTOR OF THE DEPARTMENT OF HUMAN RIGHTS IS CHARGED WITH ENSURING THAT ALL BIDS FOR PUBLIC CONSTRUCTION CONTRACTS COMPLY WITH THIS RESOLUTION; AND DECLARING AN EMERGENCY.

WHEREAS, City of Tulsa, Oklahoma, desires to achieve a goal of full employment.

WHEREAS, it is necessary for the protection of the health, safety and welfare of all residents of the City of Tulsa, Oklahoma, to accomplish this goal.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TULSA, OKLAHOMA:

SECTION 1. The City of Tulsa is committed to the policy of achieving full employment of its citizens by encouraging the employment of bona fide Tulsa and MSA residents in public improvement contracts.

SECTION 2. Definitions. The definitions of certain terms used in this resolution are as follows:

- a. "Bidding Documents" or "Bid" means the bid notice, plans and specifications, bidding form, bidding instructions, special provisions and all other written instruments prepared by or on behalf of an awarding public agency for use by prospective bidders on a public construction contract.
- b. (i) "Bona Fide Residents" shall include only those persons who are either registered to vote in the City of Tulsa or who have resided within the city limits for at least six months, or who have purchased a permanent residence within the city limits or who have leased a residence for at least a six month term. Residency may be further determined by a valid Oklahoma driver's license, a current Oklahoma license tag, and a valid Oklahoma automobile inspection sticker. (ii) Bona fide residents of MSA shall include only those persons who are registered to vote in outlying MSA areas or who have resided within the outlying MSA area for at least six months, or who have purchased a permanent residence within the outlying MSA areas or who have leased a residence for at least a six month term. Residency may be further determined by a valid Oklahoma driver's license, a current Oklahoma license tag, and a valid Oklahoma automobile inspection sticker.
- c. "Public Construction Contract" or "Contract" means any contract exceeding Seven Thousand Five Hundred Dollars (\$7,500.00) in amount, awarded by the City of Tulsa for the purpose of making any public improvements or constructing any public building or making repairs to the same.
- d. "Public Improvement" means any beneficial or valuable change or addition, betterment, enhancement or amelioration of or upon any real property, or interest therein, belonging to the City of Tulsa, intended to enhance its value, beauty or utility or to adapt it to new or further purposes. The term does not include the direct purchase of materials, equipment or supplies by the City of Tulsa.

CITY OF TULSA
FILED
AUG 23 1988
J.M. P.H.
Office Of City Auditor
By _____

e. "MSA". All of the land areas composed of Creek County, Osage County, Rogers County, Tulsa County and Wagoner County.

SECTION 3. Residency Requirements of Contractor's Employees. Every employee and/or agent of the City of Tulsa, Oklahoma, charged or involved with the preparation of plans and specifications for any public improvement funded in whole or in part with funds of the City of Tulsa, is hereby charged to include in said plans and specifications the following provisions which shall be binding upon the successful bidders:

- a. Each bid shall be accompanied by a sworn statement that the bidder is committed to the goal of employing at least 50% bona fide residents of the City of Tulsa and/or the MSA in each classification as determined by the Oklahoma Commissioner of Labor.
- b. The successful bidder will be responsible for having like requirements placed upon any subcontractor.
- c. The successful bidder will submit to the Director or his designated representative of the Department of Human Rights any compliance reports involving the bidder and its subcontractors required by Title 31, Chapter 1, Section 9, of the Tulsa Revised Ordinances. The reports shall include information about the residence of each employee in each laboring and trade class applicable to any City project.

SECTION 4. Unresponsive Bids. The failure to submit the documents required by Section 3 shall render a bid unresponsive. Said documents must be submitted prior to the opening of the bids. The Director of the Department of Human Rights Section of City Development is charged with ensuring that all bids comply with Section 3 prior to the bid opening date.

SECTION 5. Duty of Employees and/or Agents of the City of Tulsa. Any employee and/or agent of the City of Tulsa who fails to include the goals for residency requirements found in Section 3 in the plans and specifications for any public improvement may be subject to disciplinary action, including dismissal.

SECTION 6. Severability. The invalidity of any section, subsection, provision or clause or portion of this chapter, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this chapter or the validity of its application to other persons or circumstances.

SECTION 7. Effect Date. This resolution shall take effect as of July 1, 1988.

SECTION 8. Emergency Clause. That an emergency exists for the preservation of the public peace, health and safety, by reason whereof this resolution shall take effect immediately upon its passage, approval and publication.

PASSED, with the emergency clause ruled upon separately and approved this 23rd day of August, 1988.

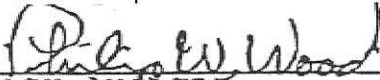
APPROVED, this 23rd day of August, 1988.

Rodger Randle



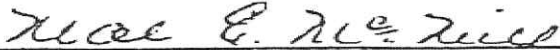
Mayor

ATTEST: Philip W. Wood



City Auditor

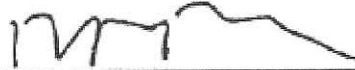
APPROVED: Neal E. McNeil



City Attorney

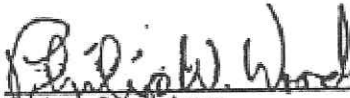
PASSED, with the emergency clause ruled upon
separately and approved this 23 day of August, 1988.

- APPROVED, this 23 day of August, 1988.



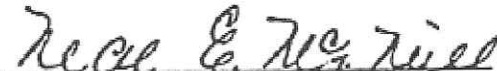
Mayor

ATTEST:



City Auditor

APPROVED:



City Attorney

CITY OF YOLAK
FILED

AUG 23 1988

Office Of City Auditor

By _____

(Must be submitted at time of Bid)
CITY OF TULSA
RESOLUTION NO. 7404
AFFIDAVIT OF COMPLIANCE

_____, of lawful age, being first duly sworn, states that s(he) is the authorized agent of the Company set forth below.

Affiant further states that the Company, in compliance with City of Tulsa Resolution No. 7404, shall not hire or knowingly allow any of its subcontractors or lower tier subcontractors to hire anyone who is not a United States citizen or legal immigrant or anyone who does not have legal status as a temporary worker to perform work on any project which is the subject of a contract between the Company and the City of Tulsa.

Affiant further states that the Company shall not fail to comply with and shall not knowingly allow any of its subcontractors or lower tier subcontractors to fail to comply with all applicable laws including, but not limited to, labor, employment and taxation laws, in the performance of any work on any project which is the subject of a contract between the Company and the City of Tulsa.

Affiant further states that the Company shall make available to the City of Tulsa, at the City's request, sufficient information and/or affirmations to allow the City to confirm Company's compliance with Resolution No. 7404 relating to the performance of any contract between the Company and the City of Tulsa.

Company: _____

Signed: _____

Title

SUBSCRIBED and SWORN to before me, this ____ day of _____, 20__.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

COMMISSION NO.:

Resolution No. 7404
RAC-1

(Must be submitted at time of Bid)
CITY OF TULSA
50% RESIDENT RESOLUTION
AFFIDAVIT FOR BID

STATE OF)
) ss:
COUNTY OF)

_____, of lawful age, being first duly sworn, states that s(he) is the agent authorized by the bidder to submit the attached bid. Affiant further states that the bidder, in compliance with City of Tulsa Resolution No. 18145, is committed to the goal of employing at least 50% bona fide residents of the City of Tulsa and/or the Metropolitan Statistical Area (composed of Creek, Okmulgee, Osage, Pawnee, Rogers, Tulsa, and Wagoner counties).

Affiant further states that bidder is responsible for having like requirements placed upon any of its subcontractors.

BIDDER (Company Name)

SIGNED

Title

SUBSCRIBED and SWORN to before me this ____ day of _____, 20____.

NOTARY PUBLIC

MY COMISSION EXPIRES:

COMMISSION NO.:

(Must be submitted at time of bid)
NON-COLLUSION AFFIDAVIT

STATE OF)
) ss:
 COUNTY OF)

_____, of lawful age, being first duly sworn, says that:

1. I am the duly authorized agent of the bidder submitting the competitive bid associated with this sworn statement for the purpose of certifying facts pertaining to the existence of collusion among bidders and between bidders and municipal officers or employees, as well as facts pertaining to the giving or offering of things of value to governmental personnel in return for special consideration in the letting of any contract pursuant to the bid;
2. I am fully aware of the facts and circumstances surrounding the making of the bid and have been personally and directly involved in the proceedings leading to the submission of such bid;
3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
 - a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding;
 - b. to any collusion with any municipal official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract; nor
 - c. in any discussions between bidders and any municipal official concerning exchange of money or other things of value for special consideration in the letting of a contract.
4. If awarded the contract, neither the bidder nor anyone subject to the bidder's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the City of Tulsa or of any public trust where the City of Tulsa is a beneficiary, any money or other thing of value, either directly or indirectly, in procuring the contract for which the bid is submitted.

 BIDDER (Company Name)

 Signed

 Title

SUBSCRIBED and SWORN to before me this _____ day of _____, 20__.

 NOTARY PUBLIC

MY COMMISSION EXPIRES:

_____, _____.
 COMMISSION NO.:

(Must be submitted at time of bid)
BUSINESS RELATIONSHIP AFFIDAVIT

STATE OF)
) ss:
 COUNTY OF)

_____, of lawful age, being first duly sworn, says that s(he) is the agent authorized by the bidder to submit the attached bid. Affiant further states that the nature of any partnership, joint venture or other business relationship presently in effect or which existed within one (1) year prior to the date of this statement with the architect, engineer, or other party to the project is as follows:

Affiant further states that any such business relationship presently in effect or which existed within one (1) year prior to the date of this statement between any officer or director of the bidding company and any officer or director of the architectural or engineering firm or other party to the project is as follows:

Affiant further states that the names of all persons having any such business relationships and the positions they hold with their respective companies or firms are as follows:

(If none of the business relationships herein above mentioned exist, affiant should so state.)

Signed: _____

 BIDDER (Company Name)

 Title:

SUBSCRIBED and SWORN to before me this _____ day of _____, 20__.

 NOTARY PUBLIC

MY COMMISSION EXPIRES:

_____, _____
 COMMISSION NO.:

ELECTRONIC BID PROPOSAL INSTRUCTIONS - EXCEL SPREADSHEET
PROJECT NO. 144628-W, TMUA-W 18-16, SW 2018-03, ES 2019-08
MAINTENANCE ZONE 6028-W TUPELO CREEK DRAINAGE CONSTRUCTION PACKAGE 1

Please read the following instructions carefully.

1. After opening this file re-save it as your company's name.
2. Open the BID FORM Sheet from the tabs below.
3. Input the unit price of the appropriate pay item in the cells highlighted in blue.
4. Review all data input and check calculations to ensure accuracy of Bid.
5. Print 1hardcopy of the "PROPOSAL" tab, BID FORM and the "SIGNATURE PAGE" tab.
6. Complete and sign the "Signature Page" document.
6. Submit hardcopy and electronic disk with Contract Documents and Specifications for Bid opening date.

LEGEND

- \$ 1.00 Cells Requiring Data Input.
- \$ 1.00 Internal Data Transfer.
- \$ 2.00 Calculated Results.

AGREEMENT FOR USING ELECTRONIC BID PROPOSAL

By and Between: Meshek & Associates, LLC, (ENGINEER) and RECIPIENT. The enclosed electronic media is provided pursuant to your request and is for your limited use in connection with your submittal of Bid Proposal for Project No. 144628-W. In no event shall the information be used for any other purpose or be released to third parties without the written consent of the ENGINEER. In the event of a discrepancy between the hard copy and this electronic media at delivery or in the future, the hard copy shall govern. ENGINEER hereby disclaims any and all liability for the consequences from use of the electronic media and makes no warranty or guarantee of accuracy. RECIPIENT shall assume full responsibility for the uses and consequences of the electronic media. It is agreed that ENGINEER has and retains ownership of the electronic media. ENGINEER does not warrant or guarantee that the electronic data is compatible with RECIPIENT'S computer hardware or software, and ENGINEER'S responsibility for the electronic media is limited to replacement of defective media for a period of thirty (30) days after delivery to RECIPIENT !!! By opening and using this FILE, You AGREE to these TERMS AND CONDITIONS!!!

PROPOSAL
PROJECT NO: 144628-W, TMUA-W 18-16, SW 2018-03, ES 2019-08
MAINTENANCE ZONE 6028-W TUPELO CREEK DRAINAGE CONSTRUCTION PACKAGE 1

TO: HONORABLE MAYOR
CITY OF TULSA, OKLAHOMA

THE UNDERSIGNED BIDDER, having carefully examined the drawings, specifications, and other Contract Documents of the above project presently on file in the City Clerk, City of Tulsa Oklahoma:

CERTIFIES THAT he has inspected the site of the proposed work and has full knowledge of the extent and character of the work involved, construction difficulties that may be encountered, and materials necessary for construction, class and type of excavation, and all other factors affecting or which may be affected by the specified work; and

CERTIFIES THAT he has not entered into collusion with any other bidder or prospective bidder relative to the project and/or bid: and

HEREBY PROPOSES: to enter into a contract to provide all necessary labor, materials, equipment and tools to completely construct and finish all the work required by the Contract Documents hereto attached and other documents referred to therein: to complete said work within 660 calendar days after the work order is issued; and to accept in full payment therefore the amount set forth below for all work actually performed as computed by the Engineer as set forth in the Contract.

Basis of Award

IT SHOULD BE NOTED THAT THE LOWEST RESPONSIBLE TOTAL BID SHALL BE DETERMINED BY THE FEMA - PARTICIPATING TRANSPORTATION & STORMWATER BASE BID WITH THE LOWEST DRAINAGE OPTION, THE NON - PARTICIPATING TRANSPORTATION & STORMWATER BASE BID, THE NON - PARTICIPATING WATERLINE BASE BID WITH THE LOWEST OF THE THREE WATERLINE MATERIAL OPTIONS, AND THE NON - PARTICIPATING SANITARY SEWER BASE BID.

ANY PROPOSAL SUBMITTED WITH WATERLINE MATERIAL OPTIONS INCOMPLETE SHALL BE CONSIDERED NON-RESPONSIVE. THE CITY OF TULSA RESERVES THE RIGHT TO SELECT ANY WATERLINE MATERIAL OPTION IN THE EVENT THE BID COSTS OF THE WATERLINE MATERIAL OPTIONS ARE EQUAL.

PROPOSAL						
PROJECT NO. 144628-W, TMUA-W 18-16, SW 2018-03, ES 2019-08						
MAINTENANCE ZONE 6028-W TUPELO CREEK DRAINAGE CONSTRUCTION PACKAGE 1						
FEMA - PARTICIPATING						
FEMA - PARTICIPATING TRANSPORTATION AND STORMWATER PAY ITEMS						
ITEM NO.	SPEC NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL EACH ITEM
1	201(A)	CLEARING AND GRUBBING	ACRE	1		\$0.00
2	202(A)	UNCLASSIFIED EXCAVATION	CY	17308		\$0.00
3	202(C)	ROCK EXCAVATION	CY	912		\$0.00
4	205(A)	TYPE A-SALVAGED TOPSOIL	CY	1150		\$0.00
5	220	SWPPP DOCUMENTATION AND MANAGEMENT	LS	1		\$0.00
6	221(C)	TEMPORARY SILT FENCE	LF	519		\$0.00
7	221(F)	TEMPORARY SILT DIKE	LF	459		\$0.00
8	230(A)	SOLID SLAB SODDING (LIKE-KIND)	SY	8276		\$0.00
9	240(A)	REMOVING TREES 6" TO 12" IN DIAMETER	EA	82		\$0.00
10	240(A)	REMOVING TREES 13" TO 18" IN DIAMETER	EA	22		\$0.00
11	240(A)	REMOVING TREES 19" TO 24" IN DIAMETER	EA	21		\$0.00
12	240(A)	REMOVING TREES 25" & MORE IN DIAMETER	EA	9		\$0.00
13	303(A)	AGGREGATE BASE TYPE A	CY	7207		\$0.00
14	310(B)	SUBGRADE, METHOD B	SY	3049		\$0.00
15	325	SEPARATOR FABRIC	SY	11935		\$0.00
16	326(B)	GEOGRID REINFORCEMENT	SY	2754		\$0.00
17	411(B)	SUPERPAVE, TYPE S3 (PG 64-22 OK)	TON	1190		\$0.00
18	411(C)	SUPERPAVE, TYPE S4 (PG 64-22 OK)	TON	476		\$0.00
19	414(A)	(SP) P.C. CONCRETE FOR PAVEMENT (PLACEMENT)	SY	246		\$0.00
20	414(G)	P.C. CONCRETE FOR PAVEMENT	CY	27		\$0.00
21	501(A)	STRUCTURAL EXCAVATION UNCLASSIFIED	CY	1420		\$0.00
22	501(F)	GRANULAR BACKFILL (#57 CRUSHED STONE)	CY	401		\$0.00
23	508	PRECAST 8'X5' RCB	LF	750		\$0.00
24	508	PRECAST 10'X6' RCB	LF	1082		\$0.00
25	509(A)	CLASS AA CONCRETE	CY	817		\$0.00
26	509(B)	CLASS A CONCRETE	CY	469		\$0.00
27	509(D)	CLASS C CONCRETE	CY	15		\$0.00
28	511(A)	REINFORCING STEEL	LB	180834		\$0.00
29	609(B)	COMBINED CURB AND GUTTER (6" - BARRIER)	LF	2050		\$0.00
30	610(A)	4" CONCRETE SIDEWALK	SY	151		\$0.00
31	610(B)	6" H.E.S. CONCRETE DRIVEWAY	SY	723		\$0.00
32	610(I)	(PL) TACTILE WARNING DEVICE-NEW	SF	20		\$0.00
33	611(G)	INLET CI DES. 2, COMPLETE IN PLACE	EA	1		\$0.00
34	611(G)	INLET CI DES. 2(B) W/ACCESS MANHOLE, COMPLETE IN PLACE	EA	1		\$0.00
35	611(G)	INLET CI DES. 4, COMPLETE IN PLACE	EA	1		\$0.00
36	611(G)	INLET CI DES. 4(B), COMPLETE IN PLACE	EA	1		\$0.00
37	611(G)	INLET CI DES. 4(B) W/ACCESS MANHOLE, COMPLETE IN PLACE	EA	1		\$0.00
38	611(G)	INLET CI DES. 5, COMPLETE IN PLACE	EA	1		\$0.00
39	611(G)	INLET CI DES. 5(B), COMPLETE IN PLACE	EA	1		\$0.00
40	611(G)	INLET CI DES. 5(H) W/ ACCESS MANHOLE, COMPLETE IN PLACE	EA	1		\$0.00
41	611(H)	ADD'L DEPTH IN INLET CI DES. 2	VF	1		\$0.00
42	611(H)	ADD'L DEPTH IN INLET CI DES. 4	VF	1		\$0.00
43	611(H)	ADD'L DEPTH IN INLET CI DES. 5	VF	3		\$0.00
44	611(H)	ADD'L DEPTH IN INLET CI DES. 4 W/ ACCESS MANHOLE	VF	1		\$0.00
45	611(H)	ADD'L DEPTH IN INLET CI DES. 5 W/ ACCESS MANHOLE	VF	3		\$0.00
46	613(A)	18" R.C. PIPE CLASS III (RCP) W/ OMNIFLEX GASKETS, COMPLETE IN PLACE	LF	49		\$0.00
47	613(A)	36" R.C. PIPE CLASS III (RCP) W/ OMNIFLEX GASKETS, COMPLETE IN PLACE	LF	4		\$0.00
48	613(A)	18" STORM PIPE, COMPLETE IN PLACE	LF	80		\$0.00
49	613(A)	30" STORM PIPE, COMPLETE IN PLACE	LF	24		\$0.00
50	613(J)	EDGE DRAIN CONDUIT-PERFORATED	LF	2583		\$0.00
51	619(A)	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	EA	1		\$0.00
52	619(B)	REMOVAL OF DRAINAGE INLETS	EA	7		\$0.00
53	619(B)	REMOVAL OF MANHOLES	EA	3		\$0.00
54	619(B)	REMOVAL OF EXISTING 66" RCP	LF	74		\$0.00
55	619(B)	REMOVAL OF EXISTING PIPE	LF	399		\$0.00
56	619(B)	REMOVAL OF EXISTING CONCRETE CHANNEL	SY	943		\$0.00
57	619(B)	REMOVAL OF ASPHALT PAVEMENT	SY	4440		\$0.00
58	619(B)	REMOVAL OF CONCRETE PAVEMENT	SY	146		\$0.00
59	619(B)	REMOVAL OF CURB AND GUTTER	LF	2089		\$0.00
60	619(B)	REMOVAL OF SIDEWALK	SY	87		\$0.00
61	619(B)	REMOVAL OF CONCRETE DRIVEWAY	SY	1075		\$0.00
62	619(B)	REMOVAL OF FENCE	LF	2042		\$0.00
63	619(C)	SAWCUT PAVEMENT	LF	415		\$0.00
64	624	(PL) WOOD PRIVACY FENCE	LF	374		\$0.00

65	624(E)	FENCE-STYLE CLF (4' HIGH, CLASS A)	LF	207		\$0.00
66	624(E)	FENCE-STYLE BLACK VINYL CLF (6' HIGH, CLASS A)	LF	987		\$0.00
67	629(D)	REMOVAL OF MAILBOX INSTALLATION	EA	2		\$0.00
68	629(E)	REMOVE AND RESET MAILBOX (LIKE-KIND)	EA	24		\$0.00
69	640(A)	FIELD OFFICE	EA	1		\$0.00
70	641	MOBILIZATION	EA	1		\$0.00
71	642(B)	CONSTRUCTION STAKING LEVEL II	EA	1		\$0.00
72	850(A)	SHEET ALUMINUM SIGNS	SF	42		\$0.00
73	851(C)	1-1/2" SQUARE TUBE POST	LF	8		\$0.00
74	851(C)	1-3/4" SQUARE TUBE POST	LF	98		\$0.00
75	851(C)	2" SQUARE TUBE POST	LF	30		\$0.00
76	877(B)	DELIVER PORTABLE LONGITUDINAL BARRIER	LF	220		\$0.00
77	877(C)	RELOCATION OF PORTABLE LONGITUDINAL BARRIER	LF	1100		\$0.00
78	880(B)	CONSTRUCTION SIGNS 0 SF TO 6.25 SF	SD	7680		\$0.00
79	880(B)	CONSTRUCTION SIGNS 6.26 SF TO 15.99 SF	SD	3840		\$0.00
80	880(B)	CONSTRUCTION SIGNS 16.0 SF AND UP	SD	960		\$0.00
81	880(C)	BARRICADES (TYPE II)	SD	7680		\$0.00
82	880(C)	BARRICADES (TYPE III)	SD	5760		\$0.00
83	880(E)	WARNING LIGHTS (TYPE A)	SD	31680		\$0.00
84	880(G)	TUBE CHANNELIZERS	SD	24000		\$0.00
85	880(I)	FLAGGER	FD	240		\$0.00
86	COT 625	REMOVAL OF TRAFFIC SIGNS	EA	13		\$0.00
87	(SP) COT 334.3	CONSTRUCTION AS-BUILTS	EA	1		\$0.00
88	(SP) COT 643	CONTRACTOR'S QUALITY CONTROL	EA	1		\$0.00
89	SPECIAL	PROJECT SIGN (CITY OF TULSA) STD. 102	EA	1		\$0.00
90	SPECIAL	STANDARD SIDEWALK RAMP (TYPE A)	EA	2		\$0.00
91	SPECIAL	QUICKSET FLOWABLE FILL	CY	71		\$0.00
92	SPECIAL	22' ASPHALT SPEED HUMP W/ PAVEMENT MARKINGS (ASH-1-3)	LF	33		\$0.00
93	SPECIAL	URBAN RIGHT-OF-WAY RESTORATION	EA	1		\$0.00
94	SPECIAL	STRUCTURAL INSPECTIONS	EA	20		\$0.00
FEMA - PARTICIPATING TRANSPORTATION AND STORMWATER BASE BID						\$0.00

FEMA - PARTICIPATING DRAINAGE OPTION A PAY ITEMS

ITEM NO.	SPEC NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL EACH ITEM
95	202(A)	UNCLASSIFIED EXCAVATION	CY	4870		\$0.00
96	202(C)	ROCK EXCAVATION	CY	1031		\$0.00
97	325	SEPARATOR FABRIC	SY	4850		\$0.00
98	501(F)	GRANULAR BACKFILL (#57 CRUSHED STONE)	CY	590		\$0.00
99	508	PRECAST 8'X5' RCB	LF	27		\$0.00
100	509(A)	CLASS AA CONCRETE	CY	263		\$0.00
101	509(B)	CLASS A CONCRETE	CY	596		\$0.00
102	509(D)	CLASS C CONCRETE	CY	31		\$0.00
103	511(A)	REINFORCING STEEL	LB	101873		\$0.00
104	611(A)	MANHOLE (4' DIAMETER), COMPLETE IN PLACE	EA	1		\$0.00
105	611(B)	ADD'L DEPTH IN MANHOLE (4' DIAMETER)	VF	5		\$0.00
106	613(A)	24" STORM PIPE, COMPLETE IN PLACE	LF	10		\$0.00
107	624	(PL) WOOD PRIVACY FENCE	LF	273		\$0.00
108	624(E)	FENCE-STYLE CLF (4' HIGH, CLASS A)	LF	746		\$0.00
109	624(E)	FENCE-STYLE BLACK VINYL CLF (6' HIGH, CLASS A)	LF	1090		\$0.00
110	SPECIAL	QUICKSET FLOWABLE FILL	CY	1		\$0.00
FEMA - PARTICIPATING DRAINAGE OPTION A SUBTOTAL						\$0.00

FEMA - PARTICIPATING DRAINAGE OPTION B PAY ITEMS

ITEM NO.	SPEC NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL EACH ITEM
111	202(A)	UNCLASSIFIED EXCAVATION	CY	5058		\$0.00
112	202(C)	ROCK EXCAVATION	CY	1979		\$0.00
113	205(A)	TYPE A-SALVAGED TOPSOIL	CY	507		\$0.00
114	221(C)	TEMPORARY SILT FENCE	LF	185		\$0.00
115	221(F)	TEMPORARY SILT DIKE	LF	100		\$0.00
116	230(A)	SOLID SLAB SODDING (LIKE-KIND)	SY	3648		\$0.00
117	325	SEPARATOR FABRIC	SY	540		\$0.00
118	501(A)	STRUCTURAL EXCAVATION UNCLASSIFIED	CY	755		\$0.00
119	501(F)	GRANULAR BACKFILL (#57 CRUSHED STONE)	CY	61		\$0.00
120	508	PRECAST 8'X5' RCB	LF	811		\$0.00
121	509(A)	CLASS AA CONCRETE	CY	739		\$0.00
122	509(B)	CLASS A CONCRETE	CY	68		\$0.00
123	509(D)	CLASS C CONCRETE	CY	3		\$0.00
124	511(A)	REINFORCING STEEL	LB	113590		\$0.00
125	601(B)	TYPE I-A PLAIN RIPRAP	TON	81		\$0.00
126	601(C)	TYPE I-A FILTER BLANKET	TON	17		\$0.00
127	611(A)	MANHOLE (4' DIAMETER), COMPLETE IN PLACE	EA	1		\$0.00

128	611(B)	ADD'L DEPTH IN MANHOLE (4' DIAMETER)	VF	5		\$0.00
129	613(A)	24" STORM PIPE, COMPLETE IN PLACE	LF	5		\$0.00
130	624	(PL) WOOD PRIVACY FENCE	LF	249		\$0.00
131	624(E)	FENCE-STYLE CLF (4' HIGH, CLASS A)	LF	304		\$0.00
132	624(E)	FENCE-STYLE BLACK VINYL CLF (6' HIGH, CLASS A)	LF	944		\$0.00
133	SPECIAL	QUICKSET FLOWABLE FILL	CY	34		\$0.00

FEMA - PARTICIPATING DRAINAGE OPTION B SUBTOTAL \$0.00

NON - PARTICIPATING TRANSPORTATION AND STORMWATER PAY ITEMS

ITEM NO.	SPEC NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL EACH ITEM
134	201(A)	CLEARING AND GRUBBING	ACRE	0.5		\$0.00
135	202(A)	UNCLASSIFIED EXCAVATION	CY	2238		\$0.00
136	205(A)	TYPE A-SALVAGED TOPSOIL	CY	214		\$0.00
137	220	SWPPP DOCUMENTATION AND MANAGEMENT	LS	1		\$0.00
138	221(F)	TEMPORARY SILT DIKE	LF	465		\$0.00
139	230(A)	SOLID SLAB SODDING (LIKE-KIND)	SY	2747		\$0.00
140	303(A)	AGGREGATE BASE TYPE A	CY	1950		\$0.00
141	310(B)	SUBGRADE, METHOD B	SY	5352		\$0.00
142	325	SEPARATOR FABRIC	SY	6958		\$0.00
143	409(A)	FABRIC REINFORCEMENT	SY	2720		\$0.00
144	411(B)	SUPERPAVE, TYPE S3 (PG 64-22 OK)	TON	806		\$0.00
145	411(C)	SUPERPAVE, TYPE S4 (PG 64-22 OK)	TON	600		\$0.00
146	411(D)	SUPERPAVE, TYPE S5 (PG 64-22 OK)	TON	139		\$0.00
147	412	COLD MILLING PAVEMENT	SY	2473		\$0.00
148	509(B)	CLASS A CONCRETE	CY	20		\$0.00
149	609(B)	COMBINED CURB AND GUTTER (6" - BARRIER)	LF	2472		\$0.00
150	610(A)	4" CONCRETE SIDEWALK	SY	207		\$0.00
151	610(B)	6" CONCRETE DRIVEWAY (H.E.S.)	SY	997		\$0.00
152	610(I)	(PL) TACTILE WARNING DEVICE-NEW	SF	20		\$0.00
153	611(A)	MANHOLE (5' DIA.), COMPLETE IN PLACE	EA	2		\$0.00
154	611(A)	MANHOLE (6' DIA.), COMPLETE IN PLACE	EA	1		\$0.00
155	611(G)	INLET CI DES. 2, COMPLETE IN PLACE	EA	1		\$0.00
156	611(G)	INLET CI DES. 4(B), COMPLETE IN PLACE	EA	1		\$0.00
157	611(G)	INLET CI DES. 4(F), COMPLETE IN PLACE	EA	1		\$0.00
158	611(G)	INLET CI DES. 5(E), COMPLETE IN PLACE	EA	1		\$0.00
159	611(G)	INLET CI DES. 5 (F), COMPLETE IN PLACE	EA	1		\$0.00
160	611(G)	INLET CI DES. 5 (B+C), COMPLETE IN PLACE	EA	1		\$0.00
161	611(G)	INLET CI DES. 5 (H) W/ ACCESS MANHOLE, COMPLETE IN PLACE	EA	1		\$0.00
162	611(H)	ADD'L DEPTH IN INLET, CI DES.4	VF	1		\$0.00
163	611(H)	ADD'L DEPTH IN INLET, CI DES. 5	VF	1		\$0.00
164	611(H)	ADD'L DEPTH IN INLET CI DES. 5 W/ ACCESS MANHOLE	VF	1		\$0.00
165	613(A)	18" R.C. PIPE CLASS III (RCP) W/ OMNIFLEX GASKETS, COMPLETE IN PLACE	LF	24		\$0.00
166	613(A)	24" R.C. PIPE CLASS III (RCP) W/ OMNIFLEX GASKETS, COMPLETE IN PLACE	LF	203		\$0.00
167	613(A)	18" STORM PIPE, COMPLETE IN PLACE	LF	8		\$0.00
168	613(A)	30" STORM PIPE, COMPLETE IN PLACE	LF	19		\$0.00
169	613(J)	EDGE DRAIN CONDUIT-PERFORATED	LF	3538		\$0.00
170	619(A)	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	EA	1		\$0.00
171	619(B)	REMOVAL OF DRAINAGE INLETS	EA	7		\$0.00
172	619(B)	REMOVAL OF MANHOLES	EA	1		\$0.00
173	619(B)	REMOVAL OF EXISTING PIPE	LF	207		\$0.00
174	619(B)	REMOVAL OF ASPHALT PAVEMENT	SY	2941		\$0.00
175	619(B)	REMOVAL OF CURB AND GUTTER	LF	2601		\$0.00
176	619(B)	REMOVAL OF SIDEWALK	SY	230		\$0.00
177	619(B)	REMOVAL OF CONCRETE DRIVEWAY	SY	976		\$0.00
178	619(C)	SAWCUT PAVEMENT	LF	187		\$0.00
179	629(E)	REMOVE AND RESET MAILBOX (LIKE-KIND)	EA	31		\$0.00
180	641	MOBILIZATION	EA	1		\$0.00
181	642(B)	CONSTRUCTION STAKING LEVEL II	EA	1		\$0.00
182	850(A)	SHEET ALUMINUM SIGNS	SF	26		\$0.00
183	851(C)	1-1/2" SQUARE TUBE POST	LF	5		\$0.00
184	851(C)	1-3/4" SQUARE TUBE POST	LF	57		\$0.00
185	851(C)	2" SQUARE TUBE POST	LF	18		\$0.00
186	880(B)	CONSTRUCTION SIGNS 0 SF TO 6.25 SF	SD	2880		\$0.00
187	880(B)	CONSTRUCTION SIGNS 6.26 SF TO 15.99 SF	SD	1440		\$0.00
188	880(B)	CONSTRUCTION SIGNS 16.0 SF AND UP	SD	360		\$0.00
189	880(C)	BARRICADES (TYPE II)	SD	2880		\$0.00
190	880(C)	BARRICADES (TYPE III)	SD	2160		\$0.00
191	880(E)	WARNING LIGHTS (TYPE A)	SD	11880		\$0.00
192	880(G)	TUBE CHANNELIZERS	SD	21600		\$0.00
193	880(I)	FLAGGER	FD	75		\$0.00

194	COT 625	REMOVAL OF TRAFFIC SIGNS	EA	9		\$0.00
195	(SP) COT 334.3	CONSTRUCTION AS-BUILTS	EA	1		\$0.00
196	(SP) COT 643	CONTRACTOR'S QUALITY CONTROL	EA	1		\$0.00
197	SPECIAL	PROJECT SIGN (CITY OF TULSA) STD. 102	EA	1		\$0.00
198	SPECIAL	TYPE I AC PATCH	CY	111		\$0.00
199	SPECIAL	STANDARD SIDEWALK RAMP (TYPE A)	EA	2		\$0.00
200	SPECIAL	QUICKSET FLOWABLE FILL	CY	10		\$0.00
201	SPECIAL	URBAN RIGHT-OF-WAY RESTORATION	EA	1		\$0.00
202	SPECIAL	TEMPORARY CONSTRUCTION FENCE	LF	1200		\$0.00
203	SPECIAL	OWNER ALLOWANCE	ALLOW	1	\$100,000.00	\$100,000.00
NON - PARTICIPATING TRANSPORTATION AND STORMWATER BASE BID SUBTOTAL						\$100,000.00

NON - PARTICIPATING WATERLINE PAY ITEMS

ITEM NO.	SPEC NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL EACH ITEM
204	COT 301	RIGHT-OF-WAY CLEARING AND RESTORING, COMPLETE IN PLACE	SY	3419		\$0.00
205	COT 302	EXCAVATION AND BACKFILL, UNCLASSIFIED	CY	1752		\$0.00
206	COT 308	18 INCH STEEL CONDUIT CASING	LF	102		\$0.00
207	COT 308	20 INCH STEEL CONDUIT CASING	LF	35		\$0.00
208	COT 315	3/4 INCH WATER SERVICE CONNECTION (LONG)	EA	23		\$0.00
209	COT 315	3/4 INCH WATER SERVICE CONNECTION (SHORT)	EA	32		\$0.00
210	COT 315	3/4 INCH WATER METER SETTER, CAN, LID, RIM	EA	55		\$0.00
211	COT 317	6 INCH FIRE HYDRANT EXTENSION	EA	1		\$0.00
212	COT 317	3-WAY FIRE HYDRANT (RJ), COMPLETE IN PLACE	EA	10		\$0.00
213	COT 318	STANDARD VALVE BOX	EA	23		\$0.00
214	COT 318	STANDARD VALVE BOX EXTENSION	VF	4		\$0.00
215	COT 325	SODDING AND SEEDING	SY	3419		\$0.00
216	COT 326	STREET WASH DOWN	LF	3339		\$0.00
217	COT 327	SIGNS 48" X 48"	SD	300		\$0.00
218	COT 327	TUBE CHANNELIZERS	SD	7269		\$0.00
219	COT 327	TYPE III BARRICADE	SD	440		\$0.00
220	COT 327	FLAGGER	MD	310		\$0.00
221	COT 328	6-INCH BORE	LF	352		\$0.00
222	COT 328	8-INCH BORE	LF	102		\$0.00
223	COT 329	TEMPORARY AGGREGATE SURFACE	SY	478		\$0.00
224	COT 329	PAVEMENT, REMOVAL AND REPLACEMENT (ASPHALT)	SY	176		\$0.00
225	COT 329	PAVEMENT, REMOVAL AND REPLACEMENT (CONCRETE)	SY	191		\$0.00
226	COT 329	PAVEMENT, REMOVAL AND REPLACEMENT (CURB & GUTTER)	LF	158		\$0.00
227	COT 329	SAWCUT	LF	1721		\$0.00
228	SPECIAL	LICENSED AND BONDED PLUMBER	EA	79		\$0.00
229	SPECIAL	OWNER ALLOWANCE	EA	1	\$50,000.00	\$50,000.00
230	SPECIAL	CONSTRUCTION AS-BUILT	EA	1		\$0.00
NON - PARTICIPATING WATERLINE BASE BID SUBTOTAL						\$50,000.00

NON - PARTICIPATING WATERLINE PAY ITEMS - PVC OPTION

ITEM NO.	SPEC NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL EACH ITEM
231	COT 307	6 INCH DIP, CL 51 POLYETHYLENE WRAPPED (RJ)	LF	280		\$0.00
232	COT 307	8 INCH DIP, CL51 POLYETHYLENE WRAPPED (RJ)	LF	64		\$0.00
233	COT 309	6 INCH PVC AWWA C900 CLASS 200 DR-14	LF	1075		\$0.00
234	COT 309	6 INCH PVC AWWA C900 CLASS 200 DR-14 (RJ)	LF	969		\$0.00
235	COT 309	8 INCH PVC AWWA C900 CLASS 200 DR-14	LF	152		\$0.00
236	COT 309	8 INCH PVC AWWA C900 CLASS 200 DR-14 (RJ)	LF	981		\$0.00
237	COT 312	6 INCH DUCTILE IRON 11-1/4 DEGREE BEND (RJ)	EA	6		\$0.00
238	COT 312	8 INCH DUCTILE IRON 11-1/4 DEGREE BEND (RJ)	EA	3		\$0.00
239	COT 312	6 INCH DUCTILE IRON 22-1/2 DEGREE BEND (RJ)	EA	8		\$0.00
240	COT 312	8 INCH DUCTILE IRON 22-1/2 DEGREE BEND (RJ)	EA	11		\$0.00
241	COT 312	6 INCH DUCTILE IRON 45 DEGREE BEND (RJ)	EA	32		\$0.00
242	COT 312	8 INCH DUCTILE IRON 45 DEGREE BEND (RJ)	EA	30		\$0.00
243	COT 312	6 INCH X 6 INCH DUCTILE IRON TEE (RJ)	EA	9		\$0.00
244	COT 312	8 INCH X 6 INCH DUCTILE IRON TEE (RJ)	EA	7		\$0.00
245	COT 312	6 INCH DUCTILE IRON SLEEVE (RJ)	EA	3		\$0.00
246	COT 312	8 INCH DUCTILE IRON SLEEVE (RJ)	EA	2		\$0.00
247	COT 312	6 INCH DUCTILE IRON PLUG (RJ)	EA	1		\$0.00
248	COT 312	8 INCH DUCTILE IRON PLUG (RJ)	EA	2		\$0.00
249	COT 317	6 INCH GATE VALVE (RJ)	EA	13		\$0.00
250	COT 317	8 INCH GATE VALVE (RJ)	EA	7		\$0.00
NON - PARTICIPATING WATERLINE - PVC OPTION SUBTOTAL						\$0.00

NON - PARTICIPATING WATERLINE PAY ITEMS - HDPE OPTION

ITEM NO.	SPEC NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL EACH ITEM
251	COT 307	8 INCH DIP, CL 51 POLYETHYLENE WRAPPED (RJ)	LF	344		\$0.00
252	COT 309A	8 INCH HDPE AWWA C906 PE4710 DR-11 (DIPS)	LF	3177		\$0.00

253	COT 312	6 INCH DUCTILE IRON PLUG (RJ)	EA	1		\$0.00
254	COT 312	8 INCH DUCTILE IRON PLUG (RJ)	EA	2		\$0.00
255	COT 312A	8 INCH HDPE 45 DEGREE BEND (DIPS)	EA	62		\$0.00
256	COT 312A	8 INCH X 8 INCH HDPE TEE (DIPS)	EA	16		\$0.00
257	COT 312A	8 INCH HDPE SLEEVE (DIPS)	EA	5		\$0.00
258	COT 312A	8 INCH HDPE MJ ADAPTOR (DIPS) (RJ)	EA	8		\$0.00
259	COT 312A	8 INCH HDPE WALL ANCHOR (DIPS) (RJ)	EA	91		\$0.00
260	COT 312	6 INCH DUCTILE IRON PLUG (RJ)	EA	1		\$0.00
261	COT 312	8 INCH DUCTILE IRON PLUG (RJ)	EA	2		\$0.00
262	COT 317	8 INCH GATE VALVE (RJ)	EA	20		\$0.00
NON - PARTICIPATING WATERLINE - HDPE OPTION SUBTOTAL						\$0.00
NON - PARTICIPATING WATERLINE PAY ITEMS - DIP OPTION						
ITEM NO.	SPEC NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL EACH ITEM
263	COT 307	6 INCH DIP, CL51 POLYETHYLENE WRAPPED	LF	1075		\$0.00
264	COT 307	6 INCH DIP, CL51 POLYETHYLENE WRAPPED (RJ)	LF	1249		\$0.00
265	COT 307	8 INCH DIP, CL51 POLYETHYLENE WRAPPED	LF	152		\$0.00
266	COT 307	8 INCH DIP, CL51 POLYETHYLENE WRAPPED (RJ)	LF	981		\$0.00
267	COT 312	6 INCH DUCTILE IRON 11-1/4 DEGREE BEND (RJ)	EA	6		\$0.00
268	COT 312	8 INCH DUCTILE IRON 11-1/4 DEGREE BEND (RJ)	EA	3		\$0.00
269	COT 312	6 INCH DUCTILE IRON 22-1/2 DEGREE BEND (RJ)	EA	8		\$0.00
270	COT 312	8 INCH DUCTILE IRON 22-1/2 DEGREE BEND (RJ)	EA	11		\$0.00
271	COT 312	6 INCH DUCTILE IRON 45 DEGREE BEND (RJ)	EA	32		\$0.00
272	COT 312	8 INCH DUCTILE IRON 45 DEGREE BEND (RJ)	EA	30		\$0.00
273	COT 312	6 INCH X 6 INCH DUCTILE IRON TEE (RJ)	EA	9		\$0.00
274	COT 312	8 INCH X 6 INCH DUCTILE IRON TEE (RJ)	EA	7		\$0.00
275	COT 312	6 INCH DUCTILE IRON SLEEVE (RJ)	EA	3		\$0.00
276	COT 312	8 INCH DUCTILE IRON SLEEVE (RJ)	EA	2		\$0.00
277	COT 312	6 INCH DUCTILE IRON PLUG (RJ)	EA	1		\$0.00
278	COT 312	8 INCH DUCTILE IRON PLUG (RJ)	EA	2		\$0.00
279	COT 317	6 INCH GATE VALVE (RJ)	EA	13		\$0.00
280	COT 317	8 INCH GATE VALVE (RJ)	EA	7		\$0.00
NON - PARTICIPATING WATERLINE - DIP OPTION SUBTOTAL						\$0.00
NON - PARTICIPATING SANITARY SEWER BASE BID PAY ITEMS						
ITEM NO.	SPEC NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL EACH ITEM
281	205(A)	TYPE A SALVAGED TOPSOIL	CY	212		\$0.00
282	221(C)	SILT FENCE	LF	1844		\$0.00
283	230(A)	SOLID SLAB SODDING (LIKE-KIND)	SY	1515		\$0.00
284	COT 302	UNCLASSIFIED EXCAVATION AND BACKFILL	CY	391		\$0.00
285	COT 313	10" PVC SEWER PIPE SDR-26 (TRENCH)	LF	864		\$0.00
286	COT 314	4' DIAMETER MANHOLE, COMPLETE IN PLACE (SANITARY SEWER)	EA	8		\$0.00
287	COT 314	5' DIAMETER MANHOLE, COMPLETE IN PLACE (SANITARY SEWER)	EA	1		\$0.00
288	COT 315	SERVICE CONNECTION	EA	10		\$0.00
289	COT 332	24" STEEL CONDUIT (BORE)	LF	371		\$0.00
290	COT 332	24" STEEL CONDUIT, OPEN CUT	LF	43		\$0.00
291	COT 404	PLUG SANITARY SEWER MANHOLE	EA	4		\$0.00
292	509(B)	CLASS A CONCRETE	CY	18		\$0.00
293	511(A)	REINFORCING STEEL	LB	949		\$0.00
294	611(B)	ADDITIONAL DEPTH MANHOLE (4' ID)	VF	39		\$0.00
295	611(B)	ADDITIONAL DEPTH MANHOLE (5' ID)	VF	4		\$0.00
296	619(B)	REMOVAL OF MANHOLE	EA	6		\$0.00
297	619(B)	REMOVAL OF EXISTING PIPE	LF	426		\$0.00
298	619(B)	REMOVE AND REPLACE FENCE (LIKE-KIND)	LF	617		\$0.00
299	SPECIAL	OWNER ALLOWANCE	ALLOW	1	\$40,000.00	\$40,000.00
NON - PARTICIPATING SANITARY SEWER BASE BID SUBTOTAL						\$40,000.00

SUMMARY

FEMA - PARTICIPATING TRANSPORTATION AND STORMWATER BASE BID SUBTOTAL	\$	-
FEMA - PARTICIPATING DRAINAGE OPTION A SUBTOTAL	\$	-
FEMA - PARTICIPATING DRAINAGE OPTION B SUBTOTAL	\$	-

FEMA - PARTICIPATING TRANSPORTATION AND STORMWATER BASE BID SUBTOTAL +
LOWEST FEMA - PARTICIPATING DRAINAGE OPTION SUBTOTAL

FEMA - PARTICIPATING SUBTOTAL	\$	-
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NON - PARTICIPATING TRANSPORTATION AND STORMWATER BASE BID SUBTOTAL	\$	100,000.00
NON - PARTICIPATING WATERLINE BASE BID SUBTOTAL	\$	50,000.00
NON - PARTICIPATING WATERLINE PIPE MATERIAL OPTION 1 (PVC) SUBTOTAL	\$	-
NON - PARTICIPATING WATERLINE PIPE MATERIAL OPTION 2 (HDPE) SUBTOTAL	\$	-
NON - PARTICIPATING WATERLINE PIPE MATERIAL OPTION 3 (DIP) SUBTOTAL	\$	-
NON - PARTICIPATING SANITARY SEWER BASE BID SUBTOTAL	\$	40,000.00

NON - PARTICIPATING TRANSPORTATION AND STORMWATER BASE BID SUBTOTAL +
NON - PARTICIPATING WATERLINE BASE BID SUBTOTAL
+ LOWEST NON - PARTICIPATING WATERLINE PIPE MATERIAL OPTION
+ LOWEST NON - PARTICIPATING SANITARY SEWER BASE BID SUBTOTAL

NON - PARTICIPATING SUBTOTAL	\$	190,000.00
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FEMA - PARTICIPATING + NON - PARTICIPATING GRAND TOTAL	\$	190,000.00
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FEMA - PARTICIPATING + NON - PARTICIPATING GRAND TOTAL

\$190,000.00

Enclosed is a () Bidder's Surety Bond, () Certified Check, () Cashier's Check for

Dollars (\$)
Figures

which the City of Tulsa may retain or recover as liquidated damages in the event that the undersigned fails to enter into contract for the work covered by this proposal, provided the Contract is awarded to the undersigned within thirty (30) days, or within ninety (90) days if Federal funds are utilized, from the date fixed for opening of bids and the undersigned fails to execute said Contract and furnish the required bonds and other requirements as called for in these Contract Documents within thirty (30) days after award of Contract.

Dated at Tulsa, Oklahoma, this _____ day of _____, 20__.

Respectfully submitted,

(Complete legal name of company)

(State of Organization)

By:

ATTEST:

Title:

Title: Corporate Secretary

Printed Name:

Printed Name:

(SEAL)

Address: _____

Telephone Number: _____

Fax Number: _____

By signing above the bidder acknowledges receipt of the following Addenda (give number and date of each):

Certificate of Secretary

The undersigned _____ (Assistant) Secretary of _____, a _____ corporation, (the "Corporation") hereby certifies that the following is a true and correct copy of a Resolution duly adopted by the Board of Directors of the Corporation on the _____ day of _____, 20__.

RESOLVED, that _____ is authorized to execute and enter into bids, contracts, bonds, affidavits and any ancillary documents, on behalf of the Corporation.

The undersigned further certifies that this Resolution is in full force and effect as of the date of this Certificate and has not been amended, modified, revoked or rescinded.

IN WITNESS WHEREOF, I have executed this Certificate this _____ day of _____, 20__.

(Signature)

Printed Name

(Assistant) Secretary

[SAMPLE CONSENT OF MEMBERS]

[NAME OF COMPANY], LLC

Consent of Members

The undersigned, being all of the Members of [Name of Company], LLC, an Oklahoma Limited Liability Company, hereby authorize, consent to, approve and ratify the execution by _____ on behalf of [Name of Company], LLC of bid proposals, contracts, affidavits and related documents in connection with [Name of Project] of the City of Tulsa.

DATED, this _____ day of _____, 20____.

Name printed: _____

Name Printed: _____

[ADD ADDITIONAL LINES FOR ADDITIONAL MEMBERS]

Disclaimer Statement: This form is made available for example purposes only and is not intended to be legal advice nor intended to be relied upon in lieu of consultation with an attorney."

Date

Contractor

**RE: City of Tulsa Project No. 144628-W, TMUA-W 18-16, SW 2018-03, ES 2019-08
Maintenance Zone 6028-W Tupelo Creek Drainage**

TO WHOM IT MAY CONCERN:

Please be advised that the City of Tulsa, Oklahoma, a municipal corporation, has contracted for the construction of a public improvement project as referenced above, and that pursuant to Title 68 § Section 1356 (10), sales on tangible personal property or services to be wholly consumed in the performance of such projects are exempt from Oklahoma and City of Tulsa Sales Tax when:

“...Any person making purchases on behalf of such subdivision or agency of the state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency.”

This letter of authorization expires.

A photostatic copy of this letter may be considered as the original.

CITY OF TULSA

Paul D. Zachary, P.E.
City Engineer

cc: Ryan McKaskle

HAS:AT:kt

EXTENSION OF TIME REQUEST
(to be submitted with each partial payment application)

DATE: _____

CONTRACTOR: _____

ADDRESS: _____

CONTRACT NO.: _____

PROJECT NO.: _____

DESCRIPTION: _____

ARE THERE ANY CHANGES TO YOUR SBE UTILIZATION? _____ YES _____ NO

IF YES, GIVE REASON AND ATTACH CHANGE REQUEST FORM (SBE-4): _____

EXTENSION OF CONTRACT TIME REQUIRED: _____ YES _____ NO

TOTAL OF EXTENSION TIME REQUESTED: _____

IF YES GIVE REASON: _____

SIGNATURE - CONTRACTOR

CONSULTING ENGINEER OR DEPARTMENT OF PUBLIC WORKS STAFF RECOMMENDATIONS

APPROVED: _____ REJECTED: _____

REASON: _____

SIGNATURE

DATE

ACTION WILL BE TAKEN WITHIN 30 DAYS FROM RECEIPT OF REQUEST

ETR-1

**CONTRACT FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS
TULSA, OKLAHOMA**

THIS CONTRACT made and entered into the ____ day of _____, 2022, by and between ____ an (list state) _____ (Corporation or Limited Liability Company) of _____, Oklahoma, hereinafter called the "CONTRACTOR", and the CITY OF TULSA - TULSA, OKLAHOMA, a Municipal Corporation, herein called the "CITY."

WITNESSETH:

WHEREAS, the City has caused to be prepared the necessary Drawings, Specifications, and other Contract Documents for the public improvements herein described, and has invited bids for the construction thereof in accordance with the terms of this Contract, all of which is hereby designated as:

**PROJECT NO. 144628-W, TMUA-W 18-16 SW 2018-03, ES 2019-08
MAINTENANCE ZONE 6028-W TUPELO CREEK DRAINAGE**

WHEREAS, the Contractor, in response to the Advertisement, has submitted to the City, in the manner and at the time specified, a sealed bid in accordance with the terms of this Contract; and,

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined, and canvassed the bids submitted, and has determined the above named Contractor to be the lowest responsible bidder for the work and has duly awarded to the said Contractor therefore, for the sum or sums named in the Contractor's bid, a copy of the Bid Form being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the compensation to be paid to the Contractor and of the mutual agreements and covenants herein contained, the parties to this Contract have agreed and hereby agree, as follows:

ARTICLE I. That the Contractor shall (a) furnish all tools, equipment, supplies, superintendent, transportation, and other construction accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified and required to be incorporated in and form a permanent part of the completed work; (c) provide and perform all necessary labor; and (d) in a good, substantial, and workmanlike manner and in accordance with the requirements, stipulations, provisions, and conditions of the Contract as defined in the attached General Provisions, sometimes referred to as General Conditions in the Contract Documents, said documents forming the Contract and being as fully a part thereof as if repeated verbatim herein, perform, execute, construct, and complete all work included in and covered by the City's official award of this Contract to the said Contractor, such award being based on the acceptance by the City of the Contractor's bid, or part thereof, as follows:

**PROJECT NO. 144628-W, TMUA-W 18-16 SW 2018-03, ES 2019-08 MAINTENANCE
ZONE 6028-W TUPELO CREEK DRAINAGE**

ARTICLE II. That the City shall pay to the Contractor for performance of the work embraced in this Contract, and the Contractor will accept as full compensation therefor, the sum (subject to adjustment as provided by the Contract) of _____ AND /100 Dollars (\$_____) for all work covered by and included in the Contract award and designated in the foregoing Article I; payments therefore to be made in cash or its equivalent, in the manner provided in the General Provisions.

ARTICLE III. That the Contractor shall start work within ten (10) days following the date stipulated in a written order from the City to proceed with the work to be performed hereunder, and shall complete the work within the number of consecutive calendar days after the authorized starting date, as stipulated below:

All Work Completed: 660 calendar days

ARTICLE IV. The sworn, notarized statement below shall be signed and notarized before this Contract will become effective.

ARTICLE V. Prior to submitting a final payment request, the Contractor shall furnish a lien waiver certifying that all subcontractors and suppliers have been paid.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals,

this _____ day of _____, 2022.

CITY OF TULSA, OKLAHOMA
a municipal corporation

By: _____

ATTEST: (SEAL)

Mayor

Date: _____

City Clerk

Date: _____

APPROVED:

APPROVED:

City Attorney

Date: _____

City Engineer

Date: _____

CONTRACTOR

By: _____

Printed Name _____

Title

Date: _____

Title

Date: _____

ATTEST:

Corporate Secretary

(SEAL)

AFFIDAVIT

STATE OF _____)
)ss
COUNTY OF _____)

_____, of lawful age, being first duly sworn, on oath says that (s)he is the agent authorized by the Contractor to submit the above Contract to the CITY OF TULSA, Tulsa, Oklahoma.

Signature

Subscribed and sworn to before me this _____ day of _____, 2022.

NOTARY PUBLIC

My Commission Expires:

_____, _____.

SPECIFICATIONS

SPECIAL PROVISIONS
INSURANCE REQUIREMENTS

In reference to Ordinance No. 24616 Adoption of State Specification for Highway Construction, Section 107.12 shall be modified as follows:

The CONTRACTOR (and any subcontractors) shall carry and keep in force during this Contract, policies of insurance issued by an insurer authorized to transact business in Oklahoma in minimum amounts as set forth below or as required by the laws of the State of Oklahoma. The CONTRACTOR shall also furnish an Owner's Protective Policy in the same amounts naming the City of Tulsa as the assured, issued by the same insurance company as the CONTRACTOR'S liability coverage and indemnifying the City of Tulsa against any and all actions, claims, judgments or demands arising from injuries of any kind and character sustained by any person or persons because of work performed by the CONTRACTOR.

General Liability Insurance with a bodily injury and property damage combined single limit of not less than \$1,000,000.00 for each occurrence.

Employer's Liability and Workmen's Compensation in the amounts as required by law.

The CONTRACTOR shall provide proof of such coverage:

- (a) By providing Certificate(s) of Insurance prior to the execution of this contract; and
- (b) By submitting updated Certificate(s) of Insurance with each and every subsequent request for payment. The Certificate(s) should show that the policies are current and should be dated within 30 days of payment request.

The CONTRACTOR shall not cause any required insurance policy to be cancelled or permit it to lapse. If the CONTRACTOR cancels, allows to lapse, fails to renew or in any way fails to keep any required insurance policy in effect, the City will suspend all progress and/or final payments for the project until the required insurance is obtained. Further, a CONTRACTOR who fails to keep required insurance policies in effect may be deemed by the City to be in breach of contract, ineligible to bid on future projects, and/or ineligible to engage in any new contracts.

The Contractor shall execute and furnish a Statutory Bond for the protection of laborers, mechanics, and material men in a sum equal to one hundred percent (100%) of the contract price.

The Contractor shall execute and furnish a Performance Bond in a sum equal to one hundred percent (100%) of the contract price.

The Contractor shall execute and furnish a Maintenance Bond in a sum equal to one hundred percent (100%) of the contract price.

Prior to doing blasting, the Contractor shall furnish a Certificate of Insurance, which shall certify that any damage caused by blasting is within the coverage of the Contractor's liability insurance to the full limits thereof.

All bonds and insurance must be executed by a company licensed to do business in the State of Oklahoma and must be acceptable to the City.

SPECIAL PROVISIONS
FOR
CONTRACTOR'S QUALITY CONTROL

The units for this project will be those specified in the project plans.

643.01. DESCRIPTION.

Furnish Quality Control of materials and construction in accordance with the Standard Specifications, Plans and Special Provisions. This includes, but is not limited to preparing and following a Quality Control Plan (See Part 643 Tables 1-7).. Obtain samples and perform tests for Quality Control, provide inspection, and exercise management control to produce materials and workmanship that conforms to contract requirements. Unless otherwise noted in the plans, all pavements and bridges (except culverts) will be subject to requirements of any or all of the Special Provisions which are included in this contract. City of Tulsa will provide Quality Assurance testing at their discretion.

643.02. MATERIALS.

Meet materials quality requirements.

643.03. EQUIPMENT.

Provide equipment at own expense, unless otherwise specified. All equipment and supplies shall conform with Standards and applicable Specifications. Certify the calibration of all equipment.

643.04. CONSTRUCTION.

- a) General. Provide quality of all construction covered in the contract.
- b) Quality Control Personnel Qualifications. All personnel directly involved in sampling and/or testing materials for either control or acceptance purposes shall be certified in the appropriate area(s) by the Oklahoma Highway Construction Materials Technician Certification Board. Manager certification for material sampling and testing is not required unless he or she is directly involved in sampling and/or testing materials.
- c) Contractor's Quality Control Plan. Submit a written Quality Control Plan at least one week prior to the pre-work conference. Include the following in the plan:
 1. Sources of principal materials including names of suppliers and locations.
 2. Names and resumes of key Quality Control personnel.
 3. Duties, responsibilities, and authorities (to suspend production, alter mixtures, etc.) granted to key Quality Control personnel.
 4. Description of testing laboratories, including qualifications, key equipment and locations.
 5. Description of start-up operations, including but not limited to:
 - a. Review of submittal requirements and all other Contract requirements with the performance of the work.
 - b. Examine the work area to ascertain that all preliminary work has been completed.
 - c. Verify all field dimensions and advise the Engineer of any discrepancies.
 6. Detailed testing schedule based on production.
 7. Control, verification, and acceptance testing procedures for each specific test to include the test name, specification requiring the test, feature of work to be tested, and person responsible for each test.
 8. Procedures for tracking construction deficiencies from identification through acceptable corrective action. These procedures will establish verification that identified deficiencies have been corrected.

- d) Sampling and Testing. Perform sampling and testing according to the accepted Quality Control plan using personnel certified in appropriate areas and laboratories approved by the Engineer. Keep laboratory facilities clean and maintain all equipment in proper working condition.
- e) Inspection. Provide inspection necessary to ensure compliance with applicable standards and specifications.
- f) Records. Maintain complete testing and inspection records and make them accessible to the Engineer.

- 1. Test Results. Maintain control charts that identify the project number, contract item, test number, each test parameter, the upper and/or lower specification limit applicable to each test parameter, and the test results. Use the control charts as part of the Quality Control system to document process variability, to identify production and equipment problems, to make necessary corrections, and to identify potential pay factor adjustments.

- i. Post control charts in an accessible location, keep them up to date, and make them available to the Engineer upon request. Make corrections to the process when problems are evident, including ceasing production if necessary.

- 2. Inspection Results. For each day of work, prepare an "Inspector's Daily Record of Construction Operations" on an approved form. Include the following certification signed by the person with overall responsibility for the inspection system:

- i. "It is hereby certified that the information contained in this record is accurate, and that all work documented herein complies with the requirements of the contract. Any exceptions to this certification are documented as a part of this record."

- 3. Submit the record and certification to the Engineer within two working days of the work being performed. If the record is incomplete, in error, or otherwise misleading, a copy of the record will be returned with corrections noted. When chronic errors or omissions occur, correct the procedures by which the records are produced.

- g) Use of Contractor Test Results for Acceptance Purposes. Abbreviated test procedures are allowed for Contractor use. The Quality Control Plan shall list all abbreviated test procedures, describe all deviations from standard procedures for each, and note their intended purpose. Test results from abbreviated procedures will not be used for any purpose by the City of Tulsa. It is the Engineer's discretion to use or not use any of the Contractor's test results for acceptance purposes.

- h) Changes. Submit, in writing, all proposed changes in key Quality Control personnel, equipment or procedures from those previously approved by the Engineer. Submit written changes at least one week prior to the proposed action.

643.05. METHOD OF MEASUREMENT.

Payment for Contractor's Quality Control will be measured on a lump sum basis.

643.06. BASIS OF PAYMENT.

Accepted Contractor's Quality Control measured for payment as prescribed above will be paid for at the Contract unit price for:

CONTRACTOR'S QUALITY CONTROLLUMP SUM

This payment will be full compensation for furnishing all materials, facilities, equipment, labor and incidentals to complete the work.

Subject to acceptable performance, payment for Contractor's Quality Control will be made in accordance with the following schedule:

- 25% on the next estimate after the Engineer's approval of the Contractor's Quality Control Plan and other required initial documentation
- plus 25% when 50% of the work subject to Quality Control requirements is complete
- plus 25% when 75% of the work subject to Quality Control requirements is complete
- plus 25% when all test results and records related to Quality Control work have been furnished to and accepted in writing by the Engineer

As stated above, this payment is based upon acceptable performance. Payment will be reduced for unacceptable portions of the Quality Control work. Serious deficiencies in Quality Control work may result in the project being shut down.

**PART 643 TABLE 1
BITUMINOUS MIXTURES**

ODOT/COT SUPPLEMENTS	MATERIAL	TYPE OF TEST(S) REQUIRED	SAMPLING POINT	MINIMUM SAMPLING/TESTING FREQUENCY
411, 708	Asphalt Concrete Pavement	Volumetrics, Marshall, Rice & Air Voids	Hot Plant or Roadway	One Per Day's Production.
		Oil Content (Nuclear/Ignition)	Hot Plant or Roadway	One Per 350 Tons or Fraction Thereof. Minimum One Sample Per Day.
		Compaction (Core)	Roadway	One Per 300 Linear Feet For Each Lift And Lane Pass Or Fraction Thereof.
	Cold Feed	Gradation	Hot Plant	When Days Production Exceeds 300 Tons: One Prior to First Day of Production and One Per 500 Tons Thereafter.

Remarks:

Asphalt deficient in oil content and/or density shall be cored 50' maximum on both sides of failed section when deemed necessary by the City of Tulsa. The results of the 2 cores shall be averaged with the previous test results.

Minimum sampling and testing is required for each mix and supplier.

City of Tulsa reserves the right to modify sampling and testing requirements as needed to ensure quality of materials.

**PART 643 TABLE 2
CEMENTITIOUS MIXTURES**

ODOT/COT SUPPLEMENTS	MATERIAL	TYPE OF TEST(S) REQUIRED	SAMPLING POINT	MINIMUM SAMPLING/TESTING FREQUENCY
414, 701	Portland Cement Concrete (Flatwork)	Compressive Strength	At Discharge	One Set Of Six Cylinders Per 50 Cubic Yards Or Fraction Thereof.
		Slump, Time & Temperature	At Discharge	One Per Set Of Cylinders.
509, 701	Portland Cement Concrete (Structures)	Compressive Strength	At Discharge	One Set Of Six Cylinders Per Type of Structure, Per 50 Cubic Yards, or Days Production
		Slump, Time & Temperature	At Discharge	One Per Set Of Cylinders.
501, 701, 703	Controlled Low Strength Material	Compressive Strength	At Discharge	One Set of Two Cylinders Per Shift.
425, 623, 701, 733	Grout	Compressive Strength	At Discharge	One Set of Four Prisms When Required By Engineer or Their Representative.
		Slump, Time & Temperature	At Discharge	One Per Set of Prisms.
521, 701 733, 737	Mortar	Compressive Strength	At Batch Site	One Set of Four Cylinders When Required by Engineer or Their Representative.
Project Plans & Specifications	Shotcrete	Compressive Strength	At Discharge	One Panel Per 50 Cubic Yards or One Per Mixture, Nozzleman and Shift (Whichever is Greater).

Remarks:

Concrete specifications: Time is **90 minutes max**; Temperature is **90 degrees Fahrenheit max**.

If in the opinion of the Engineer or his/her representative, there is sufficient cause to question the quality of the mortar or grout being utilized, random field sampling and testing may be required.

Shotcrete test panel forms should be wood or steel and a minimum of 24" x 24" x 4", generally shot in a vertical position. Minimum sampling and testing is required for each mix design and supplier.

City of Tulsa reserves the right to modify sampling and testing requirements as needed to ensure quality of materials.

PART 643 TABLE 3
SOIL

ODOT/COT SUPPLEMENTS	MATERIAL	TYPE OF TEST(S) REQUIRED	SAMPLING POINT	MINIMUM SAMPLING FREQUENCY
202, 613	Trench Backfill (including lateral trenches)	Proctor Density, Gradation & P.I.	In-Place	One Per Soil Type.
		Compaction & Moisture Content	In-Place	One Per 8" Lift For Every 100 Linear Feet, Per Pipe Run, or Day's Production.
310	Subgrade	Proctor Density, Gradation & P.I.	In-Place	One Per Soil Type.
		Compaction & Moisture Content	In-Place	Every 100 Linear Feet Or Day's Production.
202, 501	Structure Backfill	Proctor Density, Gradation & P.I.	In-Place	One Per Soil Type.
		Compaction & Moisture Content	In-Place	One Per 8" Lift Per Structure
202	Roadway Fill & Embankments	Proctor Density, Gradation & P.I.	In-Place	One Per Soil Type.
		Compaction & Moisture Content	In-Place	One Per 8" Lift For Every 100 Linear Feet Or Day's Production.
202	Import	Proctor Density, Gradation & P.I.	Import Site or On-Site Stockpile	One Per Soil Type.
		Compaction & Moisture Content	In-Place	One Per 8" Lift For Every 100 Linear Feet Or Day's Production.

Remarks:

For Infrastructure Development Projects (IDP) only. Testing Frequencies as follows:

Sewer & Water Services (30%) Driveways, Aprons and ADA ramps (50%) Valley Gutters (100%)

Dry Utility, Fire Hydrant, Fire Line and Storm Drain (100%)

Import material shall be Select Borrow in accordance with Section 202 and 705. All fill materials shall be placed at +/- 2% of the optimum moisture content.

The nuclear density gauge is to be correlated with a sand cone for every 10 tests taken, or 1 per day, whichever is greater.

City of Tulsa reserves the right to modify sampling and testing requirements as needed to ensure quality of materials.

PART 643 TABLE 4

AGGREGATE BASE

ODOT/COT SUPPLEMENTS	MATERIAL	TYPE OF TEST(S) REQUIRED	SAMPLING POINT	MINIMUM SAMPLING FREQUENCY
303, 703, 708	Aggregate Base (AB)	Proctor Density	Stockpile, Windrow, Roadway	At Start of Production and as Material Changes per Supplier and/or Plant
		Compaction & Moisture Content	Roadway, Pipe Bedding, Initial Backfill	One per 100' per Lift or One per Lane Pass or Days Production
		Gradation, PI (Wet Prep)	Stockpile, Windrow, Roadway	One per Project, or One per 1000 Tons or Fraction Thereof
		Specific Gravity	Stockpile, Windrow, Roadway	At Start of Production and as Material Changes per Supplier and/or Plant

Remarks:

If asphalt millings are used for bedding, they shall meet the requirements of virgin Aggregate Base per ODOT.

Millings must meet all ASTM C-33 requirements.

Millings cannot be placed until the material has been certified by ODOT/COT approved testing lab.

City of Tulsa reserves the right to modify sampling and testing requirements as needed to ensure quality of materials.

PART 643 TABLE 5

REINFORCEMENT

ODOT/COT SUPPLEMENTS	MATERIAL	TYPE OF TEST(S) REQUIRED	SAMPLING POINT	MINIMUM SAMPLING FREQUENCY
724	Steel Reinforcement	Certificate and/or Tests	Project	One Sample For Each Size, Grade & Heat Number Per Shipment & Manufacturer. Certificate Required.
517, Project Plans & Specifications	Post-Tensioned Steel	Certificate and/or Tests	Project	One Sample For Each Size, Grade & Heat Number Per Shipment & Manufacturer. Certificate Required.
503, Project Plans & Specifications	Pre-Stressed Steel	Certificate and/or Tests	Project Or Fabrication Plant	One Sample For Each Size, Grade & Heat Number Per Shipment & Manufacturer. Certificate Required.

Remarks:

All steel and iron incorporated into Federal-Aid projects must conform to requirements of "Buy America" per 23 CFR 635.410.

City of Tulsa reserves the right to modify sampling and testing requirements as needed to ensure quality of materials.

**PART 643 TABLE 6
ELASTOMERIC BEARING PADS**

ODOT/COT SUPPLEMENTS	MATERIAL	TYPE OF TEST(S) REQUIRED	SAMPLING POINT	MINIMUM SAMPLING FREQUENCY
733.06	Elastomeric Bearing Pad (Grade 2)	AASHTO M 251	Project	Two Sample Bearing Pads Selected at Random by Engineer from every 100 Bearing Pads or Portion Thereof. Minimum of One Sample per Lot

Remarks:

Two sample bearing pads may be needed to complete the specified testing for smaller bearing pads.

Bearing pads will be selected at random by the Engineer at the project site for testing.

Bearing pads marked or otherwise presented as test bearing pads will not be tested.

Bearing pads must be made available for testing at least four weeks in advance of intended use.

Each bearing pad is to be marked in indelible ink or flexible paint. The marking shall consist of the order number, lot number, bearing identification number, and elastomer type and grade number. The marking shall be on the face that is visible after erection of the bridge.

City of Tulsa reserves the right to modify sampling and testing requirements as needed to ensure quality of materials.

PART 643 TABLE 7A
MINIMUM TEST SCHEDULE & FINAL REPORT

Minimum Testing Schedule:

A Minimum Testing Schedule is to be created and submitted to the City of Tulsa Field Engineering within 10 business days of project assignment. Testing frequencies are to be calculated using an approved set of plans in conjunction with the bid tab items to create an accurate representation of the minimum testing needed for the project. Any notes, comments, special circumstances and/or assumptions made for quantity calculations should be listed at the bottom of the page.

Final Report Should Include the Following:

All laboratories must submit a Final Report after the completion of each project. Laboratories will be notified by the City of Tulsa Field Engineering, via email, that the project is complete and all lab results for soils, concrete & asphalt will be attached. A CD and a hard copy of the Final Report must be delivered to the City of Tulsa Field Engineering within 5 business days from the date of this email.

Final Reports are to include all field and lab tests/results, daily reports and samples taken for the entire project.

All Final Reports must be stamped and signed by a registered professional engineer and shall verify that all materials, sampled and tested, were found to be in compliance with the latest City of Tulsa Standards and Specifications.

Construction materials that fail to meet specification requirements, but were incorporated in the project, must be summarized in the final report with a detailed explanation listing corrective actions or justification for acceptance.

PART 643 TABLE 7B
INFRASTRUCTURE DEVELOPMENT PROJECTS (IDP) ONLY
MINIMUM TEST SCHEDULE & FINAL REPORT

Minimum Testing Schedule:

A Minimum Testing Schedule shall be created and submitted to the City of Tulsa IPD Inspector, during the pre-construction meeting. Testing frequencies are to be calculated using an approved set of plans, in conjunction with the bid tab items, to create an accurate representation of the minimum testing needed for the project. Any notes, comments, special circumstances and/or assumptions made for quantity calculations, should be listed at the bottom of the page.

Final Report:

All laboratories must submit a Final Report at the completion of each project. A spiral bound copy of the Final Report must be delivered to the City of Tulsa IDP Inspector along with final record drawings of the project.

Final Reports shall include all field and lab tests/results (including any acceptance/deficiency test results), daily reports and samples taken for the entire project.

All Final Reports must be stamped and signed by a registered professional engineer and shall verify that all materials, sampled and tested, were found to be in compliance with the latest City of Tulsa Standards and Specifications. Construction materials that fail to meet specification requirements, but were incorporated in the project, must be summarized in the final report with a detailed explanation listing corrective actions or justification for acceptance.

INSPECTION/TESTING SCHEDULE

Service	Minimum Notice (Hours)	Notes
Aggregate Base:	48	Density testing must be complete prior to stringline. Obtain samples for proctor/acceptance testing prior to scheduling density
Aggregate Base Thickness:	48	Per Plans & Specifications
Aggregate Base Sampling:	48	Material must be from a City of Tulsa approved plant.
Asphalt:	48	Contractor/Inspector must call the City of Tulsa Field Engineering for scheduling. Material must be from an ODOT approved plant.
Backfill:	48	Obtain samples for proctor/acceptance prior to scheduling density testing.
Concrete:	48	Material must be from an ODOT approved plant.
Coring:	48	Allow time to schedule and set up traffic control if required.
Crack Seal:	48	
Footing Inspection:	24	
Grout:	24	
Import:	24	Material must be approved by the City of Field Engineering prior to placement.
Mortar:	24	
Post Tension Pre-Pour Inspection:	48	
Post Tension Stressing Inspection:	48	
Post Tension Sampling:	48	
Reinforcing Steel (Inspection):	48	
Reinforcing Steel (Sampling):	48	
Shotcrete:	48	Contractor shall provide 16" x 16" x 4" sampling panel.
Sidewalk Slope Inspection:	24	
Slurry (CLSM):	24	
Slurry Seal:	48	
Soil Sampling:	24	
Stringline:	24	
Subgrade:	24	Density testing must be complete prior to stringline. Obtain samples for proctor/acceptance testing prior to scheduling density
Weld Inspection:	48	

Inspection/Testing schedule time listed above has been considered in contract time. No additional time will be given.

SECTION END

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned,
_____, (hereinafter called the Contractor"),
duly authorized by law to do business as a construction contractor in the State of
Oklahoma, and _____
(hereinafter called the "Surety"), a corporation organized under the laws of the
State of _____, and authorized to transact business in the State of
Oklahoma, as Surety, are hereby held and firmly bound unto the City of Tulsa,
Tulsa, Oklahoma (hereinafter called the "City"), in the penal sum of

Dollars (full amount of the Contract), (\$_____) lawful money of the
United States, for the payment of which, well and truly to be made unto the said
City, we bind ourselves, our heirs, executors, administrators, successors, and
assigns, jointly and severally, firmly by these presents, as follows:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT,
WHEREAS, the Contractor has on the _____ day of _____,
entered into a written contract with the City of Tulsa, Tulsa, Oklahoma, for
furnishing all materials, labor, tools, equipment, and transportation necessary for:

PROJECT NO. 144628-W, TMUA-W 18-16, SW 2018-03, ES 2019-08
MAINTENANCE ZONE 6028-W TUPELO CREEK DRAINAGE

NOW, THEREFORE, if said Contractor shall well and truly perform and complete
said project in accordance with said Contract, Advertisement for Bids, General
Conditions, Instructions to Bidders, Bid Form, Plans and Specifications, and
related documents, shall comply with all the requirements of the laws of the State
of Oklahoma; shall pay as they become due all just claims for work or labor
performed and materials furnished in connection with said contract, and shall
defend, indemnify and save harmless said City against any and all liens,
encumbrances, damages, claims, demands, expenses, costs and charges of
every kind, including patent infringement claims except as otherwise provided in
said specifications and other contract documents, arising out of or in relation to the
performance of said work and the provisions of said Contract, then these presents
shall be void; otherwise, they shall remain in full force and effect.

This obligation is made for the use of said City and also for the use and benefit of
all persons who may perform work or labor, or furnish any material in the
execution of said Contract, and may be sued on thereby in the name of the City.

The Surety, for value received, hereby stipulates and agrees that no change,
extension of time, alteration or addition to the terms of the Contract, or to the work
to be performed thereunder, or the specifications accompanying same, shall in
any way affect its obligation on this bond; and it does hereby waive notice of any
such change, extension of time, alteration or addition of the terms of the Contract,
or to the work or to the specifications.

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.

CONTRACTOR (Principal)

BY:

ATTEST: (S E A L)

Date: _____ Title: _____

Date: _____ Attorney In Fact ** _____
Date: _____ Surety (S E A L)

**This date shall match the notarized certificate on the Power-of-Attorney

(Accompany this Bond with Power Of Attorney)

APPROVED AS TO FORM:

Date: _____
City Attorney

Date: _____
City Clerk

STATUTORY BOND

WHEREAS, the undersigned _____
has entered into a certain contract dated the _____ day of _____, _____, designated
as **Project No.144628-W TMUA-W 18-16, SW 2018-03 ES 2019-08**, for the
construction of certain public improvements Consisting of **Maintenance Zone 6028-W
Tupelo Creek Drainage** to be situated and constructed on and through the property
described in said Contract, including all of the work mentioned and described in said
Contract, and to be performed by the undersigned strictly and punctually in accordance
with the terms, conditions, drawings and specifications thereof, on file in the office of the
office of the City Clerk.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That
_____, as Principal, and _____

_____, a Corporation organized under the laws of the State
of _____, and authorized to transact business in the State of Oklahoma, as
Surety, are held and firmly bound unto the State of Oklahoma in the penal sum of _____

Dollars (Full Amount of Contract) (\$_____), lawful money of the United States, for
the payment of which sum well and truly to be made, we bind ourselves, our successors, and
assigns, jointly and severally firmly by these presents.

NOW, THEREFORE, if the said Principal shall fail or neglect to pay all indebtedness incurred
by Principal or sub-contractors of said principal who perform work in the performance of such
contract, for labor and materials and repairs to and parts for equipment used and consumed in
the performance of said contract 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.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time,
alteration, or addition to the terms of the contract or to the work to be performed thereunder,
or the specifications accompanying the same, shall in any way affect its obligation on this
bond, and it does hereby waive notice of any such change, extension of time, alteration, or
addition to the terms of the contract or to the specifications.

5/30/06

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.

CONTRACTOR (Principal)

BY:

ATTEST: (S E A L)

Date: _____
Title: _____

Date: _____
Attorney-In-Fact ** Surety (S E A L)

**This date shall match the date of the notarized certificate on the Power-of- Attorney.

(Accompany this Bond with Power-Of-Attorney)

APPROVED AS TO FORM:

Date: _____
City Attorney

Date: _____
City Clerk

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____, as Principal, and _____, a corporation organized under the laws of the State _____ of and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound unto the City of Tulsa in the Penal sum of _____

Dollars (full amount of Contract) (\$_____) in lawful money of the United States of America for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs executors, administrators, trustees, successors, and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such that:

WHEREAS, said Principal entered into a written contract with the City of Tulsa, Oklahoma dated _____, _____, for

Project No . 144628-W, TMUA-W 18-16, SW 2018-03, ES 2019-08
Maintenance Zone 6028-W Tupelo Creek Drianage

all in compliance with the drawings and specifications therefore, made a part of said Contract and on file in the office of the City Clerk, Tulsa, Oklahoma.

NOW, THEREFORE, if said Principal shall pay or cause to be paid to the City of Tulsa, Oklahoma, 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 one (1) year for all projects, from and after acceptance of said project by the City of Tulsa, Oklahoma; and if Principal shall pay or cause to be paid all labor and materials, including the prime contractor and all subcontractors; and if principal shall save and hold the City of Tulsa, Oklahoma, 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 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 obligation of this Bond.

06/13/06

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.

CONTRACTOR (Principal)

BY:

ATTEST: (S E A L)

Date: _____
Title:

Date: _____
Title:

Date: _____
Attorney-In-Fact

**

Date: _____
Surety (S E A L)

** This date shall match the date of the notarized certificate on the Power of Attorney

(Accompany this Bond with Power-Of-Attorney)

APPROVED AS TO FORM:

Date: _____
City Attorney

Date: _____
City Clerk

AFFIDAVIT OF CLAIMANT

STATE OF _____

COUNTY OF _____

The undersigned, of lawful age, being first duly sworn, on oath says that this contract is true and correct. Affiant further states that the work, services or materials will be completed or supplied in accordance with the contract, plans, specifications, orders or requests furnished the affiant. Affiant further states that (s)he has made no payment directly or indirectly of money or any other thing of value to any elected official, officer or employee of the City of Tulsa or any public trust of which the City is a beneficiary to obtain or procure the contract or purchase order.

By: _____

Signature

Name: _____

Company: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

Notary Commission Number: _____

AC-1

24616

Ordinance

Version 2.9 released on 9/5/19

APPROVED

JUN 02 2021

Tulsa City Council



EN118495

CITY COUNCIL USE ONLY

Date Received: _____
 Committee Date: 5-19-2021
 1st Agenda Date: 5-19-2021

Tracking #: _____

Committee: UCD
 Hearing Date: _____
 2nd Agenda Date: 6-2-2021

CITY CLERK USE ONLY

☐ Scanned Date: 06-09-2021
☐ Posted Item #: 2105.00967

All department items requiring Council approval must be submitted through the Mayor's Office.

Dept. Tracking No.	Board Approval	Other Board Name	City Council Approval <input checked="" type="radio"/> Yes <input type="radio"/> No
Department Engineering Services	Contact Name Matthew S. Liechti	Email mliechti@cityoftulsa.org	Phone (918) 596-9240
Subject (Description) Standard Specifications for Highway Construction	Ordinance Type Amending Tulsa Revised Ordinances		
Section	Township	Range	Lot
Block	Address	BA / CT Number	
Amending Ord. No. 23427	TRO Title No.	TRO Subtitle	Property/Non-Property
Council District	Zoning No.	PUD No.	Planning District
Funding Source(s)			

NA:

TOTAL:

\$0.00

Department:

Legal:

Board:

Mayor:

Other:

Date: 04-28-21
 Date: 04/30/2021
 Date: MAY 05 2021
 Date: _____

Background Information

The existing ordinance for Title 11, Chapter 10. - Standard Specifications for Highway Construction is based on the 2009 Edition of the Oklahoma Department of Transportation (ODOT) Standard Specifications for Highway Construction. This amendment is needed to update the existing ordinance to the new 2019 Edition of the ODOT Standard Specifications for Highway Construction.

Summation of the Requested Action

Staff recommends approval of the attached ordinance with an effective date of July 1, 2021.

Emergency Clause?

☐ Yes☒ No

Reason for Emergency Clause

Post Execution Processing

- ☐ Mail vendor copy (add'l signature copies attached)
☐ Must be filed with other governmental entity
☐ Add'l governmental entity approval(s) required

Additional Routing and Processing Details

Please return one executed copy to Engineering Services Department.

(Published in the Tulsa World

June 13, 2021)

Ordinance No. 24616

AN ORDINANCE AMENDING TITLE 11, TULSA REVISED ORDINANCES, ENTITLED "PUBLIC WORKS DEPARTMENT" BY AMENDING CHAPTER 10, ENTITLED "STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION" BY AMENDING SECTION 1000 AND SECTION 1001; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF TULSA:

Section 1. Amendment of Title 11, Chapter 10. That Title 11, Chapter 10, Tulsa Revised Ordinances, entitled "Standard Specifications for Highway Construction" be and the same is hereby amended and shall recite in its entirety as follows:

"CHAPTER 10. STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION

Section 1000. Adoption of State Standard Specifications.

Section 1001. Additions, Revisions, Deletions and Exceptions.

SECTION 1000. ADOPTION OF STATE STANDARD SPECIFICATIONS.

That certain document, a bound copy and electronic copy of which has been filed in the Office of the City Clerk of the City of Tulsa, being marked and designated as Standard Specifications for Highway Construction, 2019 Edition, as published by the Oklahoma Department of Transportation, is hereby adopted as the standard specifications for public improvement projects for the City of Tulsa with the additions, revisions, deletions and exceptions as set forth in SECTION 1001 of this chapter.

SECTION 1001. ADDITIONS, REVISIONS, DELETIONS AND EXCEPTIONS.

1001.A. The following definitions, listed as numbered in the 2019 Edition of the Standard Specifications for Highway Construction, are hereby revised and amended for all sections of this chapter as follows:

101.03. Abbreviations and Acronyms. In Table 101:1, add the following abbreviations and expressions:

- ADA - American with Disabilities Act, excluding Chapter 500
- ADA – Adjusted Daily Average, when used in Chapter 500
- ADAAG - American with Disability Act Accessibility Guidelines
- COT - City of Tulsa

- PROWAG – Public Rights-of-Way Accessibility Guidelines

101.05. Definitions. Add the following subsections:

- **“101.05.CY. City of Tulsa (COT).** The City of Tulsa, Oklahoma, a municipal corporation acting by and through its duly authorized officers and agents.”
- **“101.05.CZ. Non-Collusive Bidding Certificate.** Replace all references to ‘Non-Collusive Bidding Certificate’ with ‘Non-Collusion Affidavit’.”
- **“101.05.DA. Qualified Products List (QPL).** All references to ‘ODOT Traffic Engineering Division Qualified Products List (QPL)’ or ‘QPL’ shall mean ‘the City of Tulsa, Traffic Engineering Division Approved Products List’.”
- **“101.05.DB. State Construction Engineer.** The City Engineer of the City of Tulsa or authorized designee.”

101.05.A. Acceptance Date. Delete section.

101.05.V. Commission. Replace definition with “The City of Tulsa, Oklahoma, a municipal corporation acting by and through its duly authorized officers and agents.”

101.05.Y. Contract. Replace definition with “The written agreement between the City of Tulsa and the Contractor setting forth obligations of the parties thereunder, including, but not limited to, the performance of the work, the furnishing of labor and materials, and the basis of payment.

The Contract includes the Notice to Bidders, Proposal, Contract Form, all Contract Bonds, Specifications, Special Specifications, Special Provisions, all Plans, Work Orders and Change Orders that are required to complete the construction of the work in an acceptable manner, including authorized extensions.”

101.05.AG. Department. Replace definition with “The City of Tulsa, Oklahoma, a municipal corporation acting by and through its duly authorized officers and agents.”

101.05.AI. Director. Replace definition with “The Director of the Engineering Services Department or the Director of any successor department which has the responsibility for general engineering services for the City of Tulsa.”

101.05.AL. Engineer. Replace definition with “The City Engineer of the City of Tulsa or authorized designee.”

101.05.AO. FAST Guide. Replace definition and all references to “FAST Guide” with “City of Tulsa Acceptance Sampling/Testing Standard Specifications.”

101.05. AT. Holiday. Replace definition with “Days declared to be holidays for regular Civil Service employees of the City of Tulsa.”

101.05.AV. Inspector. Replace definition with “The City of Tulsa’s authorized representative assigned to inspect the work.”

101.05.BF. Materials Division. Replace definition with “The Director of the Engineering Services Department or the Director of any successor department which has the responsibility for general engineering services for the City of Tulsa.”

101.05.BG. Materials Engineer. Replace definition with “The City Engineer of the City of Tulsa or authorized designee.”

101.05.CC. Right-of-Way. Replace definition with “Right-of-Way or ROW shall mean the surface, the airspace above ground, and the area below the surface of any public street, highway, parkway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, stormwater drainage system, easement, park, or similar property in which the City of Tulsa now or hereafter holds a property interest and/or a maintenance responsibility which, consistent with the purposes for which it was granted or dedicated, may be used to install, operate and maintain facilities.”

101.05.CD.(16). Sidewalk/Bicycle Path. Add the following sentence to the existing definition: “Refer to the Revised Ordinances of the City of Tulsa, Title 37 – Tulsa Traffic Code, Chapter 1 and Chapter 10 for definition of bicycle.”

101.05.CH. State. Replace definition with “The City of Tulsa, Oklahoma, a municipal corporation acting by and through its duly authorized officers and agents.”

101.05.CS. Traffic Engineering Division. Replace definition with “The City of Tulsa Traffic Engineering Division or any successor division which has the responsibility for traffic engineering services for the City of Tulsa.”

1001.B. City of Tulsa exceptions and amendments to the following provisions, listed as numbered in the 2019 Edition of the Standard Specifications for Highway Construction, are hereby revised, amended and described as follows:

102.01. Pre-Qualification. Delete text of section, and replace with “The City of Tulsa requires General / Prime Contractors to be Prequalified according to Title 11, Chapter 11 of the Revised Ordinances of the City of Tulsa.”

102.04. Refusal of Proposals. At the end of the bulleted list, add the following bulleted list item: “The bidder has failed to comply with Small Business Enterprise requirements of a previous City of Tulsa contract.”

102.06. Examination of Plans, Specifications, Special Provisions, and the Work Site. Replace the fourth paragraph with “The City of Tulsa may have boring logs and subsurface reports used in determining design criteria. Bidders may request to inspect these documents, relevant to the currently advertised project, by contacting the Contract Administrator at the following address during normal business hours:

City of Tulsa
Engineering Services Department

2317 S Jackson Ave
Tulsa, OK 74107

102.08. Nonresponsive Proposals. At the end of the bulleted list, add the following bulleted statement: "The bidder does not properly comply with Small Business Enterprise requirements in accordance with the Proposal Forms."

102.10. Delivery of Proposal. Delete text of section, and replace with the following:

"Each bid Proposal shall be completed electronically on the electronic media provided, then printed, signed and submitted along with the electronic media and the complete bound copy of the contract documents or as instructed in the Notice to Bidders. In the event of a discrepancy between the pricing on the electronic media and the hard copy of a Proposal, the hard copy pricing will govern. If an electronic media is not provided, and the bid Proposal is manual, the bid Proposal shall be submitted in ink. The written words shall govern over the figures. Erroneous entries shall be lined out, initialed by the bidder, and the correct entry inserted. The unit price bid must cover all expense for furnishing the labor, materials, tools, equipment, and apparatus of every description to construct, erect, and furnish all work required by and in conformance with the Plans and Specifications.

Each bid shall be enclosed in a sealed envelope addressed to

City Clerk's Office
The City of Tulsa
One Technology Center
175 E. 2nd Street, Suite 260
Tulsa, Oklahoma 74103

or as otherwise instructed in the Notice to Bidders, and identified on the outside with the words:

'PROJECT NO. _____,

Pre-qualification Certificate Number _____.'

All addenda to the contract documents shall accompany the bid when submitted.

Any bid received more than ninety-six (96) hours excluding Saturdays, Sundays and holidays before the time set for the opening of bids, or any bid received after the time set for opening of bids, shall be considered "non-responsive" and shall be returned unopened to the bidder."

102.13. Public Opening of Proposals. Delete text of section, and replace with "Proposals shall be publicly opened and read on the date and at the hour and place set forth in the advertisement and Notice to Bidders in the manner established by the City of Tulsa."

102.16. Non-Collusive Bidding Certification.

- Replace the Non-Collusion Bidding Certification form with the following City of Tulsa Non-Collusion Affidavit form:

NON-COLLUSION AFFIDAVIT	
STATE OF _____)
) ss:
COUNTY OF _____)
<p>_____, of lawful age, being first duly sworn, says that:</p> <ol style="list-style-type: none"> 1. I am the duly authorized agent of the bidder submitting the competitive bid associated with this sworn statement for the purpose of certifying facts pertaining to the existence of collusion among bidders and between bidders and municipal officers or employees, as well as facts pertaining to the giving or offering of things of value to governmental personnel in return for special consideration in the letting of any contract pursuant to the bid; 2. I am fully aware of the facts and circumstances surrounding the making of the bid and have been personally and directly involved in the proceedings leading to the submission of such bid; 3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party: <ol style="list-style-type: none"> a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding; b. to any collusion with any municipal official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract; nor c. in any discussions between bidders and any municipal official concerning exchange of money or other things of value for special consideration in the letting of a contract. 4. If awarded the contract, neither the bidder nor anyone subject to the bidder's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the City of Tulsa or of any public trust where the City of Tulsa is a beneficiary, any money or other thing of value, either directly or indirectly, in procuring the contract for which the bid is submitted. 	
_____ BIDDER (Company Name)	_____ Signed _____ Title
SUBSCRIBED and SWORN to before me this _____ day of _____, 20____.	
MY COMMISSION EXPIRES: _____ COMMISSION NO.: _____	_____ NOTARY PUBLIC

- In the fourth paragraph, revise the phrase proceeding the bulleted list to recite, "The following do not constitute collusion within the scope of the Non-Collusion Affidavit:"

103.07. Execution of Contract. Revise the first paragraph as follows:

- Revise the first sentence to recite "The Contract shall be signed in black or blue ink by the individual, all members/partners of a general partnership or joint venture, a general partner of a limited partnership, a duly authorized officer of the corporation, or a duly authorized manager, managing member or authorized officer of the limited liability company, to whom the Contract was awarded.
- In the last sentence delete "The Department will execute the Contract", and replace with "The Department will endeavor to execute the Contract, in proper form."

103.08. Approval of Contract. Delete text of section, and replace with "The Contract shall not be binding upon the City of Tulsa until it has been executed and approved in the manner set forth in the Tulsa City Charter."

104.01. Purpose of Contract. After the first two (2) sentences, delete the rest of the section.

104.07. Maintenance of Traffic. Revise the first sentence to recite "Keep all roads, sidewalks, and bicycle paths open to all traffic as shown on the plans."

105.17. Project Completion and Acceptance. At the beginning of the section add, "This section does not apply to Infrastructure Development Projects (IPDs). For IDPs, refer to Title 35 of the Revised Ordinances of the City of Tulsa."

105.17.B. Project Completion. In the first sentence of the last paragraph, replace "The Resident Engineer will" with "The Resident Engineer may".

105.17.C. Final Acceptance. Delete text of section, and replace with " Final Acceptance is the date on which the Request for Action (RFA) for final payment has been signed by the Mayor of the City of Tulsa."

106.01.A. Material Acceptance. At the end of this section, add the following paragraph: "For conflicts among ODOT Standard Specifications, ODOT Standard Materials Test Methods, and City of Tulsa Acceptance Sampling/Testing Standard Specifications, the City of Tulsa Acceptance Sampling/Testing Standard Specifications shall take precedence."

106.01.B. Buy America. Delete Section.

106.04.D. Distribution of Certifications. Delete text of section, and replace with "The Contractor shall submit certifications to the Engineer with another copy mailed to:

Field Engineering
City of Tulsa
Engineering Services Department
2317 S Jackson Ave
Tulsa, OK 74107"

106.05. Plant Inspection. In this section, replace all references to "Oklahoma City" with "Tulsa."

106.11. Guarantees and Warranties. In the first paragraph replace "six months" with "twelve months" and "six-month" with "twelve-month".

107.01. Laws, Rules, and Regulations to be Observed. At the end of this section add the following:

"The contractor shall certify that it and all of its Subcontractors to be used in the performance of the Contract are in compliance with 25 O.S. Sec. 1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. Sec. 1312 and

includes but is not limited to the free Employee Verification Program (E-Verify) available at www.dhs.gov/E-Verify.

The Contractor shall take the necessary actions to ensure its facilities are in compliance with the requirements of the Americans With Disabilities Act (ADA). It is understood that the Contractor's internal ADA program is not a program or activity of the City of Tulsa. The Contractor agrees that its program or activity will comply with the requirements of the ADA. Any costs of such compliance will be the responsibility of the Contractor. Under no circumstances will Contractor conduct any activity which is not in compliance with the ADA."

107.06. Barriers, Barricades, and Warning Signs. Before the first paragraph, add "In this section, the term "traffic" includes vehicular, pedestrian and bicycle traffic."

107.14. No Waiver of Legal Rights. Delete section.

107.19. Regulated Floodways. At the end of the section, add "The Contractor shall also follow the requirements of Title 11A of the Revised Ordinances of the City of Tulsa."

107.20. Stormwater Management. After the first sentence, add "The Contractor shall also follow the requirements of Title 11A of the Revised Ordinances of the City of Tulsa."

108.01. Subletting of Contract. Delete the last sentence of the first paragraph.

108.02. Notice to Proceed and Preconstruction Conference. Delete the first sentence in the second paragraph, and replace with "After the Contractor and Resident Engineer hold a preconstruction conference, the Contractor shall receive a Notice to Proceed before the start of construction."

108.07.B.(1) Extensions for Adverse Weather. After the first sentence in the second paragraph, add "Extensions of Contract Time will not be granted if conditions exist such that the Contractor could work at least 4 hours."

108.07.B.(3). Winter Time Suspension. Delete section.

108.08. Incentive/Disincentive for Early/Late Completion. Delete section.

108.09. Failure to Complete on Time.

- In the first sentence, delete "in accordance with Table 108:1, "Schedule of Liquidated Damages.""
- Delete Table 108:1.

109.04.B.(3). Equipment.

- In first paragraph, delete the last two sentences, and replace with the following:

"The Department will determine the maximum allowable rate as listed in the most current edition of the *Heavy Construction Costs with RSMeans data*, published by The Gordian

Group. The Department will calculate the hourly rental rate in accordance with the following equation:

$$H = [(M \times R) / 176] + O$$

Where

H = Hourly rental rate,
M = Monthly rental rate,
R = City cost index / 100, and
O = Hourly operating cost.

- In the second paragraph, delete the last two sentences.

109.04.B.(4)(f). Employee Fringe Benefits. Delete text of section, and replace with "The City of Tulsa will not pay for the additional costs of employee fringe benefits incurred by the Contractor for labor during the period the disputed work was in progress."

109.06. Progress Payments. Revise the first sentence of the second paragraph to recite "The Resident Engineer will make monthly progressive estimates."

109.08. Final Payment. Delete last paragraph, and replace with "If the Contractor does not sign and return the Final Estimate within 90 days of receipt, the Engineer may start action to administratively close the project."

109.10.A. Recoverable Costs. Delete section.

201.04.A. Clearing. Delete the fourth sentence of the first paragraph, and replace with "Remove branches that overhang the roadway to at least 20 ft [6 m] above the road surface and at least 35 ft [11 m] above the road surface at traffic signals."

201.06. Basis of Payment. In this section, delete all references to "Lump Sum", and replace with "Square Yard [Square Meter]".

202.04. Construction Methods. In the second paragraph delete, "If the contract requires ground disturbance greater than one acre total."

202.04.D.(2). Mandatory Sources Designated on the Plans. Delete sentence, and replace with "If the Plans show the source of selective subgrade topping, excavate the material at the specified source, haul to the specified location, and place."

202.05.A. Unclassified Excavation. Delete the second sentence of the first paragraph.

209.04. Construction Methods. At the end of the second paragraph, add the following: "Clean inlet and outlet channels within the right-of-way."

220.04.C. Contractor Responsibilities for SWPPP. In the first sentence of the second paragraph, replace “recommended” with “required”.

220.04.H.(3). Earthwork Operations. Delete first paragraph, and replace with “Protect excavation or embankment slopes as construction progresses with placement of temporary (e.g. seeding, mulching, soil retention blankets, or other approved soil stability), or permanent (e.g. seeding, sprigging, or sodding) erosion control measures. Obtain approval from the Resident Engineer in the preconstruction schedule for any increase or decrease in the amount of the area exposed by construction operations. No exposed area shall remain unprotected without being stabilized. Install temporary or permanent erosion or sediment control measures on excavation or embankment slopes as work progresses in vertical increments of not more than 10 ft [3 m] unless otherwise directed by the Resident Engineer.”

220.05. Method of Measurement. In the bulleted list, delete the sixth bulleted item.

221.01. Description. In the last sentence, replace “OOPDES” with “OPDES”.

221.02. D. Temporary Sediment Filter. Revise the first sentence to recite “Provide fiber log for Type I-A and I-B sediment filter in accordance with Subsection 221.02.H, ‘Temporary Fiber Log.’ Provide material for Type I-C sediment filter in accordance with Subsection 221.02.C, ‘Temporary Silt Fence.’”

228.02. Materials. For the first item listed in the table, delete “Nylon”.

230.01. Description. Delete “Bermuda”.

230.02. Materials. Delete all references to “Bermuda” from this section.

231.04.C.(1). Planting Seasons and Weather Restrictions. In the first sentence of the second paragraph, replace “suspend” with “Suspend”.

317.04.A. Mix Design and Proportioning. In the bulleted list, insert “•” before “Compressive strength at 7 days”.

317.04.F. Acceptance.

- Delete the first paragraph.
- At the end of the second paragraph add “Failure to reach strength between 600 psi [4,150 kPa] and 2,000 psi [13,800 kPa] will result in rejection of the work.”

317.06. Basis of Payment. Delete the third and fourth paragraphs and Table 317:1. Replace with the following: “ODOT Acceptance and Strength Pay Factors shall not be used. Failure to meet criteria in Subsection 317.04.F will result in rejection of the work.”

401.04.A.(1). Surface Elevation and Smoothness. Delete paragraph, and replace with “Refer to the City of Tulsa Standard Specifications for Pavement and Bridge Deck Smoothness.”

403.04.A.(2). Seasonal Limitations. Delete paragraph and Table 403:1, and replace with “The Department will evaluate claims for extension of Contract Time in accordance with Subsection 108.07, when temperature and weather limitations in Table 403:2 are not met.”

405.04.G. Spreading and Finishing. In the last paragraph, replace “ODOT Bridge Division” with “Department”.

406.04.F. Weather and Seasonal Limitations. Delete the second paragraph.

410.04.E. Aggregate Application Rate. Delete the third and fourth sentences, and replace with “The Contractor shall overlay the deficient area at no additional cost to the Department.”

410.05. Method of Measurement. Delete text of section, and replace with “The Resident Engineer will measure completed Micro Surfacing by the square yard [square meter].”

410.06. Basis of Payment. Delete all Pay Items and Pay Units in the table and replace with the following Pay Item and Pay Unit: “MICRO SURFACING, Square Yard [Square Meter]”.

411.03.C. Pavers. After the first paragraph add the following paragraph and Table 411.03.C:1. “Pavers shall be capable of placing a minimum paving width in one (1) lift as shown in Table 411.03.C:1. Longitudinal joints in the surface layer shall correspond with the locations indicated in Table 411.03.C:1.”

Table 411.03.C:1 Minimum Paving Widths		
Roadway Classification	Minimum Paving Width	Location of Longitudinal Joints
Arterials	one (1) full lane width	At edges of traffic lanes
Non-Arterials	one-half (½) road width	At centerline of road
Trails and bike lanes	full width of trail/bike lane	At edges of trail/bike lane

411.03.F. Material Transfer Vehicle.

- In the fourth paragraph, replace “Bridge Division” with “Department”.
- In the seventh paragraph, replace “500 ton [450 metric ton]” with “100 ton [90 metric ton]”.

411.04. Construction Methods. At the beginning of this section, add the following:

“Prior to paving operations, submit a paving plan indicating the sequence of paving passes, pass widths, pass thicknesses, and requested temporary street closures.

The contractor shall not drive empty or loaded trucks or equipment across newly paved areas for the construction period.”

411.04.D. Control Strip Requirements.

- Delete the first paragraph.
- In the second paragraph, replace “500 ton [450 metric ton]” with “100 ton [90 metric ton]”.
- Delete the last paragraph, and replace with “If the initial asphalt control strip produces failing results, make adjustments to production and placement procedures, and repeat the

test process for a second control strip. If required, create additional asphalt control strips on the shoulder until an acceptable mixture is produced.”

411.04.I. Spreading and Finishing.

- After the second sentence in the fourth paragraph, add “Once paving begins the Contractor should have sufficient trucks available to deliver asphalt materials in a continuous operation.”
- After the fourth paragraph, add the following paragraph: “A leveling or “wedge” course may be required to establish the required cross-slope for the finished overlay. Adequate transitions to side streets and driveways must be provided. Paving shall extend to the returns of all side streets. Special consideration should be given to prevent ponding at side street intersections.”

411.04.J.(1). General.

- Delete the second paragraph, and replace with the following:

“Ensure longitudinal joints in the surface layer correspond with locations indicated in Table 411.03.C:1.

Transverse joints shall be kept to a minimum. At a minimum, each lane shall be continuously laid without cold joints either from intersection to intersection or a length of 500 ft.”
- Delete the last sentence in the last paragraph.

411.04.K.(2). Acceptance. Delete the second sentence in the third paragraph.

411.04.K.(2).(a). Layers At Least 1½ in [38 mm] Thick.

- In the second paragraph, delete the first sentence, and replace with “Asphalt density tests for each lot will be performed at random sample locations.”
- Delete Table 411:2 and the last paragraph in the section, and replace with the following:

“ODOT Pay Adjustments for Lot Density shall not be used. Failure of any sample within the lot to reach density within 92.0 to 97.0 percent of the Maximum Theoretical Density will result in rejection of the entire lot. The Contractor shall remove and replace unacceptable lots at no additional cost to the Department.”

411.04.K.(2).(b). Layers Less Than 1½ in [40mm] Thick. In the second paragraph, replace “500 yd² [500 m²]” with “400 yd² [330 m²]”.

411.04.N.(2).(a). Basis of Acceptance and Payment.

- In the first paragraph,
 - In the first sentence, delete “and payment”;
 - After the first sentence, add the following: “The Resident Engineer may also consider other characteristics, including but not limited to, pavement smoothness.”

- In the second paragraph, delete the second through the last sentence.
- Delete the fifth through the last paragraph, and replace with “ODOT pay factors for density, asphalt cement content, and air voids shall not be used. Failure to reach density of 92.0 to 97.0 percent of the Maximum Theoretical Density, asphalt cement content of +/- 0.40 of job mix formula, air voids greater than 1.5 deviation from target, or specified thickness of asphalt will result in rejection of the entire lot. The Contractor shall remove and replace unacceptable lots at no additional cost to the Department.

411.04.N.(2).(b). Resident Engineer’s Acceptance Procedures. Delete the second paragraph, the bulleted list, and Table 411:4; replace with “The Resident Engineer may perform varying amounts of sampling and testing per lot in accordance with the City of Tulsa Acceptance Sampling/Testing Standard Specifications.”

411.06.B.(2). Asphalt Binder Price Adjustment (ABPA). Delete the last paragraph, and replace with “ODOT will establish the Monthly Asphalt Binder Price Index each month and post the information to the ODOT website at <http://www.okladot.state.ok.us/contractadmin/pdfs/binder-index.pdf>.”

414.02. Materials.

- Delete “Fly Ash” from Table.
- At the end of the section, add the following:
“Fly Ash is not allowed in any concrete mixture unless otherwise specified in the Plans or Special Provisions.”

414.03.B. Placing and Finishing Equipment. After the first sentence, add the following: “If paving is not performed by a slip form paver, a hand vibrator shall be required.”

414.04.R. Acceptance of Pavement. Delete text of section, and replace with the following: “ODOT pay factors shall not be used. Failure to reach the gradation specified, air content of 4.5% to 7.5%, or target strength of the mix design will result in rejection of the entire lot. Failure to provide pavement thickness equal to or greater than what is specified will result in rejection of the entire lot.”

414.04.R.(a). Engineer’s Acceptance Procedures. Delete text of section and Table 414:2. Replace with “Refer to City of Tulsa Acceptance Sampling/Testing Standard Specifications.”

414.06. Basis of Payment. Delete the last sentence in this section.

509.06. Basis of Payment.

- Delete the second through the fifth paragraph and Table 509:7. Replace with the following: “ODOT pay factors for strength and air content shall not be used. Failure to reach the specified strength or the target air content within a deviation of 1.5% will result in rejection of the work. Check any outlying concrete cylinder breaks and air entrainment tests in accordance with ASTM E 178 Table 1, Upper 10% Significance Level.”

- In the sixth paragraph, revise the first sentence to recite “If the concrete is rejected by the Engineer, the Contractor may elect to core the represented concrete at no additional cost to the Department.”

515.04.C. Sampling and Testing of Bridge Decks and Approaches. Delete the first paragraph and bulleted list. Replace with “Refer to City of Tulsa Acceptance Sampling/Testing Standard Specifications for lot size.”

515.04.D.(2). Bridge Decks and Approach Slab Surfaces.

- In the first paragraph, delete the third sentence.
- Delete sections (a), (b) and (c).
- Add the following:

“The percentage of absorption (using test results from OHD L39 shall be less than or equal to 1.0. The depth of penetration (using test results from OHD L 40) shall be greater than or equal to 0.15 inches. If absorption and penetration requirements are not met, reapply penetrating water repellent at no additional cost to the Department until requirements are met.”

516.02.C. Casings.

- In the first sentence of the third paragraph, add the word “licensed” after “Registered Professional Engineer”.
- In the fourth paragraph, delete the second sentence, and replace with “Use permanent interior casings in accordance with ASTM A760 and AASHTO M36.”

516.04.C.(7). Concrete Acceptance. Delete the second and third sentence. Replace with the following: “ODOT pay factors for concrete strength shall not be used. Failure to reach the specified strength will result in rejection of the work.”

610.04.F. Tactile Warning Device. Delete text of section, and replace with the following:

“Install tactile warning devices in accordance with the manufacturer’s specifications and the City of Tulsa Standard Drawings. Tactile Warning Devices shall consist of Cast-In-Place Tactile Panels in accordance with 733.1, “Tactile Warning Device Material”.

Tactile panels shall be cast into the wet concrete. Surface applied products shall not be allowed. The panels shall extend the full width of the ramp or landing area and shall extend a minimum of two (2) feet in the direction of pedestrian travel. Panels shall be placed perpendicular to the direction of travel unless specifically noted otherwise or approved by the Engineer prior to installation.

All construction shall meet current ADAAG and PROWAG Guidelines.”

611.01. Description. In the first sentence, delete “, brick masonry,”.

611.02.A. General.

- Delete “Clay Brick” and “Concrete Brick” from the table of materials.

- In the second paragraph, delete “brick masonry or”.

611.04.B. Clay Brick or Concrete Brick. Delete section.

615. Sanitary Sewer Pipe Conduits. Delete section.

616. Water Pipe and Fittings. Delete section.

623. Guardrail and End Treatments. Revise the section title to recite “Guardrail, End Treatments, and Impact Attenuators”.

623.01. Description.

- In bulleted list, add the item, “Guardrail Impact Attenuators”.
- In the last sentence of the last paragraph, after “Ensure the GETs”, add “and Guardrail Impact Attenuators”.

623.04. Construction Methods. Add the following subsection:

“623.04 H. Guardrail Impact Attenuators

Ensure experienced workers fabricate and install guardrail impact attenuators as shown on the Plans.

Construct guardrail impact attenuators with certified, crash tested hardware. Ensure NCHRP 350 TL-3 certification for substituted hardware and that the product appears on the Traffic Engineering Division’s Qualified Product List (QPL). Obtain the Resident Engineer’s approval of substitutions before installation.”

623.06. Basis of Payment. Add Pay Item “(J) Guardrail Impact Attenuator” with a Pay Unit of “Each”.

624.01. Description. In the bulleted list, add the bulleted item, “Fence, Other (Like Kind).”.

624.02. Materials. In the table, add the Material, “Fence, Other (Like Kind)” with Section or Subsection of “732.10”.

624.06. Basis of Payment. Add Pay Item, “(H) Fence, Other (Like Kind)” with a Pay Unit of “Linear Foot [Meter]”.

642.06. Basis of Payment. In the table, for both Pay Items, delete the Pay Unit of “Lump Sum”, and replace with “Each”.

701.01.B. Cement Substitution. Delete text of section, Table 701:2, and Table 701:3. Replace with “Cement substitutions shall not be used in concrete mixtures.”

701.19.A. General. Controlled Low-Strength Material (CLSM). In the first sentence, delete “fly ash.”.

701.19.B. Mix Design. In the table, delete the Material, “Fly Ash”.

702.01.A. General. In the second paragraph

- Delete the first sentence, and
- In the last sentence, delete “PCC from one source (power plant) and”.

702.01.B. Requirements for Portland Cement Concrete Use. Delete section.

702.02. Slag Cement. Delete section.

702.03. Cement Kiln Dust. Delete section.

702.04. Silica Fume. Delete section.

708.04. Composition of Mixtures. In Table 708:6, under “Other Mixture Requirements”, add a row as follows:

	S2	S3	S4	S5 / RIL	S6
Asphalt Cement (for Non-Arterial pavements only) % of mix mass		≥ 5.0	≥ 6.0	≥ 6.0 / NA	

711.06.D.(1). Acrylic Emulsion Polymer. In the second sentence, after “44 percent by”, delete “weight [mass]”, and replace with “total weight of the acrylic emulsion polymer.”

719.04.A. Description. In the second sentence, after “Type III” add “, Type IV, or Type IX”.

719.05.C. Material and Application. In the first sentence, delete “baking screen enamel or”.

719.05.E. Tests. In the first sentence revise “Ensure screening enamel, stencil pastes, and process inks” to recite “Ensure stencil pastes and process inks”.

726.02. Flexible Conduits. In Table 726:3, under Nonmetallic conduits—culverts, for Corrugated Polypropylene Pipe, delete the requirement for “AASHTO M330”, and replace with “COT 215”.

732. Materials for Guardrail, Guide Posts, Bridge Rail, Miscellaneous Railing, and Fences. Add the following subsection:

“732.10 Fence, Other (Like Kind)

Provide fence, other (like kind), in accordance with contract documents.”

733. Miscellaneous Materials. Add the following subsection:

“733.1 Tactile Warning Device Material

Provide cast-in-place tactile panels to be embedded into wet concrete. Surface applied products are not allowed. The panels shall meet the size and spacing requirements shown in the plans or the City of Tulsa Standard Drawings.

The tactile panels shall be composed of cast iron or vitrified polymer composite material. The color of the tactile panels shall comply with ADAAG and PROWAG color contrast requirements. Vitrified polymer composite panels shall be yellow and conform to Federal Color No. 33538. The color shall be homogeneous throughout the product. Any variations in color shall be approved by the Engineer prior to installation.

Tactile panels shall meet current ADAAG and PROWAG Guidelines."

735.01. Sodding and Sprigging Materials. Within subsections A, B and C, delete the word "Bermuda".

735.01.B.(1). Solid Slab Sod. At the end of the first paragraph add "Nylon mesh shall not be allowed in solid slab sod."

740.01. Materials.

- Delete the first three paragraphs.
- In fourth paragraph, delete "aluminum sheet material". Replace with "louvered aluminum backplates".
- At the end of the fifth paragraph, add "Retroreflective sheeting shall be 2 inches wide and attached to the front perimeter of the backplate. Retroreflective sheeting shall be fluorescent yellow."

740.02. Finish. After "Ensure the backplate is" add "flat".

801.01. Description. Delete the second paragraph. Replace with the following:

"The contractor shall obtain the necessary permits for electrical inspection on all signal and lighting work. Electrical inspections shall include all electrical equipment, enclosures, devices, cables, conductors and raceways as defined by the NEC. High or low voltage shall be installed, maintained, connected or removed by a State of Oklahoma licensed Electrical contractor. All work shall meet the requirements of the NEC. The City of Tulsa shall reserve the right to define workmanlike manner. Proof of license shall be carried on person at all times and be available to City of Tulsa personnel upon request per Title 158- Construction Industries Board Chapter -40 Subchapter 11-2(a)(9). The Contractor shall contact City of Tulsa Traffic Operations to obtain the address needed to obtain the permit."

801.04.A. General. Replace all references to "60-cycle" with "60 hertz".

802. Electrical Conduit. Delete section.

803. Pull Boxes and Ground Boxes. Delete section.

804. Concrete Footings. Delete section.

805. Removal of Traffic Items. Delete section.

806. Poles and Mast Arms. Delete section.

807.02. Materials. In the second sentence of the second paragraph, replace "plastic" with "hardened, tamper-proof".

807.06. Basis of Payment. In the last paragraph, replace "plastic" with "hardened, tamper-proof".

809. Luminaires. Delete section.

810. Power Supplies. Delete section.

811. Electrical Conductors Highway Lighting. Delete section.

813.02. Materials. In the first two sentences of the first paragraph, after "(2) hardcopies" add "and one (1) electronic (pdf) copy".

813.02.A. Structural Design.

- In the second sentence of the first paragraph, delete "corrosion-resistant (stainless or galvanized steel, or aluminum)". Replace with "galvanized steel".
- In the eighth paragraph, after "Provide the following luminaire ring suspensions as required by the Contract:", add "(Only top latching systems are allowed.)".

813.04. Construction Methods. In the first paragraph, delete the third sentence and replace with "Submit to the Resident Engineer one (1) electronic (pdf) copy and at least five (5) hardcopies per project or one (1) copy per device."

825. Traffic Signal Controller Assembly. Delete section.

827. Solid-State Flashing Controller. Delete section.

828. Vehicle Loop Detector and Loop Detector Wire. Delete section.

830. Pedestrian Push Button. Delete section.

831. Traffic Signal Heads. Delete section.

832. Optically Programmed Adjustable Traffic Signal Heads. Delete section.

833. Traffic Signal Backplates. Delete section.

834. Electrical Conductors for Traffic Signals. Delete section.

850. Signs. Delete section.

851. Galvanized Steel Sign Posts. Delete section.

855.04.B. Application of Markings. At the end of the first paragraph, add "Remove temporary markings and reflective tabs prior to installing permanent markings."

856. Traffic Stripe (Multi-Polymer). Delete section.

858.04. Construction Methods. At the end of the second sentence of the first paragraph, delete "maker", and replace with "marker".

880.02.B.(5). Warning Lights. In the first sentence, delete "6F-70F", and replace with "6F.83".

880.05.B. Lump Sum Pay Item. At the beginning of the second paragraph, revise "If additional and compensation" to recite "If additional compensation".

Section 2. REPEAL OF CONFLICTING ORDINANCES. *That all other ordinances or parts of ordinances in conflict herewith be and the same are now expressly repealed.*

Section 3. SEVERABILITY. *If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared to be severable.*

Section 4. EFFECTIVE DATE. *This ordinance shall be effective on July 1, 2021.*

JUN 02 2021

ADOPTED by the Council: _____
Date


Chair of the Council

OFFICE OF THE MAYOR

Received by the Mayor: _____ at _____
Date Time

G.T. Bynum, Mayor

By: _____
Secretary

APPROVED by the Mayor of the City of Tulsa, Oklahoma: JUN 09 2021
Date


at _____
Time



Mayor

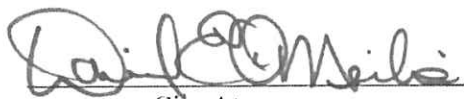
ATTEST:





City Clerk

APPROVED:



City Attorney
OK-JMS

SPECIFICATIONS

- A. Oklahoma Department of Transportation Standard Specifications for Highway Construction, 2019 Edition, shall be used on this project including Section 100-General Provisions, as modified by Ordinance No. 24616
- B. City of Tulsa, Engineering Services Department Construction Specifications – October 2013 are incorporated herein as if fully set forth and are on file, including all revisions posted on internet prior to bid opening, with the Engineering Services Department, Engineering Design Division, 2317 S. Jackson Ave. Tulsa, Oklahoma or access on the internet at:
<http://www.cityoftulsa.org/government/departments/engineering-services/specification-checklists-and-details>

SPECIAL
PROVISIONS

SPECIAL PROVISION
SUPPLEMENTAL CONTRACT REQUIREMENTS
PROJECT NO.

144628-W, TMUA-W 18-16 SW 2018-03, ES 2019-08 MAINTENANCE ZONE
6028-W TUPELO CREEK DRAINAGE

1. Successful Contractor shall return fully executed contract documents (including bonds and insurance) to the City of Tulsa, Contract Administration Section, Room N-103, 2317 South Jackson Avenue within two (2) weeks after bid opening.
2. If the successful Contractor can provide proper bonds and insurance and the contract is executed, the Pre-Construction Conference for this project will be held within eight (8) weeks after bid opening.

SPECIAL PROVISIONS GENERAL

1. Work Days: All work to be completed within **660 calendar days** for the Base Bid.
2. No work shall be done between the hours of 7:00 p.m. and 7:00 a.m., nor on Saturday, Sunday, or legal holidays without the prior written approval or permission of the Engineer in each case, except such work as may be necessary for the proper care, maintenance, and protection or work already done, or of equipment, or in the case of an emergency.
3. Traffic Control: All work shall be done in cooperation with the City to establish, install, maintain and operate complete, adequate and safe traffic control during the entire construction period. Barricades, signs, lights, flags and all other traffic control devices shall meet the requirements and specifications of the Standard Drawings entitled "Typical Applications of Traffic Control Devices", and shall be approved by the Traffic Engineer of the City of Tulsa. Two-way traffic shall be maintained at all times, unless otherwise approved by the Engineer. All contractors shall contact the City of Tulsa Traffic Engineering Section before removing or replacing traffic devices, detector loops and street signs. A traffic plan must be submitted for any temporary street closure at least 2 working days prior to planned closing.
4. Contractor shall provide an acceptable 10' straightedge for this Project. All transverse joints shall be straight edged and approved by the Engineer. Surface elevations will meet ODOT 401.04 and all other contract requirements.
5. The Engineer may do quality assurance testing in addition to that performed by the Contractor. The Engineer or a testing laboratory designated by the Engineer will do any testing for quality assurance. The City will pay all costs of quality assurance.
6. Full depth sawing of patches is required. This area to be removed shall be marked by the Contractor under the direction of the Engineer. The Contractor will provide personnel and equipment for marking of the patches as directed by the Engineer. Cost of full depth sawing shall be included in bid item for patching areas.
7. Areas to be patched shall be delineated in a straight-line geometric pattern. When completed, the patch shall be level and provide a smooth riding surface. Portland Cement Concrete patches will be protected from all traffic for a minimum period of 24 hours before removal of protective devices. No open excavations will be left overnight.
8. All asphalt patch work will require that asphalt rollers and an asphalt laydown machine be available for use on the job as directed by the Engineer.

9. Contractor will be required to employ the use of an Automatic Grade Referencing System. The equipment shall be capable of accurately and automatically establishing grades along each edge of the machine by referencing the existing pavement by means of a ski or joint matching shoe, or from an independent grade control. Minimum length of ski shall be 40'.
10. Prior to application of tack coat, the street shall be blown clean with compressed air to the satisfaction of the Engineer.
11. The tack coat must be uniformly distributed and adequately cured prior to beginning the overlay.
12. Contractor shall be responsible for cleanup and/or removal of any excessive over spray of any tack coat material to the satisfaction of the Engineer.
13. Debris from routing of cracks and cold milling shall be swept and vacuumed from the street to the satisfaction of the Engineer.
14. Contractor will be responsible for preparation and distribution of a written notice to residents within 48 hours of beginning milling and overlay operations. Costs associated with this requirement will be included in other items of work.
15. Contractor shall provide a continuous work effort towards total completion of the work in an area prior to moving to a different location.
16. All full depth asphalt patches will be made only after milling is complete, if milling is required, and prior to overlay.
17. No masonry structures shall be used in street right of way. Either precast or cast-in-place structures shall be used.
18. No lifting holes will be allowed in any reinforced concrete pipes or reinforced concrete boxes.
19. No fly ash is allowed to be used on this project.
20. The Contractor certifies that it and all of its Subcontractors to be used in the performance of the Contract are in compliance with 25 O.S. Sec. 1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O. S. Sec. 1312 and includes but is not limited to the free Employee Verification Program (E-Verify) available at www.dhs.gov/E-Verify.
21. **Driveways.** Access to properties and businesses adjacent to the right of way must be provided and maintained at all times unless otherwise directed/approved by the Engineer. The Contractor will contact the business or property owner at least 5 days in advance of any driveway closure. Driveways and patches in front

of driveways, which are removed, shall not be left unusable overnight. If concrete cannot be placed the same day as removal, the Contractor shall furnish screening or other suitable aggregate material to maintain temporary access until concrete can be placed. The cost of placing and removing the material for temporary access shall be included in the pay item for Concrete Driveway (High Early Strength). **Failure to leave any driveway usable will subject the Contractor to a \$1000.00 per day fine for each and every calendar day that the driveway remains non-useable.** The only exception for a driveway to be non-useable is to allow for curing time for concrete. Cure time will not exceed 48 hours.

22. Driveways in excess of 18-feet in width shall be constructed in half-sections and access shall be maintained at all times.
23. Contractor shall prepare and present a schedule and plan for lane and driveway closures throughout the project. The Contractor shall include in the plan, driveway signage for local business access. Payment for signs will be included under the pay item "**Signage for Local Business Access**" and will be paid for by the square foot. Coordination with the City of Tulsa and local business operators shall be required before a driveway schedule and plan is approved.
24. Contractor shall coordinate with the City of Tulsa and local business operators to identify opportunities to perform weekend or "after business hours" construction on driveways to minimize impacts to the area.
25. Local and through traffic shall be maintained at all times through the project unless otherwise permitted by the Engineer. All public and private streets shall be accessible at all times. All detours, horizontal traffic movements, etc. are directly related to the sequence of work; therefore, the Contractor shall proceed with his construction operation in conformity with the details shown on the plans and as required by this special provision.
26. Traffic must be handled appropriately through the entire project during construction and it shall be the responsibility of the Contractor to provide for the safety and comfort of the traveling public at all times. The Contractor shall be required to give the traveling public at least **48 hours** advance notice of any lane and/or street closures.
27. The Contractor may propose/recommend modifications to the sequence of work for consideration by the Engineer. Any major recommended modification by the contractor shall include any changes to the various pay items, impact to traffic, and effect of overall project in time and cost, etc. The Contractor shall not

03/31/22

proceed with any construction operations based on a revised phase/sequence until the Contractor obtains written approval from the Engineer.

28. Two lanes shall remain open to traffic, one in each direction, throughout all phases of construction, unless otherwise approved/directed by the Engineer. Left turn lanes shall remain open to traffic throughout all phases of construction, unless otherwise approved/directed by the Engineer. Transitions from pavement elevations through construction areas to access driveways or intersections shall be the Contractor's responsibility. Contractor shall maintain signs and markings on a continuous basis.

SPECIAL PROVISIONS
TIME FOR COMPLETION

1. The work shall commence within ten days from and after the date of a written work order from the City. The Contractor agrees that the work shall be prosecuted regularly, diligently and uninterruptedly at a uniform rate of progress so as to ensure completion within the number of days after the day on which the work order is issued. If the Contractor shall fail to complete all work within the time specified, then the Contractor agrees to pay the City, not as a penalty, but as liquidated damages for Breach of Contract, the Sum of **Two Thousand Five Hundred Dollars (\$2,500.00)** for each and every calendar day for failure to complete all work within the time specified. The said amount is fixed and agreed upon because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain. It is expressly understood and agreed that the said time for completion of the work described herein is a reasonable time for the completion of same.
2. If the Contractor shall fail to complete reconstruction of a segment of roadway within **thirty (30)** days of beginning the reconstruction operation, then the Contractor agrees to pay the City, not as a penalty, but as liquidated damages for such breach of contract, the sum of **Two Thousand Five Hundred Dollars (\$2,500.00)** for each and every calendar day of failure to complete the work after the specified time. The said amount is fixed and agreed upon because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain. This time constraint applies only to roadways to be reconstructed and includes all subsidiary work items required to complete the reconstruction. Subsidiary items not required to complete the reconstruction are not subject to this time constraint.
3. If the Contractor shall fail to complete overlaying of any separately milled segment of roadway within **twenty (20)** days of beginning the milling operation, then the Contractor agrees to pay the City, not as a penalty, but as liquidated damages for such breach of contract, the sum of **Two Thousand Five Hundred Dollars (\$2,500.00)** for each and every calendar day of failure to complete the work after the specified time. The said amount is fixed and agreed upon because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain. The City will authorize when milling is to be done based on weather conditions. This time constraint applies only to segments to be milled and includes all subsidiary work items required to complete the overlay. Subsidiary items not required to complete the overlay are not subject to this time constraint.
4. The Contractor shall commence work within 24 hours of traffic control devices being established at the project location. If the Contractor shall fail to commence work within 24 hours of traffic control devices being established at the project

location, then the Contractor agrees to pay the City, not as a penalty, but as liquidated damages for such breach of contract, the sum of **One Thousand Dollars (\$1,000.00)** per lane for each day of failure to commence work after the specified time set forth. The amount is fixed and agreed upon because of the impracticability and extreme difficulty of fixing and ascertaining the actual damage the City would in such event sustain.

5. **Within 14 days** after Bid Opening and prior to Award of Bid the successful Contractor will be required to furnish the Engineer with a progress schedule, in a format approved by the Engineer, setting forth in detail the procedure he proposes to follow, and giving the dates on which he expects to start and to complete separate portions of the work. If at any time, in the opinion of the Engineer, proper progress is not being maintained, such changes shall be made in the schedule of operations, which will satisfy the Engineer that the work will be completed within the period stated in the Proposal. Monthly progress meetings will be conducted to maintain coordination between all project entities.
6. The Contractor will be required to provide a full-time, onsite English speaking superintendent for this Project for direct contact with City and coordination of subcontractors. A working foreman is not acceptable as a project superintendent. The superintendent shall be required to be present at the work site whenever the Contractor or subcontractors are performing work. The superintendent shall be a representative of the Contractor with the authority to make decision. If the Contractor shall fail to provide a non-working superintendent on a day when work is being performed, then the Contractor agrees to pay the City, not as a penalty, but as liquidated damages for such breach of contract, the sum of **One Thousand Dollars (\$1,000.00)** for each and every calendar day of failure to provide a non-working superintendent at the work site. The said amount is fixed and agreed upon because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain.
7. It is further agreed that time is of the essence of each and every portion of this Contract and the specifications wherein a definite and certain time is fixed for the performance of any act whatsoever; and where under the contract an allowance of additional time for completion of any work is made, the new time fixed by such extension shall be of the essence of this Contract.
8. Should the Contractor be delayed in the final completion of the work by any act or neglect of the City of Tulsa, or of any employees of either, or by strikes, injunctions, fire or other cause or causes outside of and beyond the control of the Contractor and which, in the opinion of the Engineer, could have been neither anticipated or avoided, then an extension of time sufficient to compensate for the delay as determined by the Engineer, shall be granted by the City, provided however, that the Contractor shall give the City and the Engineer notice in writing of the cause of the delay in each case on the Extension of Time Request Form enclosed in these documents, and agrees that any such claim shall be fully

compensated for by an extension of time to complete performance of the work included herein.

9. The Contractor shall submit the Extension of Time Request Form with each partial payment application. Failure to submit the Extension of Time Request with a partial payment application shall constitute a complete waiver of any claim for time extension for the period covered by the partial payment.
10. Extension of time may be granted for delays caused by unsuitable weather. Extension of time will not be granted for delays caused by ground condition, inadequate construction force, or the failure of the Contractor to place orders for equipment or materials a sufficient time in advance to ensure delivery when needed. Any extension of time by the City shall not release the Contractor and surety herein from the payment of liquidated damages for a period of time not included in the original contract or the time extension as herein provided.
11. Failure to complete project within specified time, as set forth in the Contract, may be grounds for disqualification for future consideration for contracts with the City of Tulsa.
12. Final Acceptance of the Project will be in strict accordance with ODOT Specification 105.17– Project Completion and Acceptance and ODOT Specification 104.10– Final Cleaning Up and defined as “The date on which the Request for Action (RFA) for final payment has been signed by the Mayor of the City of Tulsa.”
13. Contract Evaluation forms will be compiled by City staff upon completion of this Project to provide a record of the Contractor’s performance for use in subsequent projects.

SPECIAL PROVISIONS
FOR COLD MILLING BITUMINOUS PAVEMENT

1. Contractor will perform milling operation in accordance with ODOT Specifications as stated in Section 417.
2. Contractor will be required to perform the following as a minimum:
 - A. Milling of Asphalt Pavement per Specifications and Special Provision.
 - B. Provide all Traffic Control per Specifications and Special Provision.
 - C. Clean-up Milling Operation as directed by Engineer. This will include removal of unbonded asphalt overlays and sweeping.
3. All streets designated for milling shall be milled as shown on typical sections. If street is full depth Asphalt the depth of cut shall be as specified for each segment. If street is concrete with an Asphalt Overlay then all existing asphalt shall be removed. Boring logs are included as Appendix A. No payment will be made for any additional passes necessary to remove asphalt to the required cross section. Care should be exercised not to mill into the underlying concrete pavement. The Contractor will be responsible for damage to concrete caused by excessive milling.
4. The Contractor shall provide a power operated milling machine capable of planing a minimum depth of three inches in a single pass. The equipment shall be self-propelled with sufficient power, traction and stability to maintain accurate depth of cut and slope. The equipment shall be capable of accurately and automatically establishing profile grades along each edge of the machine by referencing the existing pavement by means of a ski, or matching shoe or from an independent grade control, and shall have an automatic system for controlling cross slope at a given rate. The machine shall be equipped with an integral loading means to remove the material being cut from the pavement surface and to discharge the cuttings into a truck, all in a single operation.
5. Milled material to remain the property of the contractor.
6. The Contractor shall provide butt joints as directed by the Engineer. Wherever the planned overlay of an asphalt street meets existing pavement, or at the end of a paving run, butt joints shall be provided to a depth matching the planned overlay thickness. The transition shall extend a minimum of 10 feet longitudinally from the joint for residential streets and a sufficient length to provide a smooth riding surface for arterial streets. Butt joints will not be paid for directly, but the cost shall be included in the price bid for milling.

7. Entrance and Exit Areas to projects:

After an entrance or exit area has been milled, the Contractor shall construct access ramps. These ramps shall be a minimum of 20' in length and shall be placed across full width of street. These ramps shall be maintained by Contractor and shall remain in place until lanes are closed for overlay. Ramps will be provided at driveways and non-arterial streets as needed to maintain a smooth transition for abutting properties during construction. Ramps will not be paid for directly, but the cost shall be included in the price bid for milling.

8. The existing pavement shall be uniformly milled to provide a uniform texture, true to line, grade and cross section; it shall have no deviations in excess of 3/16 inch in ten feet. Any portion of the planed surface not meeting this requirement shall be corrected in a manner approved by the Engineer.

SPECIAL PROVISIONS
FOR COLD WEATHER CONCRETE CURING

Placement of asphalt on street cut repair sections of cold weather concrete or opening of street cut repair sections of cold weather concrete to traffic shall be allowed when the concrete achieves a compressive strength of 3,000 pounds per square inch (psi). Construction equipment loads shall not be applied to the concrete repair section until the 3,000 psi compressive strength is achieved.

SPECIAL PROVISIONS
FOR COLD WEATHER CONCRETE PLACEMENT

1. When early traffic placement on a repair is required, the following guidelines are provided as a minimum to assure required strength during cold weather. The Contractor is responsible for the protection and quality of concrete placed during all weather conditions. If circumstances occur which preclude following these guidelines, lower early strength may result in delays in opening areas to traffic as desired.
2. Ice, snow, and frost must be removed from the cut prior to placement of concrete. Concrete should not be placed on frozen subgrade. Removal of frozen subgrade will be paid as unclassified excavation.
3. Fresh concrete temperatures shall be a minimum of 50°F and a maximum of 90°F at time of placement. Hot mix water and preheated aggregate may be necessary to accomplish the minimum temperature during extremely cold weather. The minimum ambient temperature at time of placement should be at least 30°F.
4. Insulated blankets should be placed immediately when average daily temperatures are below 50°F or when minimum ambient temperatures are anticipated below 40°F during the curing period and left in place until opening to traffic. Insulated blankets shall be MA KA closed cell insulated blankets or approved equal. The insulated blankets shall have a minimum R-value of 2. Cost of insulated blankets shall be included in the price bid for the concrete where they are used.
5. Strict compliance with mix design slumps must be achieved to reach early strengths. "Drying out" of excessive slump mixes will not be allowed to reduce the slump.
6. All cold weather practices also apply to cementitious backfill material, except that blankets will not be required.

SPECIAL PROVISIONS
FOR HOT MIX ASPHALT

DESCRIPTION

This work shall consist of furnishing and placing Hot Mix Asphalt.

MATERIALS

Hot Mix Asphalt shall conform to Section 708, Plant Mix Bituminous Bases and Surfaces, of the Oklahoma Department of Transportation (ODOT) Standard Specification for Highway Construction, Current Edition, with the following modifications to Table 708:6

	S3	S4	S5
Asphalt Cement	5.0	6.0	6.0
% of mix mass			
(greater than or equal to)			

Submittals shall be delivered to the City of Tulsa at a date set by the Engineer. Submittals shall include the test results of the physical properties of the aggregate and asphalt cement as outlined in ODOT Specification 708.

SPECIAL PROVISION
MINIMUM ASPHALT RETAINED STRENGTH

This Special Provision revises, amends, and where in conflict, supersedes applicable sections of the 2019 Oklahoma Department of Transportation Standard Specifications for Highway Construction, (ODOT).

The “% Retained Strength, min.” for asphalt as listed in ODOT Section 708 TABLE 6A “PROPERTIES OF LABORATORY MOLDED SPECIMENS” shall be 80%.

SPECIAL PROVISIONS
OWNER ALLOWANCE

The "Owner Allowance" may be used for various work and miscellaneous items not specifically identified in the Contract Documents with the following provisions:

- A. The allowance shall be used for cost of design and construction, including all materials, labor, equipment, profit and overhead, of work items not specifically identified in the Construction Documents, or included in original pay items bid for the contract.
- B. The allowance shall be utilized only at the discretion of the City of Tulsa. Any balance remaining at the completion of the Project will be retained by the City of Tulsa.
- C. The Contractor shall provide, to the City of Tulsa, a written request for the use of any allowance, including a schedule of values and associated backup information, including validity of need, materials, labor, equipment, and time required to perform the associated work.

Contractor shall proceed with the allowance work only after receiving written permission from the City of Tulsa. Proceeding with associated allowance work without written permission from the City of Tulsa will be at the Contractor's sole expense.

SPECIAL PROVISIONS
FOR PATCHING OF CONCRETE AND ASPHALT STREETS

The City of Tulsa Standards for street cut and repair shall be followed for materials and procedures except as modified here.

Patching

Instructions: Portland Cement concrete patches will be protected from all traffic for a period of 24 hours before removal of protective devices. Sawing of the patches is required. The area to be removed shall be marked by the Contractor under the direction of the Resident Inspector. The Contractor will provide personnel and equipment for making of patches as directed by Resident Inspector. When completed, the patch shall be level and provide a smooth riding surface. All asphalt patch work will require that asphalt rollers and an asphalt laydown machine be available for use on the job as directed by the engineer. The minimum size of any patch shall be 3' x 3'.

Testing of

Materials: The frequency of testing shall be as follows:

Subgrade Compaction: A minimum of one (1) density test of the subgrade shall be done per patch.

Concrete: Three cylinders shall be taken from every 50 cubic yards of concrete and tested for compressive strength.

Asphalt: Compaction and extraction tests shall be taken a minimum of every 50 tons of asphalt.

Weather

Limitations: The minimum temperature of the foundation course on which asphalt concrete may be laid shall be as shown in the following table:

Compacted Lift Thickness (inches)	Surface Temperature (minimum)
3 or more	40° F
1 ½ to 3	45° F
less than 1 ½	50° F

Asphalt

Materials: All asphaltic concrete used for this Project shall meet the specifications of ODOT Section 708. Under the paragraph, "Course Aggregates", the

following sentence shall be added: When tested for soundness, the number of cycles shall be five (5), the solution shall be Na₂ SO, the maximum loss shall be 10%.

Type I Patch

Subgrade

Replacement: Shall consist of the removal of subgrade material as measured from the bottom of the existing pavement. The removed subgrade material shall be replaced with separator fabric meeting the requirement of ODOT Section 325 and aggregate material meeting the requirement of ODOT Section 703.01 Type "A". The existing subgrade shall be compacted to 95% standard proctor density per AASHTO T-99 and the aggregate material shall be compacted to 98% modified proctor density per AASHTO T-180-86 Method as measured by the Nuclear Density Method. Compaction shall be done with a roller or vibratory hand tamper. Certain situations may require substitution of Quick-set Fill Concrete for aggregate material. Fill concrete specifications are shown on the Standards for Pavement Cut and Repair. Separator fabric shall be used at all full depth pavement patches where aggregate base is required, as directed by the Engineer. The fabric shall be cut or overlapped to fit the size of the patch. These items will be paid separately from the bid item for patching.

Type A Aggregate

Base: This material shall have the following gradation, which is ODOT Section 703-01 Type "A".

<u>Sieve (mm)</u>	<u>% Passing</u>
1 ½ in. (37.5)	100
¾ in. (19.0)	40 – 100
3/8 in. (9.5)	30 – 75
No. 4 (4.75)	25 – 60
No. 10 (2.00)	20 – 43
No. 40 (0.425)	8 – 26
No. 200 (0.075)	4 – 12

Type I Patch in PCC

Pavement: When the patch is made in PCC, the pavement shall be cut with a concrete saw full depth before removal of existing pavement. The area to be patched shall be delineated in a straight-line geometric pattern. Placement of the subgrade stabilization material shall be in accordance with the paragraph; "Type I Patch Subgrade Replacement". After

placement of the subgrade stabilization, the pavement shall be replaced with Class A High Early Strength concrete containing 4 to 6 percent air entrainment. The concrete shall have a maximum 3" slump. The concrete shall be placed in accordance with the detail in the drawings titled "Type I PCC Patch". The new concrete shall have a flat finish and match the grade of the adjacent pavement.

Existing joint patterns shall be reestablished and sealed as specified. The concrete shall be sprayed with curing compound and protected from traffic a minimum of 24 hours. Cold Joints around the perimeter of the patch shall be sawed and sealed with silicone in accordance with ODOT specification 701.08(E). All sawing, pavement removal, and sealing costs shall be included in the bid item for patching, H.E.S. concrete.

Type I Patch in Asphalt

Pavement: When the patch is made in asphalt, the pavement shall be cut with a concrete saw full depth before removal of existing pavement. The area to be patched shall be delineated in a straight-line geometric pattern. Placement of the subgrade stabilization material shall be in accordance with the paragraph; "Type I Patch Subgrade Replacement". After placement of the subgrade stabilization material, the pavement shall be replaced in accordance with the detail in the drawings titled "Type I AC Patch", a minimum of 8" or existing paving thickness, whichever is greater. All asphalt materials shall meet the specifications of ODOT 708 Plant Mix Bituminous Bases and Surface. The asphalt shall be placed and compacted in maximum 3" lifts. The edges of the patch shall be tacked prior to the placement of asphalt. The asphalt shall be compacted to 92% minimum density as determined by AASHTO T-209 Method. The patch shall be stringlined as required and all areas not matching the adjacent grade shall be immediately corrected. Cold joints around the perimeter of the patch shall be sawed and sealed with rubberized asphalt. All sawing, pavement removal, replacement, and sealing costs shall be included in the bid item for patching, AC.

Type I Patch in APC

Pavements: Patching of PCC pavements with an asphalt overlay shall be performed as follows: Placement of the asphalt portion of the patch shall be in accordance with the paragraph "Type I Patch in Asphalt Pavements". Placement of the PCC portion of the patch shall be in accordance with the paragraph "Type I Patch in PCC Pavements". Placement of the subgrade stabilization material shall be in accordance with the paragraph "Type I Patch Subgrade Replacement". After placement of the subgrade stabilization material, the pavement shall be replaced in accordance with

the detail in the drawings titled "Type I APC Patch". Payment will be made separately for each of the three materials: Type "S4" AC, H.E.S. PCC and Aggregate Base. Initial sawing, pavement removal and sealing costs shall be included in the bid items for patching as listed above. Additional sawing required to go from a Type "III" to a Type "I" patch shall be included in the bid items for H.E.S. PCC.

Type II Patch
In APC

Pavement: The asphalt overlay shall be removed prior to sawing through the PCC Pavement to determine if only the asphalt needs to be patched. Sawing of The asphalt is required, but should not penetrate the PCC pavement. If the PCC pavement needs to be replaced, a Type "I" APC patch shall be made.

Payment will be made for Type "S4" or Type "S5" AC only. If only the asphalt is removed, initial sawing, pavement removal, and sealing costs shall be included in the bid items for asphalt concrete.

SPECIAL PROVISIONS
FOR PAVING OPERATIONS

1. If the width of a street is such that it exceeds the paver's ability to pave one-half the street width another paver will be required and shall be operated so as to lay asphalt on at least one-half of the street width at a time.
2. The longitudinal joint shall run parallel to the approximate center of the street. Transverse joints shall be kept to a minimum. If it becomes necessary to stop the paving operation short of the end of the job then the two transverse joints shall be no farther apart than 6'.
3. If for any reason the Contractor is unable to pave one-half the width of the street with one paver, paving operations shall cease.
4. A paving plan, indicating sequence of paving passes, pass widths, pass thickness, and requested temporary street closures, will be submitted prior to paving.
5. Once paving begins the Contractor should have sufficient trucks available to deliver asphalt materials in a continuous operation.
6. Adequate transitions to side streets and driveways must be provided. In general, paving shall extend to the returns of all side streets. Special consideration should be given to preventing ponding in side street intersections.
7. The contractor shall provide butt joints as directed by the Engineer. Wherever the planned overlay of an existing street meets existing pavement, or at the end of a paving run, butt joints shall be provided to a depth matching the planned overlay thickness. The transition shall extend a minimum of 10 feet longitudinally from the joint to provide a smooth riding surface. Butt joints will not be paid for directly but the cost shall be included in the cost of the paving operations where they are used.
8. Contractor shall not drive empty or loaded trucks or equipment across newly paved areas for the construction period.
9. A leveling or "wedge" course may be required to establish the required cross-slope for the finished overlay. This item of work will be paid for separately under the bid item designated as Asphalt Concrete Type "S5" in tons.

SPECIAL PROVISIONS FOR PRICE ADJUSTMENT FOR ASPHALT BINDER

These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2019 Oklahoma Department of Transportation Standard Specifications for Highway Construction. Units of measurements are provided in the subsections in both English and metric equivalents. The units for this project shall be those specified in the project plans.

(add the following:)

109.12 PRICE ADJUSTMENT FOR ASPHALT BINDER.

A price adjustment clause is included in this contract to provide additional compensation to the Contractor or a credit to the City of Tulsa for fluctuations in asphalt binder process. This price adjustment is dependant upon a change in the average price of asphalt binder which results in an increase or decrease in the price of products utilized on this project.

- a) Payment will be made to the contractor for monthly fluctuation in the cost of asphalt binder used in performing the applicable items of Asphalt Concrete work as listed in the table below when the asphalt binder cost fluctuates by more than 3% from the base price defined below. Payments may be positive, negative, or nonexistent depending on the circumstances. Payments or deductions will only be calculated on that portion of the asphalt binder cost fluctuation that exceeds the 3% specified above. Payments or deductions for the asphalt binder cost adjustment will be included in the contractor's progressive estimates; and the payments or deduction authorized for each estimate will be based upon the algebraic difference between the quantities for applicable items of work.

- b) The Asphalt Binder Cost Adjustment (ACA) for the current estimate will be computed according to the following formula:

$$ACA = Q \times F \times D$$

Where

- | | | |
|-----|---|---|
| ACA | = | Asphalt binder cost adjustment, in dollars; |
| Q | = | The algebraic difference between the quantities for the applicable items on the current estimate and the quantities shown on the previous estimate, in tons of mix; |
| F | = | The Asphalt Binder Use Factor for the applicable items of work subject to this price adjustment, as listed in the following table, are: |

ITEM OF WORK	SPECIFICATION NUMBER	ASPHALT BINDER USE FACTOR PER UNIT (metric and U.S. Customary units)
Asphalt Concrete, Type S5	411	0.060 ton of binder per ton of mix
Asphalt Concrete, Type S4	411	0.060 ton of binder per ton of mix
Asphalt Concrete, Type S3	411	0.050 ton of binder per ton of mix

Note: When the units of measure in the contract for the Items of Work listed in the table do not correspond with the units shown in the table (i.e. Asphalt Concrete paid by the square yard, etc.), those Items will not be subject to the terms of this special provision or any asphalt binder price adjustment.

D = Allowable price differential, in dollars;

The allowable price differential, “D” for the current estimate will be computed according to the following formulas:

When the current price, P , is greater than the base price, $P_{(b)}$.

$D = P - [1.03 \times P_{(b)}]$, but not less than zero.

When the current price, P , is less than the base price, $P_{(b)}$.

$D = P - [0.97 \times P_{(b)}]$, but not greater than zero.

In either case, $P_{(b)}$ shall be the base asphalt binder price, in dollars per ton (mton), defined as the average of the minimum and maximum prices for performance-graded binder using the Selling Price of PG64-22 paving grade, F.O.B. manufacturer’s terminal, as listed under “Midwest/Mid-Continent Market – Tulsa, Oklahoma/Southern Kansas area” as published in the last issue of Asphalt Weekly Monitor® furnished by Poten & Partners, Inc. for the month prior to the month in which the bids for the work were received.

In either case, P , shall be the current asphalt binder price, in dollars per ton (mton), as defined above for the base asphalt binder price. The publication used will be the last issue published in the month prior to the month in which the progressive estimate is generated.

- c) Items included in the contract that are listed in the table above are subject to the adjustment in accordance with this provision, regardless of any amount of overrun to the plan quantity. Any new items of work added to the contract by supplemental agreement that are listed in the table above, will be subject to the asphalt binder price adjustments in accordance with this provision. The base asphalt binder price, $P_{(b)}$, for any newly added eligible items will be the same $P_{(b)}$ as the eligible items in the contract and the new unit price established by supplemental agreement shall be determined accordingly.

SPECIAL PROVISIONS
REMOVAL OF CASTINGS

All water, sanitary sewer, and storm sewer manhole castings, lids, frames, curb hoods, grates, hydrants, valves, and other fittings removed as part of any construction project are property of the City of Tulsa. Contractor will not take ownership.

All storm sewer and sanitary sewer castings shall be salvaged and delivered by the contractor to the Underground Collections North Sewer Base Stockyard at 9319 East 42nd Street North. Contractor will coordinate the return of such items with the Stockyard personnel at 918-669-6130.

All hydrants, valves, and other fittings from abandoned water mains shall be salvaged and delivered by the contractor to the South Yard at 2317 South Jackson Avenue. Contractor will coordinate the return of such items with the South Yard personnel at 918-596-9401.

SPECIAL PROVISIONS
FOR TREE REMOVAL

DESCRIPTION. This work shall consist of removing trees where called for on the Plans and shall include cutting such trees, removing their stumps and roots, and properly disposing of the material.

CONSTRUCTION METHODS. Trees shall be removed and disposed of in a manner approved by the Engineer. All stumps and roots shall be removed to a depth of not less than 12 inches below the finished subgrade elevation.

METHOD OF MEASUREMENT. The size of trees will be determined by the average diameter of the tree trunk taken at a point measured four feet above the base of the tree at the ground line. The diameter will be measured to the nearest full inch.

BASIS OF PAYMENT. Trees to be removed under this item will be measured as provided above and will be paid for at the contract unit price per each tree in accordance with the following schedule of size:

- | | | |
|-----|---|-----|
| (A) | REMOVING TREES 6-12 INCH IN DIAMETER | EA. |
| (B) | REMOVING TREES 13-18 INCH IN DIAMETER | EA. |
| (C) | REMOVING TREES 19-24 INCH IN DIAMETER | EA. |
| (D) | REMOVING TREES 25 INCH AND MORE IN DIAMETER | EA. |

which shall be full compensation for furnishing all materials, equipment, labor and incidentals to complete the work as specified.

Removing trees less than 6 inches in diameter will be considered as incidental work and will not be paid for directly but the cost will be included in other items.

SPECIAL PROVISIONS

URBAN RIGHT OF WAY RESTORATION

DESCRIPTION:

The work under this item shall consist of restoring Rights-of-Way. Contractor shall be responsible for the removal and replacement of mailboxes, drains, traffic signs, and curb street address number, sprinkler system or any other improvement within the right of way that is not paid for in other items of work.

CONSTRUCTION REQUIREMENTS:

All existing improvements as called for in this special provision to be replaced or reconstructed shall be restored to substantially the same condition as existed prior to the construction. Contractor shall document by photographing all obstructions and improvements prior to the start of construction.

As the work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock, and other debris resulting from such work. All clean-up operations at the location of such work shall be accomplished at the expense of the contractor and shall be completed to the satisfaction of the engineer.

IRRIGATION SYSTEMS

DESCRIPTION:

The work shall consist of repairing any irrigation systems inside or outside the street Right of Ways as a result of damages or adjustments needed during the course of the construction to the satisfaction of the engineer.

CONSTRUCTION REQUIREMENT:

Contractor shall repair irrigation systems using like materials and shall include all materials necessary for the proper installation and function of the system. Materials such as valves, controllers, pop up spray and rotary heads, risers, seals, backflow preventer and main line pipe damaged during the course of the construction shall be re installed to its original condition. Excavation, placement, testing, back filling and compacting shall be done as required by the city of Tulsa standard specifications.

STREET ADDRESS AT CURB

DESCRIPTION:

The street address of the building, structure or lot served by the reconstructed driveway shall be painted on the curb of the driveway. Location to be approved by the Engineer. The street address shall face traffic flow.

CONSTRUCTION REQUIREMENTS:

The Street Address to be painted shall conform to city specifications as to size and form, and the

quality of paint to be used, as determined by the City of Tulsa Public Works Department.

Street Address placed on the curb shall be done using a vinyl numbers stencils; letters shall be in black paint in figures of the size of three inches in height, and impressed upon a white background of the size of five by eleven inches. Standard stencil lettering with height, color and style shall be as approved by the engineer or in accordance with the most current City of Tulsa Standards.

MAILBOX REMOVAL AND RELOCATION

DESCRIPTION:

Contractor shall remove, reset and/or reconstruct any and all mailboxes within the street right of way.

CONSTRUCTION REQUIREMENTS:

The removal, resetting and/or reconstruction of mail boxes in street right of way shall be coordinated with the local postmaster as required. Mailboxes shall be located no closer than 1' behind the face of curb to face of box.

Where Special mailboxes such as Stone, masonry brick, or non standard mail boxes exist, contractor shall replace all mailboxes in like kind. The kind and quality of materials in which mailboxes shall be reconstructed shall be to the satisfaction of the property owner and approved by the engineer.

The replaced mailbox shall be capable of withstanding wind loading and lateral load associated with the delivery of the mail.

DRAINS

DESCRIPTION:

Contractor shall reestablish drains, roof drains, and other drainage through the curb.

CONSTRUCTION REQUIREMENTS:

Removal, replacement, salvage of drains in street right of way shall be done during road construction phase.

Contractor shall replace all drains in like kind. The kind and quality of materials in which drains shall be reconstructed shall be to the satisfaction of the property owner and approved by the engineer.

All re-established drains shall include a storm water curb opening as described in City of Tulsa Standard Drawing 758.

TRAFFIC SIGNS

DESCRIPTION:

Unless otherwise directed by the plans and specifications, this item shall consist of removing, storing, and resetting all existing traffic signs. Contractor shall remove, store, and reset all traffic signage as required for construction of this project.

CONSTRUCTION REQUIREMENTS:

Roadside signs shall be placed at locations shown on the plans or at existing locations and shall be installed in compliance with the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD).

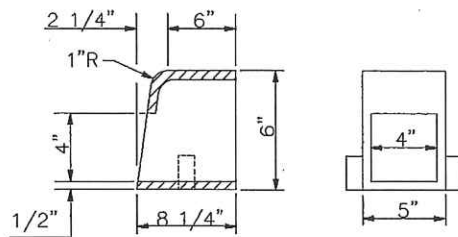
METHOD OF MEASUREMENT:

Irrigation Systems, Street Address at the Curb, Mailbox Removal and Relocation, Drains, and Traffic Signs will be measured by EACH for the project.

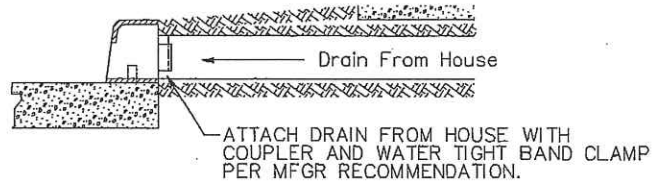
PAYMENT:

Special (C) Urban Right-Of Way Restoration (measured as provided above) will be paid for at the contract unit price by EACH. Such payment shall be full compensation for all equipment, tools, labor, and incidentals necessary to complete the work as specified.

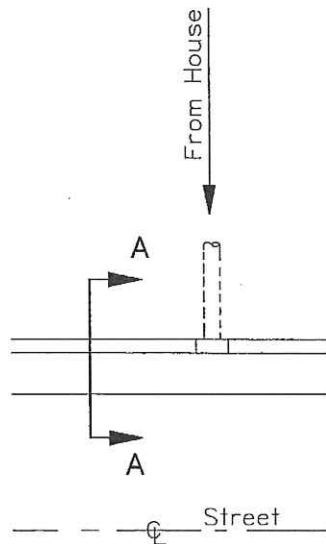
Special (C) Urban Right-Of-Way RestorationEACH



STORM WATER CURB OPENING



SECTION A-A



RESIDENTIAL CURB INLET

1. CONTRACTOR SHALL RECONNECT ANY SIDE DRAINS FROM ADJACENT PROPERTY THROUGH THE CURB.
2. INSTALL R-3262-3 SERIES HEAVY DUTY STORM WATER CURB OPENING BY NEENAH OR APPROVED EQUAL.
3. FIELD VERIFY SIZE AND LOCATION PRIOR TO PAVING OPERATIONS.
4. CONTRACTOR SHALL CAST INLETS IN PLACE DURING CURB PRODUCTION "CUT IN" NOT ACCEPTED.

RESIDENTIAL STORM WATER CURB OPENING	
CITY OF TULSA, OKLAHOMA PUBLIC WORKS DEPARTMENT ENGINEERING SERVICES DIVISION	
DRAWN BY: J.A.B.	APPROVED
CHECKED BY:	
DATE: OCT. 2011	
NOT TO SCALE	STANDARD NO. 758

SPECIAL PROVISION
FOR UTILITY RELOCATIONS
AND DESIGN ISSUES

It is the intent of this specification to provide no more than seventy-five **(75)** calendar days due to delays caused by required utility relocations and required design clarifications. Should the Contractor be delayed in the final completion of work by any utility relocation or design issue, additional days as determined by the Engineer shall be granted by the City. However, the Contractor shall give the Engineer notice in writing of the cause of the delay in each case on the Extension of Time Request Form enclosed in these documents, and agrees that any claim shall be fully compensated for by the provisions of this specification to complete performance of the work. An adjustment will not be made to the contract time bid for incentive purposes.

Any time granted for utility relocations or design issues up to seventy-five **(75)** calendar days will be in addition to the number of days shown in the proposal for computation of disincentive and liquidated damages.

FEDERAL REQUIREMENTS



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CONTRACT PROVISIONS TEMPLATE

FEMA Office of Chief Counsel

Procurement Disaster Assistance Team



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INTRODUCTION

If a non-Federal entity (state or non-state) wants to use federal funds to pay or reimburse their expenses for equipment or services under a contract, that contract **must** contain the applicable clauses described in Appendix II to the Uniform Rules (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards) under 2 C.F.R. § 200.326. In addition, there are certain contract clauses which are recommended by FEMA.

This document outlines the federally required contract provisions in addition to FEMA-recommended provisions.

- For some of the required clauses, sample language or references to find sample language are provided.
- Sample language for certain required clauses (remedies, termination for cause and convenience, changes) is not provided since these must be drafted in accordance with the non-Federal entity's applicable local laws and procedures.
- For the clauses which require that exact language be included, the required language is provided. Those clauses are specifically identified below.

Please note that the non-Federal entity alone is responsible for ensuring that all language included in their contracts meets the requirements of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II.





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Required Contract Provisions: Quick Reference Guide

KEY	
Required/Recommended Provision	<input type="checkbox"/>
Required/Recommended Provision and Required Exact Language	<input type="checkbox"/>
Not Required for PA Awards (Grants)	<input type="checkbox"/>

	Required Provision	Contract Criteria	Sample Language?
1.	Legal/contractual/administrative remedies for breach of contract	> Simplified Acquisition Threshold (\$250k)	No. It is based on applicant's procedures.
2.	Termination for cause or convenience	> \$10k	No. It is based on applicant's procedures.
3.	Equal Employment Opportunity	Construction work	Yes. 41 CFR Part 60-1.4(b)
4.	Davis Bacon Act	Construction work	Not applicable to PA grants
5.	Copeland Anti-Kickback Act	Construction work > \$2k	Not applicable to PA grants
6.	Contract Work Hours and Safety Standards Act	> \$100k + mechanics or laborers	Yes. 29 CFR 5.5(b)
7.	Rights to inventions made under a contract or agreement	Funding agreement	Not applicable to PA grants
8.	Clean Air Act and Federal Water Pollution Control Act	>\$150k	Yes
9.	Debarment and Suspension	All	Yes
10.	Byrd Anti-Lobbying Amendment	All (>\$100k: Certification)	Yes. Clause and certification
11.	Procurement of Recovered Materials	Applicant is a state or political subdivision of a state. Work involves the use of materials.	Yes





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Recommended Contract Provisions: Quick Reference Guide

	Recommended Provision	Contract Criteria	Sample Language?
1.	Access to Records	All	Yes
2.	Contract Changes or Modifications	All	No. It depends on nature of contract and end-item procured.
3.	DHS Seal, Logo, and Flags	All	Yes
4.	Compliance with Federal Law, Regulations and Executive Orders	All	Yes
5.	No Obligation by Federal Government	All	Yes
6.	Program Fraud and False or Fraudulent Statements or Related Acts	All	Yes





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REQUIRED CONTRACT PROVISIONS

1. REMEDIES

- a. Standard. Contracts for more than the simplified acquisition threshold, currently set at \$250,000, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II(A).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

2. TERMINATION FOR CAUSE AND CONVENIENCE

- a. Standard. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity, including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II(B).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. EQUAL EMPLOYMENT OPPORTUNITY

- If applicable, exact language below in subsection 3.d is required.

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II(C).





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b. Key Definitions.

- i. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
 - ii. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- d. Required Language. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract 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, sexual orientation, gender identity, or national origin. 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, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or 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





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employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2)** The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3)** The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4)** The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5)** 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.
- (6)** The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7)** In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures





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authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided 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.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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 the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

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 the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon



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contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4. DAVIS-BACON ACT

- a. Standard. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). See 2 C.F.R. Part 200, Appendix II(D). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- b. Applicability. The Davis-Bacon Act only applies to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It DOES NOT apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**
- c. Requirements. If applicable, the non-federal entity must do the following:
 - i. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
 - ii. Additionally, pursuant 2 C.F.R. Part 200, Appendix II(D), contracts subject to the Davis-Bacon Act, must also include a provision for compliance with





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the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.

- iii. Include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

Suggested Language. The following provides a sample contract clause:

Compliance with the Davis-Bacon Act.

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, contractors are required to pay wages not less than once a week.

5. COPELAND ANTI-KICKBACK ACT

- a. Standard. Recipient and subrecipient contracts must include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").





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- b. Applicability. This requirement applies to all contracts for construction or repair work above \$2,000 in situations where the Davis-Bacon Act also applies. **It DOES NOT apply to the FEMA Public Assistance Program.**
- c. Requirements. If applicable, the non-federal entity must include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). Each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA. Additionally, in accordance with the regulation, each contractor and subcontractor must furnish each week a statement with respect to the wages paid each of its employees engaged in work covered by the Copeland Anti-Kickback Act and the Davis Bacon Act during the preceding weekly payroll period. The report shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work.

Sample Language. The following provides a sample contract clause:

Compliance with the Copeland "Anti-Kickback" Act.

- a. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA 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 of these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment





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as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

6. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Standard. Where applicable (see 40 U.S.C. §§ 3701-3708), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II(E). Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.
- b. Applicability. This requirement applies to all FEMA contracts awarded by the non-federal entity in excess of \$100,000 under grant and cooperative agreement programs that involve the employment of mechanics or laborers. It is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- c. Suggested Language. The regulation at 29 C.F.R. § 5.5(b) provides contract clause language concerning compliance with the Contract Work Hours and Safety Standards Act. FEMA suggests including the following contract clause:

Compliance with the Contract Work Hours and Safety Standards Act.

(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.





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(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section 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 paragraph (b)(1) of this section, in the sum of \$27 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 paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) 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 contractor, 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 paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section 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 paragraphs (b)(1) through (4) of this section.

7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

- a. **Standard.** If the FEMA award meets the definition of "funding agreement" under 37C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under





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Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II(F).

- b. Applicability. This requirement applies to “*funding agreements*,” but it **DOES NOT apply to the Public Assistance**, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”
- c. Funding Agreements Definition. The regulation at 37 C.F.R. § 401.2(a) defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

- a. Standard. If applicable, contracts must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II(G).
- b. Applicability. This requirement applies to contracts awarded by a non-federal entity of amounts in excess of \$150,000 under a federal grant.
- c. Suggested Language. The following provides a sample contract clause.

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as





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amended, 42 U.S.C. § 7401 et seq.

2. The contractor agrees to report each violation to the (name of applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the (name of the applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. DEBARMENT AND SUSPENSION

- a. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).
- b. Applicability. This requirement applies to all FEMA grant and cooperative





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agreement programs.

c. Requirements.

- i. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II(H); and 2 C.F.R. § 200.213. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530.
- ii. In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any nonprocurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipients.
- iii. Specifically, a covered transaction includes the following contracts for goods or services:
 1. The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
 2. The contract requires the approval of FEMA, regardless of amount.
 3. The contract is for federally-required audit services.
 4. A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.

d. Suggested Language. The following provides a debarment and suspension





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clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified.

Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by (**insert name of recipient/subrecipient/applicant**). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (**insert name of recipient/subrecipient/applicant**), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. BYRD ANTI-LOBBYING AMENDMENT

- a. Standard. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. FEMA's regulation at 44 C.F.R. Part 18 implements the requirements of 31 U.S.C. § 1352 and provides, in Appendix A to Part 18, a copy of the certification that is required to be completed by each entity as described in 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any





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Federal award. Such disclosures are forwarded from tier to tier up to the Federal awarding agency.

- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs. Contractors that apply or bid for a contract of \$100,000 or more under a federal grant must file the required certification. See 2 C.F.R. Part 200, Appendix II(I); 31 U.S.C. § 1352; and 44 C.F.R. Part 18.

- c. Suggested Language.

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

- d. Required Certification. If applicable, contractors must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any





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Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date





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11. PROCUREMENT OF RECOVERED MATERIALS

- a. Standard. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. See 2 C.F.R. Part 200, Appendix II(J); and 2 C.F.R. § 200.322.
- b. Applicability. This requirement applies to all contracts awarded by a non-federal entity under FEMA grant and cooperative agreement programs.
- c. Requirements. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- d. Suggested Language.
 - i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - 2. Meeting contract performance requirements; or
 - 3. At a reasonable price.
 - ii. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
 - iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."





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RECOMMENDED CONTRACT PROVISIONS

The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. Although FEMA does not currently require additional provisions, **FEMA recommends** the following:

1. ACCESS TO RECORDS

- a. Standard. All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. Recipients must give DHS/FEMA access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations *and* other applicable laws or program guidance. See DHS Standard Terms and Conditions: Version 8.1 (2018). Additionally, Section 1225 of the Disaster Recovery Reform Act of 2018 prohibits FEMA from providing reimbursement to any state, local, tribal, or territorial government, or private non-profit for activities made pursuant to a contract that purports to prohibit audits or internal reviews by the FEMA administrator or Comptroller General.
- b. Suggested Language.

Access to Records. The following access to records requirements apply to this contract:

- (1) The Contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agrees to provide the FEMA Administrator or





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his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(4) In compliance with the Disaster Recovery Act of 2018, the (write in name of the non-federal entity) and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

2. CHANGES

- a. Standard. To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.
- b. Applicability. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

3. DHS SEAL, LOGO, AND FLAGS

- a. Standard. Recipients must obtain permission prior to using the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials. See DHS Standard Terms and Conditions: Version 8.1 (2018).
- b. Applicability. FEMA recommends that all non-Federal entities place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- c. Suggested Language.

"The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval."





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4. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

- a. Standard. The recipient and its contractors are required to comply with all Federal laws, regulations, and executive orders.
- b. Applicability. FEMA recommends that all non-Federal entities place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable Federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- c. Suggested Language.

"This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives."

5. NO OBLIGATION BY FEDERAL GOVERNMENT

- a. Standard. FEMA is not a party to any transaction between the recipient and its contractor. FEMA is not subject to any obligations or liable to any party for any matter relating to the contract.
- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- c. Suggested Language.

"The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract."

6. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- a. Standard. Recipients must comply with the requirements of The False Claims Act (31 U.S.C. §§ 3729-3733) which prohibits the submission of false or





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fraudulent claims for payment to the federal government. See DHS Standard Terms and Conditions: Version 8.1 (2018); and 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

- b. Applicability.** FEMA recommends that the non-Federal entity include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

- c. Suggested Language.**

"The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract."



DATE: July 27, 2020

OKLAHOMA DEPARTMENT OF TRANSPORTATION
BAMS/LAS - LETTING AND AWARD SYSTEM
SPECIAL PROVISIONS

CX00210B-NEW DISADVANTAGED BUSINESS ENTERPRISES PROGRAMS

POLICY STATEMENT
10-8-19

The Oklahoma Department of Transportation is committed to implementing the Disadvantaged Business Enterprise Program (DBE) as mandated in 49 CFR Part 26. The stated objectives of the program are:

- * To ensure nondiscrimination in the award and administration of U.S. DOT assisted contracts;
- * To create a level playing field on which DBEs can compete fairly for U.S. DOT assisted contracts;
- * To ensure that the program is narrowly tailored in accordance with the applicable law;
- * To ensure that only firms that fully meet the eligibility standards are permitted to participate as DBEs;
- * To help remove barriers to the participation in U.S. DOT assisted contracts;
- * To assist in the development of DBE firms so that they may compete successfully in the marketplace outside of the DBE program.

Failure of the contractor, subcontractor, material supplier or service contractor to carry out the requirements set forth shall constitute a breach of contract, and after notification by the Department, may result in termination of the contract by the State or such action as the State deems appropriate.

BIDDER'S ACTION

When ODOT has established a DBE contract goal, ODOT awards the contract only to a bidder who makes responsible good faith efforts to meet or exceed the goal. ODOT determines that a bidder has made good faith efforts if the bidder does either of the following things, as per 49 CFR 26.53:

- (1) Documents that it has obtained enough DBE participation to meet the goal; or
- (2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder does document adequate good faith efforts, ODOT must not deny award of the contract on the basis that the bidder failed to meet the goal.

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In the solicitations for DOT-assisted contracts for which a contract goal has been established, award of the contract will be conditioned on meeting the requirements of this section. All bidders or offerors will be required to submit the following at the time of bid within AASHTOWare Project Bids:

- * DBE Form 6 - Prime Contractor - Confirmation of Intent to Subcontract Federal-Aid Projects;
- * The names and addresses of DBE firms that will participate in the contract;
- * A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
- * The dollar amount of the participation of each DBE firm participating;
- * Written documentation of the bidder's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
- * Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment (i.e. subcontractor's quote).

If the contract DBE goal cannot be met, evidence of good faith efforts are to be submitted on the DBE Form 5 - Prime Contractor - Good Faith Efforts and submitted at the time of bid within AASHTOWare Project Bids.

If the bidder to whom ODOT proposes to award the contract is able to demonstrate good faith efforts, ODOT may reduce the contractual DBE goal to the bidder's proposed adjusted goal. Acceptance by ODOT of the bidder's proposed adjusted goal does not release the bidder from its contractual obligation to continue to make efforts throughout the duration of the project to utilize DBEs on the project.

The successful bidder shall review and certify the DBE Commitment included in the contract. The DBEs listed on the DBE Commitment shall be considered binding, and changes of committed DBEs may only be made after the contract is fully executed, and may only be changed through the procedures established in the DBE Program Manual.

All bidders shall submit with their bid completed and signed quote(s) from each DBE to be subcontracted in order to achieve the contract DBE goal, along with the respective DBE Form 6. All DBE firms included in the bid must be currently certified by ODOT as eligible to participate in the DBE program. Failure to submit the required DBE documents, or to use an ODOT certified DBE will render the bid non-responsive.

The DBEs submitted on this form shall be considered binding and changes of committed DBEs may only be made after the contract is fully executed, and may only be changed through the procedures established in the DBE Program Manual.

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The steps taken by the bidder to obtain DBE participation shall be documented and shall include, but is not limited to the good faith efforts found in this Special Provision.

It is the contractor's responsibility to submit the information necessary for ODOT to ascertain compliance with the good faith efforts requirement. Extra cost involved in finding and utilizing DBEs will not be accepted as an adequate reason for the bidder's failure to meet the project DBE goal as long as such costs are reasonable.

Good Faith Effort Process (GFE)

Administrative Reconsideration Process - Construction

If ODOT determines that the apparent successful bidder has failed to meet the requirements, prior to awarding the contract, ODOT will provide the bidder an opportunity for administrative reconsideration.

1. If the ODOT Disadvantaged Business Enterprise Liaison Officer (DBELO) determines that the Bidder did not demonstrate good faith efforts to meet the contract goal, the DBELO shall notify the Bidder in writing, via the email address provided from the contact(s) listed on the submitted DBE Form 6.
2. The notice shall state that the Bidder is entitled to administrative reconsideration. ODOT's independent administrative reconsideration official is the Director of Capital Programs and/or designee, provided that such designee did not participate in the original determination. The DBELO shall provide the administrative reconsideration official with a copy of the notice to the Bidder.
3. The Bidder has five business days from the date of the notice from the DBELO to submit a request for administrative reconsideration to the email addresses provided in the notice. The request shall include the Bidder's basis for the appeal and any supporting documentation that the Bidder would like considered as part of the reconsideration. The request shall also include a statement as to whether the Bidder would like a hearing and specify whether the Bidder would like an in-person or a telephone hearing. If the Bidder does not include a request for a hearing, the right to a hearing is waived.
4. If the Bidder has requested a hearing, the administrative reconsideration official will establish a date and time for the hearing and send written notice via email to the DBELO and Bidder at least two business days in advance of the hearing. If schedules permit, the parties may waive the two day requirement.

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5. The administrative reconsideration official may request additional documentation from the Bidder and/or the DBELO. A copy of all requests and responses shall be provided to the other party and the other party shall be given an opportunity to respond.

6. The administrative reconsideration official shall issue the final determination as to whether the Bidder made good faith efforts to meet the contract goal.

In instances where a DBE is participating in a contract as a joint venture, the joint venture must submit the specific units of work which will be performed by the DBE joint venturer. The DBE joint venturer's portion of the contract work will be submitted as the Contractors' commitment and the advertised goal of the contract becomes the contractual obligation.

In instances where a successful bidder's DBE commitment exceeds the actual DBE contract goal, the advertised goal of the contract remains the contractual obligation.

ASSURANCE OF NON DISCRIMINATION

The contractor, sub recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Oklahoma Department of Transportation deems appropriate.

GOOD FAITH EFFORTS

The steps taken by the bidder to obtain DBE participation shall be documented and shall include, but are not limited to the following good faith efforts: (APPENDIX B ~ TO CFR 49, PART 26)

ODOT verifies that all information is complete and accurate and adequately documents the bidder's good faith efforts. As per 49 CFR Part 26, Appendix A, the following is a list of types of actions which can be considered as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive.

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Solicit through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business match-making meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Request for Proposals, and written notices to all DBEs listed in ODOT's Directory.

The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations. Such steps should include, but are not limited to:

- Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved.
- Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner.
- Negotiating in good faith with interested DBEs. Incur reasonable additional costs to obtain DBE Participation. Price alone is not a sufficient reason to reject a DBE. The bidder must demonstrate that the cost is excessive and unreasonable. Reasonableness is evaluated not only in terms of the dollar and percentage difference from one bidder to another, but also in light of the percentage of the total contract.
- As necessary, revise the DBE participation plan in order to obtain DBE participation. In the event the contractor is unable to obtain DBE participation under the original plan or is receiving DBE quotes in other areas, it should consider revising the plan, unbundling and forgoing self-performance or portions of the contract.
- Provide assistance to DBEs. Assistance may include providing the DBE help to understand technical and contract requirements of the project, obtain bonds and insurance for the project, and connect with others in the industry to obtain supplies, equipment or other materials for the project. The bidder should be careful not to compromise the independence or potential commercially useful function of the DBE, therefore in no instances should bidders arrange supply purchases, negotiate on behalf of a DBE, lend equipment to DBEs, or directly pay DBE employees.

If ODOT determines that the apparent successful bidder has failed to meet the requirements, prior to awarding the contract, ODOT will provide the bidder an opportunity for administrative reconsideration.

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CONTRACTOR ACTIONS AFTER AWARD OF THE CONTRACT

Counting DBE Participation Toward the Goal

Submit executed subcontracts and/or sub-agreements in pdf format to the Department using the following email address: constructionsubcontracts@odot.org. Submit all additional and/or modified subcontracts or sub-agreements to the Department via the same email address.

All subcontracts must be reviewed and approved by the Department prior to the subcontractor performing contract work. If a subcontractor performs contract work prior to approval of the subcontract by the Department, then the Contractor will be subject to one or more of the following:

- No pay for specific work items;
- Withhold progressive estimates in entirety; or
- Impose other severe sanctions as deemed appropriate.

When a DBE participates in a contract, only the value of the work actually performed by the DBE is counted toward the contract goal. The entire amount of that portion of a contract that is performed by the DBE's own forces is counted, including the cost of supplies and materials obtained by the DBE for the work on the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE purchases or leases from a prime contractor or its affiliate).

Fees or commissions charged by a DBE firm for providing a bona fide service such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of a U.S. DOT assisted contract, count toward the goal, provided those fees are determined to be reasonable and not excessive compared with fees customarily allowed for similar services.

When a DBE performs as a participant in a joint venture, the portion of the total dollar value of the contract equal to the clearly defined portion of the work that the DBE performs with its own forces may be counted toward the goal.

Only expenditures to a DBE contractor who performs a commercially useful function may be counted toward a DBE goal.

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COMMERCIALLY USEFUL FUNCTION

A DBE performs a commercially useful function (CUF) when it is responsible for the execution of the work of its contract and is carrying out its responsibilities by actually performing, managing and supervising the work involved. The DBE must be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

To determine whether a DBE is performing a CUF, ODOT will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid is commensurate with the work it is actually performing and the DBE credit claimed, and other relevant factors.

A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is acting as a pass-through, ODOT will examine similar transactions, particularly those in which DBEs do not participate.

Use of Joint Checks

A joint check is a two party check between a DBE, a prime contractor, and the regular dealer of materials/supplies. Typically, the prime contractor issues the check as payor to the DBE and supplier jointly to guarantee payment to the supplier for materials/supplies used by the DBE.

A joint check may be used when the following conditions are met:

- * The second party (typically the prime contractor) acts solely as a guarantor
- * The DBE must release the check to the supplier
- * The use of joint checks is a commonly recognized business practice in the industry
- * ODOT approves the practice before it is used

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The use of joint checks will not be approved if it conflicts with the commercially useful function (CUF) requirements of 49 CFR Section 26.55. All aspects of the CUF requirements must be fulfilled by the DBE to include negotiating the purchase and delivery of the materials required for the performance of the contract.

The use of joint checks should be short term in nature and there shall be no exclusive ongoing relationship between one prime and one DBE in the use of joint checks, which may bring the DBE's independence into question.

The DBE shall notify the Civil Rights Office prior to the use of joint checks, providing full and prompt disclosure of the circumstances and a request for approval. The Civil Rights Office will review the request and determine whether approval will be granted.

Lease of Use of Prime Contractors' Equipment

The DBE may lease equipment necessary to perform work, where the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the DBE firm. 49 CFR Section 26.55(a)(1) does not allow materials purchased or equipment leased from a prime contractor to count toward the DBE goal. If a DBE uses or leases equipment from the prime contractor, the prime contractor cannot claim credit for the value of that equipment lease toward the DBE goal. If a DBE uses a prime contractor's equipment, it shall be for an unusual circumstance of limited duration, and the DBE shall provide the ODOT a written agreement between the DBE and the prime contractor.

TRUCKING

The certified DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

The DBE, itself, must own and operate at least one fully licensed, insured, and operational truck used on the contract.

The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs. ODOT does not permit additional non-DBE trucks to count toward the DBE goal.

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MANUFACTURERS AND MATERIAL SUPPLIERS

If the materials or supplies are obtained from a certified DBE manufacturer, 100 percent of the cost of the materials or supplies will be counted toward the DBE goal. A manufacturer is a firm that operates the or maintains a factory or establishment that produces, on the premises, materials required under the contract as described by the specifications.

If the materials or supplies are purchased from a certified DBE regular dealer, 60 percent of the cost of the materials or supplies will be counted toward the DBE goal. A regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment described by the specification and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating or maintaining a place of business as provided for in the above paragraph if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad-hoc or contract-by-contract basis.

In order for a firm to qualify as a DBE supplier of metal and/or concrete pipe, the firm must also fabricate the pipe. Metal or concrete pipe is specialty pipe which is project specific and is inspected during the manufacturing process. This arrangement provides for no warehousing of metal or concrete pipe and essentially requires the manufacturer to be the supplier. Merely ordering pipe from the fabricator, and in turn selling it to contractors is not consistent with normal industry practice. Contractors normally purchase pipe directly from the manufacturer, thus eliminating the middleman. Supplying metal or concrete pipe is viewed as brokering and is considered inconsistent with DBE program requirements.

SUBSTITUTION/REPLACEMENT OF DBES

Substitution or replacement of a DBE will only be permitted or allowed after award and execution of the U.S. DOT assisted contract.

As per the 49 CFR 26.53 and the DBE Program Manual, a prime contractor may not terminate, for convenience; a DBE (or an approved substitute DBE firm) listed in their contract and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without ODOT's prior written consent. The contractor will notify

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the DBE subcontractor in writing as to reasons for termination and/or substitution. The DBE subcontractor will have five (5) days to respond to the contractor with any objection to termination and/or substitution. The contractor must then submit a request with documentation to the ODOT Civil Rights Division for approval before proceeding with termination and/or substitution.

When the contractor obtains a substitute DBE, the contractor shall provide the Civil Rights Division with copies of the substitute's subcontract, the Notification Change of DBE Participant (DBE Form 4), and supporting documentation prior to work being performed.

If the contractor is unable to replace the DBE with another DBE, then the contractor must provide ODOT with evidence that they have made a good faith effort (APPENDIX B ~ TO CFR 49, PART 26).

If a contractor fails to comply with this section, the contractor will not be entitled to any payment for work material unless it is performed or supplied by the listed DBE(s). Furthermore, appropriate administrative remedies as listed in the titled Administrative Remedies will be taken.

PROMPT PAYMENTS

To ensure that all prime contractors' obligations under U.S. DOT contracts are met, the prime contractor shall pay all subcontractors for satisfactory performance of their contracts no later than fifteen calendar days after receipt of each progressive payment from ODOT. The prime contractor must further make prompt return of retainage held to the subcontractor or DBE within fifteen days after the subcontractor's work is satisfactorily completed, whether the prime contractor's work is complete or not. The term "satisfactorily completed" is defined as when; 1) ODOT finds the work completed in accordance with the Plans and Specifications, 2) any required paperwork, including material certification, payrolls, etc., have been received and approved by ODOT or 3) the Department has determined the final quantities on the subcontractor's portion of the work. In the event, prime contractor fails to comply with prompt payment requirements or a pattern and practice of prompt payment violations is recognized and all other efforts for remedy have been exhausted, the agency shall invoke administrative actions including but not limited to the withholding of bid proposals.

Prime contractors must include in their subcontract agreements notifying subcontractors of their right to prompt payment and return of retainage under 49 CFR part 26.29.

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Administrative Remedies

The following administrative remedies will be invoked when the federal DBE contractual requirements are not met by a contractor, and if the contractor has failed to provide evidence of a sufficient good faith effort to meet said provisions:

- Suspension of processing progressive estimates
- Refusal to issue proposals
- Refuse to award or approve subcontractors or material suppliers
- Suspension of work on the project
- Suspension of prequalification
- Contractor Performance suspension
- Contractor Debarment

RECORD KEEPING REQUIREMENTS

The prime contractor will keep such records as are necessary to determine compliance with the DBE contract obligations. The records kept by the contractor will indicate:

1. The name(s) of DBEs or other subcontractors, the type of work being performed, and payment for work, services and procurement.
2. Documentation of correspondence, verbal contracts, telephone calls, etc., to obtain services of DBEs on the project.
3. The prime contractor shall maintain a copy of the DBE trucking firm's list of trucks to be used on that project. This shall be provided to the prime by the DBE prior to the DBE beginning the work of their hauling agreement. The prime contractor shall submit this list along with the actual hauling subcontract/agreement for approval by the Department.

Upon request, the prime contractor shall submit all purchase orders, contracts, agreements, and financial transactions, including canceled checks, executed with DBEs with the reference to records referred to in this provision, in such form, manner, content prescribed by ODOT.

Once the project begins, prime contractors will be required to submit Monthly Payment Log Forms (DBE Form 2) to the Resident Engineer each month for the duration of the project. The DBE Form 2 will record payments made to all DBE firms providing materials or services to the project, whether listed in the Contract to meet a project goal or not. Listed on the forms should be all payments made, including final payment and return of retainage. The forms should be submitted even if there is no contractual DBE goal listed in the contract and/or the prime contractor is a DBE. These forms must be received by the Resident Engineer no later than the 15th of the following month.

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For contracts with DBE participation, regardless of a contractual DBE goal, the contractor shall submit to the Resident Engineer a DBE Final Payment Report (DBE Form 3A), which replaces the Summary Form 1. The contractor should list all DBEs as in the contract and summarize total amounts paid to DBEs and the project goal amount for each DBE. DBE Prime Contractors must also list all DBEs as in the contract and summarize total amounts paid to other DBEs and the project goal amount for each DBE. In instances where the contract is performed as a joint venture and one of the members of the joint venture is a DBE, the joint venture should summarize the total amounts paid to the DBE joint venturer for work performed.

S T A T E O F O K L A H O M A
D E P A R T M E N T O F T R A N S P O R T A T I O N
D B E C O M M I T M E N T S
THE MINIMUM DBE GOAL FOR THIS PROPOSAL IS 10 PERCENT

THIS FORM SHALL BE COMPLETED BY BIDDER AS PART OF THIS PROPOSAL. THE UNDERSIGNED AGREES TO USE THE DEPARTMENT CERTIFIED DBE(S) LISTED BELOW TO MEET THE DBE GOAL OF THE TOTAL CONTRACT AMOUNT FOR THIS PROJECT.

NAME	DESCRIPTION OF WORK	AGREEMENT AMOUNT*
SUBCONTRACTORS		
MATERIAL SUPPLIERS		
TRUCKING		

NOTE : ONLY THOSE DBEs LISTED ON THE CERTIFIED LIST CAN BE USED TO FULFILL DBE GOAL REQUIREMENTS, AND MUST BE IN THE CAPACITY IN WHICH THEY ARE CERTIFIED. BROKERAGE, PACKAGERS, AND PASS THROUGHS DO NOT QUALIFY AS DBE PARTICIPATION. MATERIAL SUPPLIERS AND OWNER / OPERATORS DO NOT QUALIFY AS SUBCONTRACTORS.

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CF000050 REPORTING OF BID RIGGING

NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (DOT) operates the above toll-free "hotline" Monday Through Friday, 8:00 a.m. to 5:00 p.m., eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

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TITLE VI - NON-DISCRIMINATION CLAUSE

CF000101

07/12/10

During the performance of this Agreement, the Contractor, for itself, its assignees and successors in interest, agrees as follows:

1. Compliance with Regulations:

The Contractor shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, 49 CFR, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination:

The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment:

In all solicitations, either by competitive bidding or negotiation, made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, age, national origin, disability/handicap, or income status.

4. Information and Reports:

The Contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Oklahoma Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Oklahoma Department of Transportation, or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance:

In the event of the Contractor's noncompliance with the nondiscrimination provision of this contract, the Oklahoma Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

- a. Withholding of payments to the Contractor under the contract until the Contractor complies and/or
- b. Cancellation, termination, or suspension of the contract in whole or in part.

6. Incorporation of Provisions:

The Contractor shall include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the Oklahoma Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the Contractor may request the Oklahoma Department of Transportation to enter into such litigation to protect the interests of the State; and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

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RESIDENCE REQUIREMENTS FOR LABOR ON FEDERAL AID PROJECTS

9-7-76

This is a Federal Aid Project and
the provisions of 40 O.S.
Supplemental 1959 Sect. 193 and 194
relative to residence requirements
are not applicable to the
contractor's employees.

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CF000501

CERTIFICATION FOR FEDERAL-AID CONTRACTS

02-07-90

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement; the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

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CF000502 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION
REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS
(EXCLUSIVE OF APPALACHIAN CONTRACTS)
Rev. 6/11.

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:
Section I, paragraph 2;
Section IV, paragraphs 1,2,3,4, and 7;
Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5,6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. Selection of Labor: During the performance of this contract, the contractor shall not:

- a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for

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Appalachian contracts, when applicable, as specified in Attachment A),
or

b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant of 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the SHA contracting officers and EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees,

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or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisement will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring all referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

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c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. Personnel Actions: Wages, working condition, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspection of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligation under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of the avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulation, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special

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provision.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

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8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR, Part. 26, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

(4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

(b) The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

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III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate certifies that the firm does not maintain or provide for its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and 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 by explicit directive, or are, in fact, segregated on the basis of race, color religion, national origin, or disability, because of habit, local custom or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of materials supply agreements of \$10,000 or more and that it will retain such certifications in its files.

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. General:

a. All mechanics and laborers employed or working upon the site of the work 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 (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c) the full amounts of wages and bona-fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be

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computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL posted (WH-1321) or Form FHWA-1495) 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. For the purpose of this Section, contributions made or costs reasonably anticipated for bona-fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, 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 paragraphs 4 and 5 of this Section IV.

b. 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.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1,3 and 5 are herein incorporated by reference in this contract.

2. Classification:

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

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

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

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

(4) with respect to helpers as defined in Section IV.4c, when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer 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 the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within 30-day period that additional time is necessary.

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

e. The wage rate (including fringe benefits where appropriate determined pursuant to paragraph 2c and 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day of which work is performed in the classification.

3. Payment of Fringe Benefits:

a. 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 or subcontractor, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

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b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a 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.

4. Apprentices and Trainees (Programs of the U.S.DOL) and Helpers:

a. Apprentices:

(1) 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 DOL, 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/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.

(2) The allowable ratio of apprentices to journeyman-level employees 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 employee 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 listed in 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 or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wages rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) 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 journeyman-level 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

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classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable classification, fringes shall be paid in accordance with the determination.

(4) 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 or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

(1) 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 DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. 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 the applicable wage rate of the wage determination for the classification of 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.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level 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 journeymen-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor 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.

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c. Helpers:

(2) Helpers will be permitted to work on a project if the helper classification is specified on an applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper as defined above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. Apprentices and Trainees (Programs of the U.S.DOT):

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyman shall not be greater than permitted by the terms of the particular program.

6. Withholding:

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any 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, as 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, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, 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.

7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborers, mechanic, watchman or guard receives compensation

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at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. Violation:

Liability for Unpaid Wages: Liquidated Damages: In the events of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor 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). Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clauses set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, 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 paragraph 8 above.

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen,

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helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, individual employee identification number, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found 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 and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially possible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraph 4 and 5, and watchman and guards engaged on work during the preceding weekly payroll periods). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. 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 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of 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 paragraph 2b of this Section V and that such information is correct and complete;

(2) that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll

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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 the Regulations, 29 CFR 3;

(3) that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

e. The weekly submission of a properly executed certification set forth on the reserve side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, 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, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any 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 5.12.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossing, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

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c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall not sublet, sell, assign or otherwise dispose of the Contract or Contracts or any portion thereof or any of his/her rights, title, or interest therein without the written or electronic consent of the Director or his/her authorized representative. Any subletting of the Contract shall be done in accordance with Section 108.01 of the 2009 Standard Specifications.

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirement set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when

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given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or

dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3 it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right to entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

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Notice to All Personnel Engaged on Federal-Aid
Highway Projects

18 U.S.C. 1020 reads as follows:

"Whoever being an officer, agent, or employee of the United States, of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material to be used, or the quantity of the work to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-Aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION
CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et., as amended by Pub.L. 92-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et. seq., as amended by Pub.L. 92-500, Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

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2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, ELIGIBILITY AND VOLUNTARY EXCLUSION

1. Instruction for Certification - Primary Covered Transaction:
(Applicable to all Federal-aid contracts - 49 CFR 29)

a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification of explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

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e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective primary participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

h. A participation in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealing.

j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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Certification Regarding Debarment, Suspension,
Ineligibility and Voluntary Exclusion - Primary
Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and beliefs, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instruction for Certification - Lower Tier Covered Transactions:
(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department of agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at

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any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered Transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participation in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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Certification Regarding Debarment, Suspension, Ineligibility and
Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of no less than \$10,000 and not more than \$100,000 for each such failure.

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3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

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CF000800 NOTICE OF REQUIREMENTS FOR AFFIRMATIVE ACTION
(Executive Order 11246) 10-27-97
Rev. 11-30-99

The enforcement authority for Executive Order 11246 is 'THE OFFICE OF
FEDERAL CONTRACT COMPLIANCE':
U.S. Department of Labor/Office of Federal Contract Compliance
525 S. Griffin St., Room 512
Dallas, TX 75202
Phone: (972) 850-2650

1. The Offeror's or Bidder's attention is called to the "Equal
Opportunity Clause" and the "Standard Federal Equal Employment
Specifications" set forth herein.

2. 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: The covered area is in the county or counties as indicated in
the description on the proposal.

Timetables	Goals for minority participation	Statewide Goals for
	for each trade by county and percentage	female participation

Until Further Notice

- 17.2 - Bryan
- 11.0 - Beaver, Cimarron & Texas
- 14.8 - Comanche
- 10.8 - Cotton, Greer, Harmon, Jackson,
Jefferson, Kiowa, Stephens &
Tillman
- 10.2 - Canadian, Cleveland, McClain
Oklahoma, & Pottawatomie
- 9.0 - Alfalfa, Atoka, Beckham, Blaine, Caddo,
Carter, Coal, Custer, Dewey, Ellis
Garfield, Garvin, Grady, Grant, Harper,
Hughes, Johnston, Kingfisher, Lincoln,
Logan, Love, Major, Marshall, Murray,
Okfuskee, Pontotoc, Roger Mills,
Seminole, Washita, Woods, Woodward
- 10.2 - Creek, Mayes, Osage, Rogers, Tulsa & Wagoner
- 10.0 - Cherokee, Kay, McIntosh, Muskogee,
Noble, Nowata, Okmulgee, Pawnee, Payne, & Washington
- 3.3 - Adair & Delaware
- 5.6 - LeFlore & Sequoyah
- 6.6 - Choctaw, Haskell, Latimer, McCurtain,
Pittsburg & Pushmataha
- 2.3 - Craig & Ottawa

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(Executive Order 11246)
Rev. 11-30-99

10-27-97

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 geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 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. 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 Part 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 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 subcontract is to be performed.

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CF0000900
11-20-80

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY

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 Form 941;

d. "Minority" includes: (i) Black (all persons having origins in any of the black African racial groups not of Hispanic origin); (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race); (iii) Asian or Pacific Islander (all persons having origins in any of the original peoples of Far East, Southeast Asia, The Indian Subcontinent, or the Pacific Islands); (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

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-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 to make a 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 take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications.

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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 construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work 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 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 a commitment to employ the apprentices and 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 effort 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, and 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 onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a 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 organizations responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or 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

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Contractor, this shall be documented in the file with the reason therefore, 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 obligations.

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 Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b 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. Review, at least annually, 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 onsite supervisory personnel such as Superintendents, General Foreman, 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, specifically including minority and female 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. Not 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.

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j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3

L. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, 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. Insure that all facilities and company activities are non-segregated except that separate or single-user toilet 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 a review, at least annually, if 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 (7a through 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 7a through p of these Specifications provided that 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 workforce 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 to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women has been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for minority 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 underutilized).

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10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts 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 subcontracts 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 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 shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when 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 locations 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).

16. In addition to the reporting requirements set forth elsewhere in this contract, the Contractor and subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, shall submit for every month of July during which work is performed employment data as contained under Form PR-1391 (Appendix C to 23 CFR Part 230), and in accordance with the instructions included thereon.

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* THESE STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)
SHALL BE INCLUDED IN, AND SHALL BE A PART OF, ALL SOLICITATIONS
FOR OFFERS AND BIDS ON ALL FEDERAL AND FEDERALLY ASSISTED
CONSTRUCTION CONTRACTS OR SUBCONTRACTS IN EXCESS OF \$10,000.
EXECUTION OF THE CONTRACT BY THE SUCCESSFUL BIDDER AND ANY
SUBSEQUENT SUBCONTRACTS WILL BE CONSIDERED THE CONTRACTOR'S AND
SUBCONTRACTOR'S COMMITMENT TO THE EEO PROVISIONS CONTAINED IN
THESE STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246):

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CF001700
9-7-76
Rev. 01/88
09/89

CONTRACTORS AFFIDAVIT

Section 112(c) of Title 23 USC requires as a condition precedent to approval, by the Federal Highway Administration, of the contract for this work that there be filed a sworn affidavit or as unsworn statement subject to Federal perjury laws executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract.

The sworn affidavit shall be in the form provided and executed by the bidder before a person who is authorized by the laws of this state to administer oaths. The original of such affidavit shall be filed with the Oklahoma Department of Transportation prior to award of the contract. The unsworn statement shall be in the form provided and subject to Federal perjury statutes. The original of such statement shall be filed with the Oklahoma Department of Transportation prior to award of the contract.

TO COMPLY WITH ABOVE REFERENCED SECTION 112(c) OF TITLE 23 USC -

BIDDERS SHALL EXECUTE THE BIDDERS AFFIDAVIT OR UNSWORN STATEMENT

SUBJECT TO FEDERAL PERJURY LAWS INCLUDED IN THIS PROPOSAL.

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CX00210B
11-30-99
Rev. 06-06-11
POLICY STATEMENT

* DISADVANTAGED BUSINESS ENTERPRISES PROGRAMS

The Oklahoma Department of Transportation is committed to implementing the Disadvantaged Business Enterprise Program as mandated in 49 CFR Part 26. The stated objectives of the program are:

- * To ensure nondiscrimination in the award and administration of U.S. DOT assisted contracts;
- * To create a level playing field on which DBEs can compete fairly for U.S. DOT assisted contracts;
- * To ensure that the program is narrowly tailored in accordance with the applicable law;
- * To ensure that only firms that fully meet the eligibility standards are permitted to participate as DBEs;
- * To help remove barriers to the participation in U.S. DOT assisted contracts;
- * To assist in the development of DBE firms so that they may compete successfully in the marketplace outside of the DBE program.

Failure of the contractor, subcontractor, material supplier or service contractor to carry out the requirements set forth shall constitute a breach of contract, and after notification by the Department, may result in termination of the contract by the State or such action as the State deems appropriate.

BIDDER'S ACTION

When ODOT has established a Disadvantaged Business Enterprise (DBE) contract goal, ODOT will award a U.S. DOT assisted contract only to a bidder who makes good faith efforts to meet the goal.

All bidders shall, with the submissions of their bid, show their intent to meet or exceed the DBE goal established for the project, or propose an adjusted goal accompanied by their submission of good faith efforts. Failure to make the written assurance which includes the names of the DBEs used, the work they will perform, and the price for the work, or failure to demonstrate good faith efforts acceptable to the Department to meet or exceed the DBE goal shall render a bid non-responsive.

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If a bidder cannot meet the established DBE goal, the bidder shall document and submit with their bid proposal, justification stating why he or she could not meet the established DBE goal and demonstrate its good faith efforts. To demonstrate good faith efforts to meet the DBE goal, the bidder shall document the steps taken to obtain DBE participation. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not successful. ODOT will review and determine that the information is complete and accurate and adequately documents the bidder's good faith efforts before committing to the award of the contract to the bidder. ODOT will make a fair and reasonable judgement whether the bidder that did not meet the goal made adequate good faith efforts by considering the quality, quantity, and intensity of the different kinds of efforts that the bidder made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts.

If the bidder to whom ODOT proposes to award the contract is able to demonstrate good faith efforts, ODOT may reduce the contractual DBE goal to the bidder's proposed adjusted goal. Acceptance by ODOT of the bidder's proposed adjusted goal does not release the bidder from its contractual obligation to continue to make efforts throughout the duration of the project to utilize DBEs on the project.

If ODOT determines that the bidder to whom ODOT proposes to award the U.S. DOT assisted contract fails to meet the requirements stated above, the bidder will be provided an opportunity for administrative reconsideration. The bidder will be notified by fax within two working days following the bid opening.

As part of this reconsideration, the bidder will have the opportunity to provide written documentation or argument concerning whether it met the goal or made adequate good faith efforts to do so. The bidder will have two working days within which to present their case. The decision on reconsideration will be made by an official who did not take part in the original determination that the bidder failed to meet the goal or make adequate good faith efforts to do so. The determination will be made by the General Counsel or his designee. The General Counsel or his designee will provide a decision prior to the award of the U.S. DOT assisted contract or the award will be delayed.

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The bidder will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

A written decision on reconsideration will be sent to the bidder, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

The result of the reconsideration is not administratively appealable to the U.S. Department of Transportation.

All bidders shall submit with their bid, completed, signed, and notarized pages 13 of 14 and 14 of 14 of the Special Provision. All bidders shall also complete and submit the DBE pages of the Expedite System (electronic bidding). All listed DBE firms must be currently certified by ODOT as eligible to participate in the DBE program. DBEs also must be listed only in categories of work as shown in the DBE Directory attached to the back of that month's ODOT Short Form Notice. Failure to submit the forms will render the bid non-responsive. In the event of a conflict between the Expedite DBE submission and pages 13 of 14 and 14 of 14, the written submissions on pages 13 of 14 and 14 of 14 will control.

The DBEs submitted on this form shall be considered binding and changes of committed DBEs may only be made after the contract is fully executed, and may only be changed through the procedures established in the DBE Program Manual, VII Contract Performance, Substitution/Replacement of DBEs.

The steps taken by the bidder to obtain DBE participation shall be documented and shall include, but is not limited to the good faith efforts found in this Special Provision.

It is the contractor's responsibility to submit the information necessary for ODOT to ascertain compliance with the good faith efforts requirement. Extra cost involved in finding and utilizing DBEs will not be accepted as an adequate reason for the bidder's failure to meet the project DBE goal as long as such costs are reasonable.

The bidder must submit to the Office Engineer Division written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment. This shall be submitted in the form of DBE Confirmation of Intent to Subcontract (DBE-6). The DBE-6 shall be submitted for each DBE listed in the bidder's proposal to meet the advertised goal. This form, along with the DBE's quote listing line items, quantities, and dollar value, must be received no later than ODOT's close of business on the Wednesday following the bid.

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opening. Otherwise, the bid shall be considered nonresponsive and shall be rejected by ODOT. The Office Engineer Division and the Civil Rights Division will review each of the apparent low bidders' submittals to determine compliance with 49 CFR Section 26.53(b)(2)(v).

In instances where a DBE is participating in a contract as a joint venture, the joint venture must submit the specific units of work which will be performed by the DBE joint venturer. The DBE joint venturer's portion of the contract work will be submitted as the Contractors' commitment and the advertised goal of the contract becomes the contractual obligation.

In instances where a successful bidder's DBE commitment exceeds the actual DBE contract goal, the advertised goal of the contract remains the contractual obligation.

ASSURANCE OF NON-DISCRIMINATION

The contractor, sub recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Oklahoma Department of Transportation deems appropriate.

GOOD FAITH EFFORTS

The steps taken by the bidder to obtain DBE participation shall be documented and shall include, but are not limited to the following good faith efforts: (APPENDIX ~ TO PART 26)

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation.

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D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgement would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not sufficient justification for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs to fulfill the DBE contract requirement if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within the industry, membership in specific groups organizations, or associations and political or social affiliations are not legitimate causes for the rejection or non-solicitation of DBE bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

CONTRACTOR ACTIONS AFTER AWARD OF THE CONTRACT

Counting DBE Participation Toward the Goal 6%

When a DBE participates in a contract, only the value of the work actually performed by the DBE is counted toward the contract goal. The entire amount of that portion of a contract that is performed by the DBE's own forces is counted, including the cost of supplies and

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[materials obtained by the DBE for the work on the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE purchases or leases from a prime contractor or its affiliate).

Fees or commissions charged by a DBE firm for providing a bona fide service such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of a U.S. DOT assisted contract, count toward the goal, provided those fees are determined to be reasonable and not excessive compared with fees customarily allowed for similar services.

When a DBE performs as a participant in a joint venture, the portion of the total dollar value of the contract equal to the clearly defined portion of the work that the DBE performs with its own forces may be counted toward the goal.

Only expenditures to a DBE contractor who performs a commercially useful function may be counted toward a DBE goal.

COMMERCIALLY USEFUL FUNCTION

A DBE performs a commercially useful function (CUF) when it is responsible for the execution of the work of its contract and is carrying out its responsibilities by actually performing, managing and supervising the work involved. The DBE must be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

To determine whether a DBE is performing a CUF, ODOT will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid is commensurate with the work it is actually performing and the DBE credit claimed, and other relevant factors.

A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is acting as a pass-through, ODOT will examine similar transactions, particularly those in which DBEs do not participate.

Use of Joint Checks

A joint check is a two party check between a DBE, a prime contractor, and the regular dealer of materials/supplies. Typically, the prime contractor issues the check as payor to the DBE and supplier jointly to guarantee payment to the supplier for materials/supplies used by the DBE..

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A joint check may be used when the following conditions are met:

- * The second party (typically the prime contractor) acts solely as a guarantor
- * The DBE must release the check to the supplier
- * The use of joint checks is a commonly recognized business practice in the industry
- * ODOT approves the practice before it is used

The use of joint checks will not be approved if it conflicts with the commercially useful function (CUF) requirements of 49 CFR Section 26.55. All aspects of the CUF requirements must be fulfilled by the DBE to include negotiating the purchase and delivery of the materials required for the performance of the contract.

The use of joint checks should be short term in nature and there shall be no exclusive ongoing relationship between one prime and one DBE in the use of joint checks, which may bring the DBE's independence into question.

The DBE shall notify the Civil Rights Office prior to the use of joint checks, providing full and prompt disclosure of the circumstances and a request for approval. The Civil Rights Office will review the request and determine whether approval will be granted.

Lease of Use of Prime Contractors' Equipment

The DBE may lease equipment necessary to perform work, where the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the DBE firm. 49 CFR Section 26.55(a)(1) does not allow materials purchased or equipment leased from a prime contractor to count toward the DBE goal. If a DBE uses or leases equipment from the prime contractor, the prime contractor cannot claim credit for the value of that equipment lease toward the DBE goal. If a DBE uses a prime contractor's equipment, it shall be for an unusual circumstance of limited duration, and the DBE shall provide the ODOT a written agreement between the DBE and the prime contractor.

TRUCKING

The certified DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

The DBE must, itself, own and operate at least one fully licensed, insured, and operational truck used on the contract.

The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and

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operates using drivers it employs.

The DBE may lease trucks from another DBE firm including owner-operators certified as DBEs. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

The DBE may also lease trucks from a non-DBE or non-DBE owner operators. The DBE who leases from a non-DBE is entitled to credit for the total value of the transportation services provided by the non-DBE lessee not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement.

The lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

Consistent with normal industry practice, a DBE may lease trucks from a regular equipment dealer whose primary business is sales and leasing of trucks (as opposed to a trucking firm or individual). This cannot be on an ad-hoc basis, but must be long term and the trucks must be under the control of the DBE firm and must be operated in a manner consistent with the CUF requirements of the regulation. The total value of transportation services performed using such trucks can be credited toward meeting a contract goal.

MANUFACTURERS AND MATERIAL SUPPLIERS

If the materials or supplies are obtained from a certified DBE manufacturer, 100 percent of the cost of the materials or supplies will be counted toward the DBE goal. A manufacturer is a firm that operates the or maintains a factory or establishment that produces, on the premises, materials required under the contract as described by the specifications.

If the materials or supplies are purchased from a certified DBE regular dealer, 60 percent of the cost of the materials or supplies will be counted toward the DBE goal. A regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment described by the specification and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name,

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in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating or maintaining a place of business as provided for in the above paragraph if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad-hoc or contract-by-contract basis.

In order for a firm to qualify as a DBE supplier of metal and/or concrete pipe, the firm must also fabricate the pipe. Metal or concrete pipe is specialty pipe which is project specific and is inspected during the manufacturing process. This arrangement provides for no warehousing of metal or concrete pipe and essentially requires the manufacturer to be the supplier. Merely ordering pipe from the fabricator, and in turn selling it to contractors is not consistent with normal industry practice. Contractors normally purchase pipe directly from the manufacturer, thus

eliminating the middleman. Supplying metal or concrete pipe is viewed as brokering and is considered inconsistent with DBE program requirements.

SUBSTITUTION/REPLACEMENT OF DBES

Substitution or replacement of a DBE will only be permitted or allowed after award and execution of the U.S. DOT assisted contract.

A prime contractor may not terminate for convenience a DBE listed in their contract (or an approved substitute DBE firm) and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without ODOT's prior written consent.

When a DBE is terminated, or fails to complete the work of the contract for any reason, the prime contractor must make good faith efforts to find another DBE to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work (not necessarily the same work) under the contract as the DBE that was terminated, to the extent needed to meet the DBE goal established in the contract.

When the contractor obtains a substitute DBE, the contractor shall provide the Construction Division with copies of the substitute's subcontract, the Notification Change of DBE Participant (DBE Form 4), and supporting documentation.

If the contractor is unable to replace the DBE with another DBE, then the contractor must provide ODOT with evidence that they have made a good faith effort (Appendix B). The prime contractor must submit to the Construction Division a Request for Waiver of DBE Requirements (DBE Form 5) along with documentation to support they have made a good faith effort. ODOT may adjust the goal as appropriate.

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If a contractor fails to comply with this section, appropriate administrative remedies as listed in the section titled Administrative Remedies may be taken.

PROMPT PAYMENTS

To ensure that all prime contractors' obligations under U.S. DOT contracts are met, the prime contractor shall pay all subcontractors for satisfactory performance of their contracts no later than fifteen days after receipt of each progressive payment from ODOT. The prime contractor must further make prompt return of retainage held to the subcontractor or DBE within fifteen days after the subcontractor's work is satisfactorily completed, whether the prime contractor's work is complete or not. The term "satisfactorily completed" is defined as when; 1) ODOT finds the work completed in accordance with the Plans and Specifications, 2) any required paperwork, including material certification, payrolls, etc., have been received and approved by ODOT and 3) the Department has determined the final quantities on the subcontractor's portion of the work. Failure to comply with the prompt payment and return of retainage provisions of the contract may result in sanctions under the contract, as listed in Administrative Remedies.

Any delay or postponement of payment among the parties may take place only for good cause, with ODOT's written approval. The explanation from the prime contractor must be made in writing to the Resident Engineer. ODOT will provide internal controls to expedite the determination and processing of the final quantities for the satisfactorily completed subcontracted portions of the contract in accordance with Special Provision 109-8(a-b)09.

Prime contractors must include in their subcontract agreements notifying subcontractors of their right to prompt payment and return of retainage under 49 CFR part 26.29.

Prime contractors must include in their subcontracts language providing that prime contractors will utilize the alternative dispute resolution program to resolve payment differences. ODOT will provide the parties with a list of approved mediators and the parties must agree on a mediator within five days. ODOT will provide an approved mediator at no charge for disputes between DBEs and prime contractors. If the parties cannot agree to use one of the mediators from the list provided by the Department, then the subcontractor and prime contractor will be responsible for the costs incurred for the services of another mediation service.

GOAL WAIVERS

In the case where a contractor cannot meet the DBE goal of a contract, they should request a waiver of that portion of the DBE goal which will not be met. The request will be subject to the following:

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* A request for waiver will be initiated by the prime contractor at the time he or she reasonably knows that despite good faith efforts the contract goal will not be achieved. The request will be in writing and will document all good faith efforts made to meet the goal.

* The request for waiver will be submitted for review to the Resident Engineer and will be submitted on the Request for Waiver of DBE Requirements (DBE Form 5). The Resident Engineer will forward the request to the Construction Division. DBE goal waivers will be approved or denied by the Construction Division and Civil Rights Division - External Program. ODOT will make the decision on the waiver and inform the Division Office of FHWA on full oversight projects.

* If at the completion of the project the contractor has failed to meet the DBE goal, does not have an approved waiver, and has not demonstrated good faith efforts to meet the goal, the contractor will be assessed liquidated

damages for the difference between the contract goal and the actual DBE participation achieved. The Department shall deduct the liquidated damages from subsequent progressive estimates. In the event insufficient earnings remain for the deduction of liquidated damages, the Department may claim against the contractor's bond, suspend the contractor under performance suspension, withhold further proposals, or suspend prequalification.

* In those instances when the goal is not met due to a change in quantity which occurs through no fault of the contractor, but due to ODOT, a goal waiver will not be required for the contractor. Instead, a brief explanation from the Residency at the time the DBE Final Payment Form (DBE Form 3) is submitted, along with the statement of overruns and underruns, will suffice as documentation.

Administrative Remedies

The following administrative remedies may be invoked when the federal DBE contractual requirements are not met by a contractor, and if the contractor has failed to provide evidence of a sufficient good faith effort to meet said provisions:

- Suspension of processing progressive estimates
- Liquidated damages
- Refusal to issue proposals
- Suspension of work on the project
- Suspension of prequalification
- Debarment
- Removal of Certification

RECORD KEEPING REQUIREMENTS

The prime contractor will keep such records as are necessary to determine compliance with the DBE contract obligations. The records kept by the

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contractor will indicate:

1. The name(s) of DBEs or other subcontractors, the type of work being performed, and payment for work, services and procurement.
2. Documentation of correspondence, verbal contracts, telephone calls, etc., to obtain services of DBEs on the project.
3. The prime contractor shall maintain a copy of the DBE trucking firm's list of trucks to be used on that project. This shall be provided to the prime by the DBE prior to the DBE beginning the work of their hauling agreement. This list will be sent along with the actual hauling agreement to the Construction Division for approval, and the prime contractor will also furnish it to the Resident Engineer for monitoring activities.

Upon request, the prime contractor shall submit all subcontracts, purchase orders, contracts, agreements, and financial transactions, including canceled checks, executed with DBEs with the reference to records referred to in this provision, in such form, manner, content prescribed by ODOT.

Once the project begins, prime contractors will be required to submit Monthly Payment Log Forms (DBE Forms 2A or 2B) to the Resident Engineer each month for the duration of the project. The DBE Form 2A, completed by non-DBE prime contractors, will record payments made to all DBE firms providing materials or services to the project, whether listed in the Contract to meet a project goal or not. The Form 2B, completed by DBE prime contractors, will record payment made to all non-DBE subcontractors. Listed on the forms should be all payments made, including final payment and return of retainage. These forms must be received by the Resident Engineer no later than the 15th of the following month.

For contracts with a specified project DBE goal, the contractor shall submit to the Resident Engineer a DBE Final Payment Report (DBE Form 3A), which replaces the Summary Form 1. The contractor should list all DBEs as in the contract and summarize total amounts paid to DBEs and the project goal amount for each DBE. In instances where the contract is performed as a joint venture and one of the members of the joint venture is a DBE, the joint venture should summarize the total amounts paid to the DBE joint venturer for work performed. If the contractual goal is not met, the goal waiver procedures set forth in Section VII, Contract Performance, Goal Waivers, will apply.

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DISPUTE RESOLUTION PROGRAM

Any dispute or disagreement which may arise between a DBE and a prime contractor related to that DBE's participation in or exclusion from an ODOT project, or any adverse action of non-action taken by a contractor with regards to a DBE may be subject to the ODOT DBE Dispute Resolution Program. The contractor and the DBE shall participate in good faith to resolve the dispute or disagreement.

SUPPLEMENT TO PROPOSAL
FOR PROPOSED
DISADVANTAGED BUSINESS ENTERPRISE

THIS FORM SHALL BE COMPLETED BY BIDDER AS PART OF THIS PROPOSAL

As provided in this Special Provision, "DISADVANTAGED BUSINESS ENTERPRISES PROGRAMS" the undersigned bidder will use the Department certified DBE service/suppliers/subcontractors listed below to meet the percentage goals of the total contract amount for this project:

CONSULTANTS, SUBCONTRACTORS, SERVICE, REGULAR DEALERS
(MATERIAL SUPPLIERS), & FABRICATORS

NAME	DESCRIPTION OF WORK	AGREEMENT AMOUNT (1)

NOTE: ONLY THOSE DBES LISTED ON THE CERTIFIED LIST IN THEIR AREA(S)
OF EXPERTISE CAN BE USED TO FULFILL DBE GOAL REQUIREMENTS.

SUBTOTAL (1) _____

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REGULAR DEALERS (MATERIAL SUPPLIERS)

NAME	DESCRIPTION OF MATERIAL	60% OF AGREEMENT (2)

NOTE: BROKERAGE, PACKAGERS, AND PASS THROUGHES DO NOT QUALIFY AS DBE PARTICIPATION. MATERIAL SUPPLIERS AND OWNER/OPERATORS DO NOT QUALIFY AS SUBCONTRACTORS.

SUBTOTAL (2) _____

TOTAL (1+2) _____

% OF BID Six (6) _____

COMPANY NAME _____

BY: _____

TITLE: _____

Subscribed and sworn before me this _____ day of _____ year _____.

Notary Public _____

My commission expires _____

SEAL

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CX00220A
Rev. June 1998

* D. B. E. ASSURANCE

All bidders shall, with the submission of their bid, show their intent to meet or exceed the Disadvantaged Business Enterprise (DBE) goal established for the project, or propose an adjusted goal accompanied by their submission of good faith efforts. Failure to make the written assurance which includes the names of the DBE's used, the work they will perform, and the price for the work, or failure to demonstrate good faith efforts acceptable to the Department to meet or exceed the DBE goal shall render a bid non-responsive.

In accordance with 49 CFR Part 23, and the applicable Special Provisions the undersigned (check box a. or b.):

() a. Assures to meet or exceed the established DBE goal as set forth on pages 12 of 13 and 13 of 13 of Special Provision CX00210B, "Disadvantaged Business Enterprise Programs".

() b. Cannot meet the established DBE goal and assures to meet a DBE goal of % as set forth on pages 12 of 13 and 13 of 13 of Special Provision CX00210B, "Disadvantaged Business Enterprise Programs". A letter, along with evidence, is submitted with the bid indicating the good faith efforts to meet the established DBE goal and denoting therein how the new DBE goal is achieved.

All bidders shall submit with their bid, completed, signed, and notarized pages 12 of 13 and 13 of 13 of Special Provisions CX00210B, "Disadvantaged Business Enterprise Programs". All listed DBE firms must currently be certified by ODOT as eligible to participate in the DBE Program. They also must be listed only in the categories of work as shown in the DBE Directory attached to the back of that month's ODOT Short Form Notice. Failure to submit the completed, signed and notarized form at the time of the bid submission will render the bid non-responsive.

The DBEs submitted on this form shall be considered binding and may only be exchanged through the procedures established in the DBE Program Policy Manual.

Organization

By: _____ Title: _____

Subscribed and sworn to me this _____ day of _____, _____.

Notary Public _____

My Commission Expires: _____

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APPENDIX E-3

GOOD FAITH EFFORTS

To demonstrate good faith efforts to meet the DBE goal, the bidder shall document the steps taken to obtain DBE participation.

Good Faith Efforts should include, but not be limited to:

- a. Attending any pre-bid meetings at which DBEs could be informed of contracting and subcontracting opportunities:
- b. Advertising in general circulation, trade association, and minority focus media concerning the subcontracting opportunities:
- c. Providing written notice to a reasonable number of certified DBEs, who have capabilities and expertise pertinent to the work of the required subcontract, that their interest in the contract is being solicited. This notice shall be in sufficient time to allow the DBEs to respond to the written solicitation:
- d. Following up initial solicitations of interest by contacting DBEs to determine with certainty if the DBEs are interested:
- e. Selecting portions of the work to be performed by DBEs in order to increase the likelihood of the DBE goals being achieved. This may include, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation;
- f. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract;
- g. Negotiating in good faith with interested DBEs. The evidence of such negotiations should include the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specification for the work selected for subcontracting; and a statement as to why additional agreements could not be reached for DBEs to perform the work;

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- h. Not rejecting DBEs as unqualified without sound reasons based on a through investigation of their capabilities;
- i. Making efforts to assist interested CBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- j. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services; and
- k. Effectively using the services of available minority community organizations; minority contractors' groups; local, state and federal minority business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

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SPECIAL PROVISIONS

CZ002300 CONTRACT DISPUTE RESOLUTION PROCEDURE
OKLAHOMA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
CONTRACT DISPUTE RESOLUTION PROCEDURE
Rev. 07-26-06

This Special Provision supplements and where in conflict supercedes the provisions of Sections 104.06, 105.18, 108.07, 109.04 and 109.10 of the 1999 Standard Specifications for Highway Construction, English and Metric, as applicable. Units of measurement are provided in the subsections in both English and Metric equivalents. The units applicable for this project will be those specified in the project plans.

SECTION 110

CONTRACT DISPUTE RESOLUTION PROCEDURE
SECTION 1.

(a) Contractors and Resident Engineers should use all reasonable efforts to reach accord as to changes and perceived changes in the nature and quantity of work to be performed. However, if the Contractor and the Resident Engineer cannot reach an immediate agreement which can be supported by a supplemental agreement under the contract or a change in plans, it will be the responsibility of the Contractor to initiate a claim. Claims must be initiated by providing oral notice of intent to file a claim followed, with written confirmation of the notice within seven(7) calendar days as provided in the Standard Specifications Section 104.06. The Contractor must provide written notice of intent to file a claim to the Resident Engineer identifying work which the Contractor believes is not covered by the contract before starting on the disputed work. If the Contractor believes that work in progress may, due to changed conditions, have become subject to a claim, the Contractor must submit his written notice of intent to file a claim before continuing with the affected work. The submission of a notice of intent to file a claim by a contractor in accordance with the Standard Specification Section 104.06 is a mandatory prerequisite for the consideration by the Department of any claim submitted under the special provision text. The notice of intent to file a claim is, therefore, a condition precedent under the terms of this contract. Failure to provide the required notice of intent to file a claim shall constitute a waiver of the claim.

(b) The claim must be submitted in the form required by Section 105.18 within ninety (90) days of completion of the disputed or affected work. Failure to submit the claim within ninety (90) days will preclude recovery of extra compensation or award of additional time for the disputed or affected work.

(c) The claim will be complete and will contain all of the information and the certification required by Section 105.18 when submitted. Requests for additional compensation will be documented as required by

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Section 109.04. Only those items listed in Section 109.04 will be considered as compensable for disputed or affected work. Requests for extension of contract time for completion of disputed or affected work will be considered in accordance with Section 108.07. Requests for extension of contract time must be supported by a critical path method (CPM) schedules prepared in accordance with the Standard Specification Section 108.03(b) reflecting both the planned construction schedule and the actual sequence of the construction. Compensation for delays caused by disputed or affected work will be paid only for those items listed in Section 109.10.

(d) Time for claims review by the Resident Engineer as specified in Section 105.18 will begin upon receipt of the claim by the Resident Engineer and determination by the Resident Engineer that the claim is complete. A claim is complete when the claim contains all information specified by Section 105.18 and such additional supporting information or documents as the Resident Engineer may deem necessary for proper evaluation of a specific claim. If the Resident Engineer requires additional information or documentation, the Contractor shall have fifteen (15) days from the date of the Resident Engineer's request to provide the required information or documentation. Failure to provide requested information or documentation within the specific time will preclude recovery of extra compensation or award of additional time for the disputed or affected work.

SECTION 2.

(a) In the event that a Contractor's claim is denied in whole or in part by the Resident Engineer, the Contractor may appeal this denial to the Assistant Director-Operations by forwarding a copy of his claim in person or by certified mail with all supporting documents, the decision of the Resident Engineer (if any), any written agreement concerning the claim, and a statement setting forth in detail the grounds upon which the Contractor appeals the Resident Engineer's decision. The appeal must be submitted to the Assistant Director-Operations within twenty (20) days of the denial of the claim. If the appeal is not submitted within this time frame the decision of the Resident Engineer shall become final and binding.

(b) Upon receipt of the appeal and all documents set forth in Subsection (a) of this section, the Assistant Director-Operations shall review the Contractor's claim and determine if additional documentation, information, or other factual data are required to make a final decision on the Contractor's claim. If additional information is required, the Assistant Director-Operations shall, within fifteen (15) days, notify the Contractor in writing stating what additional information is required. The Contractor shall thereafter have fifteen (15) days to provide the requested information unless otherwise agreed in writing. Failure to provide the requested information within the time provided shall void any claims dependent upon such additional information and shall result in the decision of the Resident Engineer becoming final and

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binding as to all matters for which additional information was requested.

Within forty-five (45) days of receipt of the requested additional information, or if additional information is not requested within forty-five (45) days of the receipt of the appeal, the Assistant Director-Operations may dispose of the claim by change order or supplemental agreement in accordance with Section 104.04 of the Standard Specifications. If no agreement is executed between the Department and the Contractor within that forty-five (45) days, the Assistant Director-Operations within five (5) days thereafter shall issue his decision on each item of the Contractor's appeal. The decision shall state, as to each item of the appeal, whether the item is approved in whole or in part, or disapproved. If all or part of an item is disapproved, the Assistant Director-Operations shall cite his basis for disapproval. The Assistant Director-Operations's decision shall be mailed to the Contractor by certified mail. In the event that the Assistant Director-Operations shall fail to issue his decision in the time provided in this section and any extensions agreed to in writing by the Department and the Contractor, the claim shall be deemed denied as to any matter not previously agreed to in writing and the Contractor may proceed with his claim as set forth in Section 3.

SECTION 3.

(a) If the Contractor is dissatisfied with the final decision of the Assistant Director-Operations, the Contractor may request mediation of his claim in accordance with the January 1, 1992 Edition of the Construction Industry Mediation Rules of the American Arbitration Association, as such rules are herein modified. A request for mediation shall be made within fifteen (15) days of the receipt of the Assistant Director-Operations's final decision.

(b) The Construction Industry Mediation Rules of the American Arbitration Association as applicable to Contractor's claims resulting from contracts with the Department are modified and amended as follows:

(1) Rule 2 of the Mediation Rules is amended to read as follows:

2. Initiation of Mediation.

The Contractor may initiate mediation by filing a written request for mediation with the Dallas Regional Office of the American Arbitration Association, or such other mediation services as the parties that may agree and by sending a copy of the request to the Department's Assistant Director-Operations. The request for mediation sent to the American Arbitration Association or such other mediation service shall be accompanied by the appropriate administrative fee as set forth in the Fee Schedule.

(2) Rule 8 of the Mediation Rules is amended to read as follows:

8. Date, Time and Place of Mediation.

The mediator shall fix the date and time of each mediation session. The mediation shall be held at the Department of Transportation Building in Oklahoma City, Oklahoma, or at any other convenient location agreeable to the mediator and the parties.

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(c) Mediation may be continued as required to promote optimum utilization and success with this dispute resolution vehicle. If mediation is considered at an impasse by the mediator, the mediator may terminate mediation as provided by Rule 14.

SECTION 4.

(a) If mediation is unsuccessful and the Contractor desires to further pursue resolution of a disputed claim, the Contractor may seek relief through district court as provided by the laws of the State of Oklahoma. In all such instances, only those claims which have been presented for consideration in accordance with the Standard Specifications and these special provisions may be referred to district court. In all such actions, venue shall be the District Court in Oklahoma County. It is specifically agreed by the parties to this contract that, as an exception to 12 O.S. Section 936, actions brought under this contract shall not be subject to the award of costs or attorney's fees to the prevailing party.

(b) The Department and the Contractor may jointly petition for any action to be referred for binding arbitration by order of the district court. As a part of any joint petition for binding arbitration, the parties shall stipulate that such arbitration shall be conducted under the November 1, 1993 Edition of Construction Industry Arbitration Rules of the American Arbitration Association and that such rules shall be modified and amended as follows:

(1) Rule 6 of the Construction Industry Arbitration Rules is amended to read as follows:

6. Initiation Under Arbitration Provision in a Contract.

Arbitration under an arbitration provision in a contract shall be initiated in the following manner:

The initiating party (hereinafter Claimant) shall file at the Dallas Regional Office of the American Arbitration Association three (3) copies of the notice and three (3) copies of the arbitration provisions of the contract, together with the appropriate administration fee as provided in the most current Administration Fee Schedule. The American Arbitration Association shall give notice of the filing to the Assistant Director-Operations of the Department as respondent and to other respondents. A respondent may file an answering statement in duplicate with the American Arbitration Association within twenty (20) days after notice from the American Arbitration Association, in which event the respondent shall at the same time send a copy of the answering statement to the claimant. If a counterclaim is asserted, it shall contain a statement setting forth the nature of any counterclaim, the amount involved, if any, and the remedy sought. If the Department files a counterclaim the Association shall bill the Department for the fee as provided for in the most current fee schedule. If no answering statement is filed within the stated time, it will be treated as denial of the claim. Failure to file an answering statement shall not operate to delay the arbitration.

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- (2) Rule 8 of the Arbitration Rules is amended to read as follows:
8. Changes of Claim.

After filing of a claim, if either party desires to amend a claim or counterclaim to correct administrative errors or defects, the amendment shall be made in writing, and filed with the American Arbitration Association. A copy of the amendment shall be mailed to the other party or parties who shall have a period of twenty (20) days from the date of such mailing within which to file an answer with the American Arbitration Association. After the arbitrator is appointed, however, no amendment of a claim may be submitted except with the arbitrator's consent.

- (3) Rule 9 of the Arbitration Rules is deleted.

- (4) Rule 11 of the Arbitration Rules is amended to read as follows:

11. Location of Arbitration.

Hearings shall be held at the Department of Transportation building in Oklahoma City, Oklahoma, except as may be otherwise agreed by the arbitrator and the parties.

- (5) Rule 17 of the Arbitration Rules is amended to read as follows:

17. Number of Arbitrators.

Except as mutually agreed by the parties, the dispute shall be heard and determined by one neutral arbitrator.

- (6) Rule 21 of the Arbitration Rules is amended to read as follows:

21. Date and Time of Hearing.

The arbitrator shall set the date and time for each hearing. The American Arbitration Association shall mail to each party notice thereof at least twenty (20) days in advance, unless the parties by mutual agreement, waive such notice or modify the terms thereof.

- (7) Rule 27 of the Arbitration Rules is amended to read as follows:

27. Oaths.

Before proceeding with the first hearing, the arbitrator may take an oath of office and, if required by law, shall do so. The arbitrator shall require witnesses to testify under oath to be administered by the arbitrator.

- (8) Rule 29 of the Arbitration Rules is amended to read as follows:

29. Order of Proceedings and Communications with Arbitrators.

A hearing shall be opened by the filing of the oath of the arbitrator, where required; by the recording of the date, time, and place of the hearing, and the presence of the arbitrator, the parties, and their representatives, if any; and by the receipt by the arbitrator of the statement of the claim and the answering statement, if any.

The arbitrator may, at the beginning of the hearing, ask for statements clarifying the issues involved. The arbitrator shall also make a specific finding as to whether or not jurisdiction exists to conduct an arbitration. In some cases, part or all of the above will have been accomplished at the preliminary hearing conducted by the arbitrator pursuant to Section 10.

The complaining party shall then present evidence to support its claim. It shall be the burden of the complaining party to prove his

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claim by the preponderance of the evidence. If the complaining party fails to produce evidence sufficient to support his claim, the arbitrator may, upon the request of the defending party, or on his own motion, dismiss the complaint or any part thereof.

The defending party shall then present evidence supporting its defense. Witnesses for each party shall submit to questions or other examination. The arbitrator has the discretion to vary this procedure but shall afford a full and equal opportunity to all parties for the presentation of any material and relevant evidence.

Exhibits, when offered by either party, may be received in evidence by the arbitrator. The names and business addresses of all witnesses and a description of the exhibits in the order received shall be made a part of the record.

There shall be no direct communication between the parties and a neutral arbitrator other than at oral hearing, unless the parties and the arbitrator agree otherwise. Any other oral or written communication from the parties to the neutral arbitrator shall be directed to the American Arbitration Association for transmittal to the arbitrator.

(9) Rule 42 of the Arbitration Rules is amended to read as follows:

42. Form of Award

The award shall be in writing and shall state the finds of fact and applicable provisions of the contract upon which the arbitrator made the award. The award shall be signed by the arbitrator. It shall be executed in the manner required by law.

(10) Rule 43 of the Arbitration Rules is amended to read as follows:

43. Scope of Award.

The arbitrator may grant any remedy or relief the arbitrator deems just and equitable and within the scope of the contract between the parties, including, but not limited to, specific performance of the contract. The arbitrator shall not award interest, costs of the prosecution, or defense of the claim, or attorney fees. The arbitrator may award AAA arbitration fees and expenses as provided for in Rules 48, 49 and 50, in the event that any administrative fees or expenses are due to AAA.

(11) Rule 49 of the Arbitration Rules is amended to read as follows:

49. Expenses.

The expenses of witnesses for either side shall be paid for by the party producing such witnesses. All expenses of the arbitration, including required travel and other expenses of the arbitrator, American Arbitration Association representatives, and the costs of any witness or proof produced at the direct request of the arbitrator, shall be borne equally by the parties and shall be set forth as part of the decision.

(12) Rule 51 of the Arbitration Rules is amended to read as follows:

51. Deposits.

The American Arbitration Association may require the parties to deposit in advance of any hearings such sums of money as it deems necessary to defray the expense of the arbitration, including the

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arbitrator's fee, if any, and shall render an accounting to the parties and return any unexpended balance at the conclusion of the case. In order that payment for services may be in accordance with State statutes, the American Arbitration Association will invoice the Department in accordance with the terms of an applicable contract for service between the Association and the Department, addressed to the Assistant Director-Operations, for the Department's deposit and fees. The Assistant Director-Operations, will arrange for prompt payment of invoices to the American Arbitration Association. Processing of an invoice for arbitration services and claims for payment of those services shall not delay processing of the request for arbitration.

- (14) Rule 53 of the Arbitration Rules is deleted.
- (15) Rule 54 of the Arbitration Rules is deleted.
- (16) Rule 55 of the Arbitration Rules is deleted.
- (17) Rule 56 of the Arbitration Rules is deleted.
- (18) Rule 57 of the Arbitration Rules is deleted.

(c) The decision or award by the arbitrator when made shall be final and non-appealable except as provided in Section 801 et seq. of Oklahoma Statutes, Title 15. Both the Contractor and the Department of Transportation shall be bound by the arbitration award for all purposes, and judgment may be entered upon it in accordance with applicable law.

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CZ002850

NO.2 PROPOSAL SHEET

Jan., 1962
Rev. October 1986
Rev. January 1988

The undersigned, as bidder, declares under oath that the only person or parties interested in the foregoing proposal as principals are those named herein: that this proposal is made without either, directly or indirectly, entering into any agreement, participating in any collusion or otherwise taking any action in restraint of free competitive bidding in connection therewith; that the undersigned has no financial interest in, or other affiliations in a business way with any other bidder for the contract on this project; that careful examination of the form of contract, instructions to bidders, profiles, grades, specifications, and the plans has been made, and that careful examination of the locations, conditions and classes of materials of the proposed work has been made; and the undersigned agrees to provide all the necessary machinery, tools, apparatus, and other means of construction, and will do all the work and furnish all the materials called for in the contract and specifications in the manner prescribed therein and according to the requirements of the Engineer, at the unit price as above set forth.

It is understood that in case of any discrepancy between the plans, general specifications and the special provisions, the plans will govern over Standard Specifications and Supplemental Specifications; Supplemental Specifications will govern over Standard Specifications; Special Provisions will govern over Standard Specifications, Supplemental Specifications and plans.

The undersigned further proposes to enter into the contract and furnish satisfactory bond to the Department of Transportation within ten days of award to the undersigned; to commence work as directed by the work order from the Construction Engineer; and to complete the entire work within the allotted contract time after work is authorized. The time limit and other limiting conditions herein set forth are hereby accepted and if such requirements are changed by bidder, it is understood that such change will invalidate this bid.

In considering award of contract the Oklahoma Transportation Commission may require a schedule of equipment the bidder proposes to use on this project and a schedule showing progress to be made during construction.

Attached is a Certified or Cashier's Check or Bid Bond equal to five percent (5%) of the bid made payable to the Oklahoma Department of Transportation as a guarantee of good faith and which if the contract is awarded to the undersigned, it is agreed will be forfeited as liquidate damages to the State of Oklahoma in the event of failure of the undersigned to enter into contract and furnish satisfactory bond to the Department of Transportation within ten days after award.

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CZ002975 * BIDDER'S AFFIDAVIT - STATEMENT UNDER PENALTY
BID PROPOSAL AFFIDAVIT
STATEMENT UNDER PENALTY OF PERJURY OF PERJURY
09/29/11

I _____, as the prospective participant or as the authorized agent of _____ the Firm, Association or Corporation submitting this bid, and with full knowledge and authority, do hereby make and sign this unsworn statement under penalty of perjury:

A. I have read and agree to be bound by the provisions of Special Provisions Text CZ002300, Special Provisions For Contract Dispute Resolution which provides a required succession of actions for contract dispute resolution which is incorporated with this bid and made a part of this bid proposal.

B. I have read and agree to comply with and be bound by the provisions of Special Provisions Text 109-8(a-b)09, Special Provisions For Payments To Subcontractors, to which requires prompt payment for services or materials provided by subcontractors, service companies or material suppliers which is incorporated with this bid and made a part of this bid proposal. (49 CFR 26.29)

C. I understand that the provisions of FHWA Form 1273 are incorporated by reference into this agreement and that all subcontracts which may be entered into for the purposes of performing work required in this bid shall be subject to the provisions of FHWA Form 1273 shall have FHWA Form 1273 incorporated therein.

D. I state under penalty of perjury that neither I nor any owner, officer or employee of the above named firm, association or corporation I represent, have either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with the bid submitted herewith. (23 CFR 635.112)

E. I hereby make the following disclosures concerning business relationships:

1. As the prospective participant or as the authorized agent of the above named firm, association or corporation, I am authorized to submit this bid. As the maker of this unsworn statement, I hereby disclose the nature and existence of any partnership, joint venture, or other business relationship presently in effect or which existed within one (1) year prior to the date of this statement with the architect, consulting engineer, or other party to the project, or any of their employees is as follows: _____

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2. That any such business relationship presently in effect or which existed within one (1) year prior to the date of this statement between any officer or director of the above named company, and any officer or director of the architectural or engineering firm, or other party to the project is as follows: _____

3. That the names of all persons having any such business relationship and the positions they hold with their respective companies or firms are as follows: _____

(If none of the business relationships herein above mentioned exist, maker of this unsworn statement should so state by entering the word NONE after each statement. (61 O.S. Section 108))

F. For purposes of submission of this competitive bid, I certify:

1. I am the duly authorized agent of the above named firm, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the fact pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to the bid to which this statement is attached;

2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and

3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:

a. to any collusion among bidders in a restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,

b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor

c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract.

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4. I certify, if awarded the contract, whether competitively bid or not, neither the Contractor nor anyone subject to the Contractor's direction or control has paid, given or donated, or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement is attached. (74 O.S. Section 85.22)

G. I certify that neither I nor any owner, officer or other principal of the firm, organization or corporation submitting this bid;

1. Are presently excluded or disqualified;

2. Are presently indicted for or otherwise criminally charged by a governmental entity, (Federal, State or local) with commission of, or have been convicted or subject to civil judgment within the past three (3) years for, any of the following offenses:

a. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;

b. Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;

c. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or

d. Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects my present responsibility;

3. Have had one or more public transactions, (Federal, State or local), terminated within the preceding three (3) years for cause or default. (49 CFR 29.335)

H. I understand that if the project which is subject to this bid proposal is financed in whole or part by federally furnished funds, that if I or the firm, association or corporation I represent or any owner, officer, employee or agent thereof knowingly makes a false statement, representation, report or claim as to the character, quality, quantity or cost of materials used or to be used, the quantity or quality of work performed or to be performed, or make any false statement or representation as to a material fact in any statement, certificate or report, that I, other responsible individual, or the firm, association or corporation I represent, may be subject to prosecution under the laws of the United States. (18 USC Sections 1001, 1020)

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Date and Place

Name of Contractor as shown on
Prequalification Application

Signature of Prospective Participant

Printed name of Prospective Participant

The Maker of this Statement's title or
position with Prequalified Contractor

UNSWORN STATEMENT UNDER PENALTY OF PERJURY INFORMATION:

By affixing his/her signature to this unsworn statement, the bidder understands that he/she is under penalty of perjury and is fully bound thereby.

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STATUS VERIFICATION SYSTEM AFFIDAVIT

STATE OF _____)
COUNTY OF _____) SS:

I, _____,
of lawful age, and having been first duly sworn, on oath states:

1. That I am the agent authorized by the bidder to submit the attached bid proposal to the State of Oklahoma. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the preparation of this bid.

2. That the bidder has registered and fully participates in the Status Verification System, as required by Title 25 O.S. Section 1313(B)(1), to verify the work eligibility status of all new employees of the bidder.

FURTHER AFFIANT SAITH NOT.

AFFIANT

Subscribed and sworn before me this _____ day of _____, 20 _____.

NOTARY PUBLIC

My Commission Expires: _____
My Commission Number: _____

**THIS PROJECT WILL BE PAID WITH FEDERAL FUNDS
AND IS SUBJECT TO THE FOLLOWING
SPECIAL PROVISIONS**

FEDERAL REQUIREMENTS

All Bidders must register in the System for Award Management (SAM) and submit a copy of their registration with their bid.

The System for Award Management (SAM) is an official website of the U.S. government and includes information regarding entities debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits. In order to be eligible to bid, applicants must register in SAM.

To register, go to www.sam.gov and create an account by clicking the "Create User Account" and follow the directions. You will need your DUNS number and about 30 minutes to complete the process. If you need help call 1-866-606-8220. Registration is FREE.

If you do not yet have an "Active" registration in SAM when the bid is due, provide a printout from the SAM website with your bid showing the Registration Status as either "Submitted" or "In Progress".

NOTICE: *No contract can be executed without being accompanied with a dated System of Award Management "Entity Overview" printout showing the Registration Status as Active with No Exclusions.*

SAMS REQUIREMENTS FOR CONTRACTORS AND SUBCONTRACTORS

DUNS NUMBER

This is a nine-digit number in a data universal numbering system that identifies business entities on a location-specific basis. A DUNS number is mandatory to receive a federal contract. If you do not have a DUNS number you can register with Dun and Bradstreet at <http://fedgov.dnb.com/webform> (can take up to 30 days to complete) or by calling 866-705-5711 (takes 10-15 minutes to complete).

CONTRACTOR NAME

DUNN'S NUMBER

SYSTEM FOR AWARD MANAGEMENT (SAM)

The System for Award Management (SAM) includes information regarding entities debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits. In order to be eligible to receive a contract, applicants must register on SAM. Registration must be renewed and revalidated at least every 12 months. To register go to www.sam.gov and create an account by clicking the "Create User Account" and follow the directions. You will need your DUNS number and about 30 minutes to complete the process. If you need help call 1-866-606-8220. Registration is FREE.

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION	
<div></div>	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Prefix: <div></div>	* First Name: <div></div> Middle Name: <div></div>
* Last Name: <div></div>	Suffix: <div></div>
* Title: <div></div>	
* SIGNATURE: <div></div>	* DATE: <div></div>



CITY OF
Tulsa
A New Kind of *Energy*.