

MEETING AGENDA

**NORMAN FORWARD
CITIZEN'S FINANCIAL OVERSIGHT BOARD**

**Executive Study Session Room
201 West Gray**

**Monday, March 20, 2017
3:30 P.M.**

- I. Approve minutes from January 23, 2017 Meeting
- II. Discussion of Finance Reports – Finance Department
- III. Discussion of Previously-Approved Council Actions and Possible Action
- IV. Ad Hoc Committee Liaison Reports
- V. Discussion of Project Status – Project Managers
- VI. Appointment of Liaisons to Griffin and Reaves Park Ad Hoc Committees
- VII. Miscellaneous Discussion
- VIII. Establishment of Future Meeting Time(s)
- IX. Adjournment

ITEM 1

APPROVE MINUTES

FROM JANUARY 23,

2017 MEETING

NORMAN FORWARD CITIZENS FINANCIAL OVERSIGHT BOARD MINUTES
January 23, 2017

The Norman Forward Citizens Financial Oversight Board (CFOB) of the City of Norman, Cleveland County, State of Oklahoma, met at 3:30 p.m. in the Municipal Building Conference Room on the 23rd day of January, 2017, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 24 hours prior to the beginning of the meeting.

PRESENT: Members Andy Rieger, Tom Sherman, Chair Bill Nations, Andy Paden, MacKenzie Britt, and Cindy Rogers

ABSENT: Members Anil Gollahalli, Bree Montoya, and Don Hiebert

OTHERS PRESENT: Terry Floyd, Development Coordinator
 Anthony Francisco, Finance Director
 Jud Foster, Director of Parks and Recreation
 Jacob Foos, City Manager's office intern
 David Hopper, Chair of Senior Citizens Ad Hoc Advisory Committee
 Art Breipohl, Senior Citizens Ad Hoc Advisory Committee Member
 Kyle Lombardo, ADG
 Leslie Tabor, ADG
 Montgomery Johnston, Citizen
 Bette Maffucci, Citizen
 5 unnamed Norman citizens

CALL TO ORDER AND ROLL CALL

Chair Nations called the meeting to order. A quorum was present.

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ITEM 1, being

APPROVE MINUTES FROM DECEMBER 5, 2016 MEETING

After review and discussion of minutes of December 5, 2016 meeting, a motion was made by Member Sherman and seconded by Member Britt to approve the minutes with the corrections to MacKenzie Britt's name on page 1 and the term "wish list" added to page 5. Motion passed unanimously.

Items submitted for the record:

1. Norman Forward Citizens Financial Oversight Board Minutes December 5, 2016, as amended.

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ITEM 2, being

DISCUSSION OF FINANCE REPORTS-FINANCE DEPARTMENT

Anthony Francisco made the presentation. Several of the Norman Forward projects are underway. The sales tax collections are now 3.56% below projections. Member Sherman wanted to clarify that the January receipts were actually November's taxes. Francisco stated that this was correct. Member Rogers asked if the indoor facility was the basketball/volleyball project. Francisco stated that this was correct. Member Rogers then asked if the community sports park the Griffin project. Francisco stated that this was incorrect and the community sports park is the adult football/softball project. Member Sherman stated that the adult softball facility was always going to have to be relocated and was proposed to be relocated across from the JD McCarty Center. A motion was made by Member Paden and seconded by Member Rieger to approve the financial reports. The motion passed unanimously.

Items submitted for the record:

1. Norman Forward Expenditure Report
2. Norman Forward Sales Tax Revenue Report

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ITEM 3, being

DISCUSSION OF PREVIOUSLY APPROVED COUNCIL ACTIONS AND POSSIBLE ACTION

Anthony Francisco made the presentation. He stated that the only item presented to Council since the last meeting actually had to do with a minor change order related to another project for the Sutton Wilderness Dam. The Council voted to put the money saved in this project into the Senior Center Reserve Fund instead of putting it back into the Capital Fund balance. This \$11,770 is the first deposit into the new Capital Fund Balance Reserve for Senior Center.

Items submitted for the record:

1. K-1516-76 Sutton Wilderness Dam CO #1-Amendment for Senior Center Reserve

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ITEM 4, being

AD HOC COMMITTEE LIASION REPORTS

Tom Sherman made the presentation for the Senior Citizens Ad Hoc Committee. He stated that they are still trying to find financing and that he thinks that some of the Norman Forward projects could be re-prioritized, but that is his personal view. That would have to be the City Council's decision. He believes that Council should take a hard look at reallocating and re-prioritizing in order to include the Senior Center and that a stand-alone Senior Center was included in an earlier Norman Forward proposal but the Council took it out. David Hopper stated that the Senior Citizens Ad Hoc Committee had not recently had a meeting.

Andy Paden made the presentation for the Library Ad Hoc Committee. He stated he had a meeting with the library administration and Tim Mauldin to get up to speed. There will be a Library Ad Hoc Committee meeting today at 4:30 pm and the East side project is about to begin construction and the Central project will be close behind it.

ITEM 5, being

DISCUSSION OF PROJECT STATUS-PROJECT MANAGERS

Jud Foster made the first presentation. He stated that the Westwood Aquatic Center is under construction. The lap pool and lazy river excavation is complete and they are working on the plumbing underneath those features. The bath house plumbing is complete and they are working on the filter building. Things are progressing well. The Westwood tennis facility has the two outdoor courts placed and we are waiting on warm weather to apply the final surface coating. The fencing is nearly complete as well, and all things are on schedule with this project. The indoor courts are having requests for proposals (RFPs) developed and we are in communication with the FAA to make sure the height of the building is not too tall to comply with airport runway height restrictions. Once that is cleared we will issue those requests for proposals (RFPs). An artist for the Westwood pool and tennis public art piece has been chosen and the contract goes to Council for approval tomorrow night. Once that is approved, the anticipated completion date will be July 2017. We have received master planning design proposals for the Griffin and Reaves sport complex projects. 11 proposals have been received for the Reaves work, and 10 for the Griffin project. The selection committee will review those this week and meet next week to select a short list for interviews. This will be for the master plan design for

each of those two parks. The art piece designed for the Westwood pool and tennis complex is called "Splash", it is 14 feet tall, and looks like a tennis ball splashing in a pool of water.

Member Rieger asked how many indoor courts would be in the Westwood tennis complex. Foster stated there would be two. Member Britt inquired why we needed to have a separate review by the FAA even though we are zoned as a city and are under the FAA height requirements. Foster stated that anytime you are building close to the airport you are required to have the FAA review the project. Member Rogers asked if there are specific things in the proposals for the Reaves and Griffin Park projects. Foster stated that they do to a certain degree. They know that the Griffin Park will convert strictly to a soccer complex and Reaves will convert totally to youth baseball and soccer. And there will be a third location that will be the location for the adult complex. The design team will be given this information and told how many fields to include. Member Rogers stated she is worried about budget control with stakeholders on Ad Hoc Committees. Member Rieger asked if some of the proposal that were received for the Reaves and Griffin projects were from the same firms and are there any savings if we chose one firm for both projects. Foster stated we do have the option to choose one firm but he doesn't know if there would be any savings. Member Rogers asked if it would be appropriate for a member of the Norman Forward Citizens Oversight Board Committee to be on the selection committee for these upcoming Reaves and Griffin Park projects. It was stated that this would have to be asked separately of the committee members and in addition to their current responsibilities.

Terry Floyd made the second presentation. The Ad Hoc Committee meeting today will be about giving the go ahead for the final construction document for the East Side Library. We will begin advertising for this on Wednesday with the anticipation of opening those bids on February 16th and having them to Council by the end of the month. We would like to see construction start in March. On the Central Branch, we have the construction bids in for review and will form another Library Ad Hoc Committee for this branch. We should have the bids to Council by late March or early April. The selection committee for the East Branch will meet on Wednesday to select a vendor for the Public Art piece. There were 118 submittals for this project. We anticipate the East Branch art piece to be completed sometime mid-2018.

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ITEM 6, being

MISCELLANEOUS DISCUSSION

Member Rogers wanted to get back to the previous change order discussion. Chair Nations stated this could be an agenda item next time and he would meet with individual members as well.

Member Sherman stated that he personally did not feel that moving the maintenance facilities at Reaves or Griffin Parks should come out of Norman Forward. He believes this should come out of the Parks Department budget. Anthony Francisco stated that this project was always part of

the budget for the Reaves project in Norman Forward. Jud Foster stated that this was just added to the Reaves project of \$8 million making it \$10 million. It could have been put on either project but they chose Reaves. It was always budgeted for in Norman Forward. Member Rogers drew the Committee's attention to Norman Forward promotional materials that discussed the relocation of the Park Maintenance Facility from Reaves Park to Griffin Park.

Member Rieger asked when the Reaves and Griffin Ad Hoc Committees will be formed. Foster stated that the aim is to approve the members that have volunteered at the February 14th Council meeting.

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ITEM 7, being

ESTABLISHMENT OF FUTURE MEETING TIME(S)

After discussion, members agreed to meet again on Monday, March 20, 2017, at 3:30 p.m. in the Council Study Session Room.

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ITEM 8, being

ADJOURNMENT

Motion was made by Member Rieger and seconded by Member Britt to adjourn. Motion passed unanimously.

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ITEM 2

DISCUSSION OF

FINANCE REPORTS-

FINANCE DEPARTMENT

NORMAN FORWARD Sales Tax Collections to Date, vs. Projections

MONTH	PROJECTED	ACTUAL	% VARIANCE
March, 2016	\$ 765,813	\$ 728,243	- 4.91%
April, 2016	\$ 737,709	\$ 776,747	5.29%
May, 2016	\$ 796,539	\$ 802,418	0.74%
June, 2016	\$ 820,638	\$ 729,175	-11.15%
July, 2016	\$ 771,629	\$ 758,153	-1.75%
August, 2016	\$ 811,311	\$ 753,218	-7.16%
September, 2016	\$ 786,920	\$ 771,583	-1.95%
October, 2016	\$ 858,715	\$ 816,566	-4.91%
November, 2016	\$ 798,882	\$ 769,521	-3.68%
December, 2016	\$ 784,003	\$ 745,468	- 4.92%
January, 2017	\$ 827,244	\$ 796,677	- 3.70%
February, 2017	\$ 980,463	\$ 814,235	- 16.9%
March, 2017	\$ 771,866	\$ 683,655	- 11.4%
TOTAL TO-DATE	\$10,511,732	\$9,945,659	- 5.30%

NORMAN FORWARD EXPENDITURE REPORT (As of 3/1/2017)

Professional Services/Consultant (051-1011-413-4002/4003)

	Budget	PO #	Acct	Total	Paid	Balance
Budget	1,600,808.00					
Paid:						
Total						<u>(256,253.31)</u>
Balance						<u>1,344,554.69</u>
NFB001 Griffin Park Remodel						
Budget	2,150,000.00	PO #	Acct	Total	Paid	Balance
Total						<u>-</u>
Balance						<u>2,150,000.00</u>
NFB002 Indoor Aquatics Facility						
Budget	1,000,000.00	PO #	Acct	Total	Paid	Balance
Total						<u>-</u>
Balance						<u>1,000,000.00</u>
NFB003 Indoor Sports Facility						
Budget	750,000.00	PO #	Acct	Total	Paid	Balance
Total						<u>-</u>
Balance						<u>750,000.00</u>
NFB004 James Garner: Flood-Acres						
Budget	465,000.00	PO #	Acct	Total	Paid	Balance
Total						<u>-</u>
Balance						<u>465,000.00</u>
NFB005 Community Sports Park Development						
Budget	800,000.00	PO #	Acct	Total	Paid	Balance
Total						<u>-</u>
Balance						<u>800,000.00</u>
NFB006 Reaves Park Remodel						
Budget	800,000.00	PO #	Acct	Total	Paid	Balance
Total						<u>(19,885.31)</u>
Balance						<u>780,114.69</u>
NFB007 Westwood Tennis Center Addition						
Budget	1,000,000.00	PO #	Acct	Total	Paid	Balance
Total						<u>(203,534.11)</u>
Balance						<u>796,465.89</u>

NFB008 James Garner/Acres Intersection							
	Budget	64,900.00	PO #	Total	Paid	Balance	
	Budget						
	Total						<u>(8,930.00)</u>
	Balance						<u>55,970.00</u>
NFB016 Library - New Central Branch							
	Budget	40,303,074.00	PO #	Acct	Total	Paid	Balance
	Budget						
	Total						<u>(4,121,917.12)</u>
	Balance						<u>36,181,156.88</u>
NFB017 Library - New East Branch							
	Budget	5,082,171.00	PO #	Acct	Total	Paid	Balance
	Budget						
	Total						<u>(351,876.45)</u>
	Balance						<u>4,730,294.55</u>
NFB018 Westwood Swim Complex Replacement							
	Budget	12,000,000.00	PO #	Acct	Total	Paid	Balance
	Budget						
	Balance						<u>9,193,303.00</u>
NFP100 Public Arts Projects (Paygo)							
	Budget	145,000.00	PO #	Acct	Total	Paid	Balance
	Budget						
	Total						<u>(65,300.00)</u>
	Balance						<u>79,700.00</u>
NFP101 Neighborhood Park Improvement (Paygo)							
	Budget	250,000.00	PO #	Acct	Total	Paid	Balance
	Budget						
	Total						<u>-</u>
	Balance						<u>250,000.00</u>
NFP102 Griffin Park Regrading (Paygo)							
	Budget	237,416.00	PO #	Acct	Total	Paid	Balance
	Budget						
	Total						<u>(217,416.00)</u>
	Balance						<u>-</u>

ITEM 3

DISCUSSION OF

PREVIOUSLY-

APPROVED COUNCIL

ACTIONS AND

POSSIBLE ACTION



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: K-1617-68

File ID: K-1617-68	Type: Contract	Status: Non-Consent Items
Version: 2	Reference: Item 24	In Control: City Council
Department: City Manager Department	Cost: \$3,654,500.00	File Created: 02/22/2017
File Name: Norman Library East Construction Contract	Final Action:	

Title: CONSIDERATION OF AWARDING BID 1617-38 AND APPROVAL OF CONTRACT K-1617-68 BY AND BETWEEN THE NORMAN MUNICIPAL AUTHORITY AND GLOBE CONSTRUCTION COMPANY IN THE AMOUNT OF \$3,654,500 FOR THE NORMAN FORWARD EAST BRANCH LIBRARY PROJECT.

Notes: ACTION NEEDED: Acting as the Norman Municipal Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid in the amount of \$3,654,500 to Globe Construction Company as the lowest and best bidder meeting specifications; approve Contract K-1617-68 and authorize the Mayor to sign Performance Bond B-1617-26, Statutory Bond B-1617-27, and Maintenance Bond MB-1617-27 contingent upon the City Attorney's approval.

ACTION TAKEN: 6A/BC 8/0

Agenda Date: 02/28/2017

Agenda Number: 24

Attachments: Text File East Library, Bid Tab East Library, K-1617-68 - East Side Library, Perf B-1617-26, Stat B-1617-27, MB-1617-27

Project Manager: Terry Floyd, Development Coordinator

Entered by: terry.floyd@normanok.gov

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
2	City Council	02/28/2017					

Text of Legislative File K-1617-68

Body

BACKGROUND: On 13 October 2015, Norman citizens passed the Norman Forward Initiative funding a variety of projects through a ½ percent sales tax increase over 15 years. Included in the Norman Forward Initiative was a project to construct a new Library Branch on East Alameda St. near Fire Station #9.

The 12,000 square foot (sq. ft.) East Branch Library will include 3,700 sq. ft. of adult/teen space (with 38 reader seats and 20 computer stations), 1,100 sq. ft. of children's space, a public meeting room with seating for 100, study room, public/staff meeting room, tablet lending services, staff space, and public area open seating. This

Library will also be a Leadership in Energy and Environmental Design - Certified project, with native plants and grasses incorporated into the landscaping.

DISCUSSION: Bid 1617-38 was advertised in The Norman Transcript on January 25 and February 2, 2017. A pre-bid conference was held on February 2, and included staff, the project design team, seven general contractors and several sub-contractors.

The bid was opened on February 16, 2017. Six (6) complete bids were received, the lowest being from Globe Construction Company, for a total of \$3,654,500 including ten (10) alternates. The base bid from Globe Construction Company is \$3,498,000; Alternate No. 1 is for pre-weathered Corten steel for the exterior of the building for \$32,000; Alternate No. 2 is for an interior wood brow for \$28,000; Alternate No. 3 is for enhanced lightning protection for the building for \$25,000; Alternate No. 4 is for additional millwork for staff storage for \$15,000; Alternate No. 5 is for a hearing assistance loop for \$17,000; Alternate No. 6 is for decorative paving for aesthetic enhancement of the outdoor plaza area for \$22,000; Alternate No. 7 is for booth seating in the staff break room for \$10,000; Alternate No. 8 is for window shades for \$4,500; Alternate No. 9 was not used in the bid documents; and Alternate No. 10 was for an irrigation system for areas around the building for \$3,000. Alternates were discussed and approved by the Library Ad Hoc Group at their January 23, 2017, meeting to finalize the documents for the East Branch Library. The architect's construction estimate for this project was \$3,845,161. The low bid, with all alternates, is \$190,661 under the estimated budget, allowing for the purchase of the Alternates listed above.

Contract K-1617-68 provides for a 464 day completion with liquidated damages of \$500 per day should the project not be completed on time.

RECOMMENDATION NO. 1: It is recommended that Norman Municipal Authority award Bid 1617-38 for the Norman Forward East Branch Library Project to Globe Construction Company in the amount of \$3,654,500. Funds are available in East Branch Library, Construction (account 051-9507-455-82-01; project NFB017).

RECOMMENDATION NO. 2: It is further recommended that Contract K-1617-56 be approved and the Mayor/NMA Chair be authorized to sign Performance Bond B-1617-26, Statutory Bond B-1617-27, and Maintenance Bond MB-1617-27 contingent upon the City Attorney/NMA General Counsel's approval.

City of Norman
 Bid Item: Norman Public Library East
 CON Bid Number: 2017-08
 Bidder's Name / Address
 Consultant's Estimate
 Date: February 15, 2017 - 2:00PM
 \$3,845,363.00

BID AFFRMYTS	BID BOND	CERTIFICAT OF NON-RECIPIENT	RECIPIENT OF ADDENDA	BASE BID	ALTERNATE 1: Weathered Metal	ALTERNATE 2: Wood Bow	ALTERNATE 3: Lighting Protection	ALTERNATE 4: Millwork at Staff Lounge	ALTERNATE 5: Hearing Assistance Loop	ALTERNATE 6: Decorative Paneling	ALTERNATE 7: Booth Seating or Staff Break	ALTERNATE 8: Window Shades	ALTERNATE 9: NOT USED	ALTERNATE 10: In-glass System	TOTAL WITH ALL ALTERNATES	TOTAL WITH ALTERNATES ()	REFERENCE BETWEEN CONSULTANT ESTIMATE
X	X	X	X	\$3,890,000.00	\$11,000.00	\$11,000.00	\$23,000.00	\$4,000.00	\$5,000.00	\$4,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,162,000.00	\$4,162,000.00	00700000
X	X	X	X	\$3,596,000.00	\$11,000.00	\$11,000.00	\$23,000.00	\$14,000.00	\$19,000.00	\$21,000.00	\$4,500.00	\$4,800.00	\$0.00	\$7,000.00	\$3,711,500.00	\$3,711,500.00	00700000
X	X	X	X	\$4,040,000.00	\$56,000.00	\$47,000.00	\$20,000.00	\$20,000.00	\$8,000.00	\$22,000.00	\$15,000.00	\$3,800.00	\$0.00	\$19,000.00	\$4,252,300.00	\$4,252,300.00	00700000
X	X	X	X	\$4,348,000.00	\$50,000.00	\$20,000.00	\$20,000.00	\$15,000.00	\$10,000.00	\$22,000.00	\$12,000.00	\$5,000.00	\$0.00	\$22,000.00	\$4,731,000.00	\$4,731,000.00	00700000
X	X	X	X	\$3,693,000.00	\$59,000.00	\$27,000.00	\$30,000.00	\$15,000.00	\$7,000.00	\$21,150.00	\$7,000.00	\$4,500.00	\$0.00	\$18,000.00	\$3,850,000.00	\$3,850,000.00	00700000
X	X	X	X	\$3,498,000.00	\$32,000.00	\$28,000.00	\$25,000.00	\$15,000.00	\$17,000.00	\$22,000.00	\$10,000.00	\$4,500.00	\$0.00	\$3,000.00	\$3,654,500.00	\$3,654,500.00	00700000

CONTRACT

THIS CONTRACT made and entered into this 28th day of FEBRUARY, 2017, by and between Globe Construction Co., as Party of the First Part, hereinafter designated as the Contractor, and Norman Municipal Authority, a public trust having as its sole beneficiary the City of Norman, Oklahoma, a municipal corporation, hereinafter designated as the Owner, Party of the Second Part.

WITNESSETH

WHEREAS, the Owner has caused to be prepared in accordance with law, specifications, and other bidding documents for the work hereinafter described and has approved and adopted all of said bidding documents, and has caused Notice to Bidders to be given and advertised as required by law, and has received sealed proposals for the furnishing of all labor and materials for the following project:

**Norman Public Library East
(Base Bid plus Alternates 1-10)**

as outlined and set out in the bidding documents and in accordance with the terms and provisions of said Contract; and,

WHEREAS, the Contractor, in response to said Notice to Bidders, has submitted to the Owner on the manner and at the time specified, a sealed proposal in accordance with the terms of this Contract; and,

WHEREAS, the Owner, in the manner provided by law, has publicly opened, examined, and canvassed the proposals submitted and has determined and declared the above-named Contractor to have submitted the lowest responsible bid that is most advantageous to the Owner on the above-prepared project, and has duly awarded this Contract to said Contractor, for the sum named in the proposal, to wit: Three Million Six Hundred Fifty Four Thousand Five Hundred Dollars (\$3,654,500);

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

SECTION I. GENERAL PROVISIONS.

A. Definitions. When used herein, the terms below shall have the following definitions:

1. "The Consultant" shall mean the person lawfully licensed to practice architecture or

engineering or an entity lawfully practicing architecture or engineering identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number. The term "Consultant" means the Consultant or the Consultant's authorized representative. For this Project, the Consultant is Meyer, Scherer & Rockcastle, Ltd. (MSR).

2. "The Contract Documents" shall mean the Bid Notice published in the Norman Transcript, the Notice to Bidders, Instructions to Bidders, Addenda issued prior to execution of the Contract, the Contractor's Bid or Proposal, the Construction Drawings, Specifications, Provisions, and Bonds thereto, this agreement between the Owner and the Contractor (hereinafter called "the Contract"), other documents listed in the Contract, and any Change Orders or Contract Amendments issued after execution of the Contract.
3. "The Contract Time" is the period of time, including authorized adjustments by Change Order, allotted in the Contract Documents for Substantial Completion of Work.
4. "Critical Path" shall mean the sequential construction tasks (each of a particular duration) that results in the least amount of time required to complete a project.
5. "The Date of Commencement" shall mean the date established in the Notice to Proceed. The date shall not be postponed by the failure of the acts of the Contractor or of persons or entities for whom the Contractor is responsible.
6. "The Date of Substantial Completion" shall mean the date certified by the Consultant and approved by the Owner in accordance with Section IX(G).
7. "The Drawings" shall mean the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, and includes plans, elevations, sections, details, schedules, diagrams and drawing notes.
8. "The Project" shall mean the total construction of which the Work performed under the Contract Drawings and may be the whole or a part and include construction by the Owner or by separate contractors.
9. "The Specifications" shall mean those documents located in the Project Manual and are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services. Where there is a discrepancy between the Drawings and the Specifications, the Specifications will take precedence. Such discrepancies shall be brought to the attention of the Consultant before execution of any work related to the discrepancies.
10. "A Subcontractor" is a person or entity who has a direct contract with the Contractor to

perform a portion of the Work on the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.

11. "Substantial Completion" shall mean the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.
12. "A Sub-subcontractor" is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.
13. "The Work" shall mean the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

B. Execution, Correlation and Intent.

- A. The Contract Documents shall be executed by authorized representatives of the Owner and the Contractor.
- B. Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.
- C. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents are reasonably inferable from them as being necessary to produce the intended results.
- D. Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.
- E. Unless otherwise stated in the Contract Documents, words which have well known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

C. Ownership and Use of Drawings, Specifications and Other Documents.

1. The Drawings, Specifications and other documents prepared by the Consultant are the property of the Owner. The Contractor may retain one contract record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Consultant. All copies of them, except the Contractor's record set, shall be returned or suitably accounted for to the Owner, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Consultant, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents appropriate to and for use in the execution of their Work under the Contract Documents.
2. The Contractor shall provide all copies of the Drawings and Project Manuals required to complete the Work. The Owner will provide an electronic copy of the documents to the reproduction company for printing purposes.

SECTION II – THE OWNER

- A. **Owner's Right to Alter Specifications.** The Owner may make such changes in the character of the work as may be necessary or desirable to insure completion of the work in the most satisfactory manner, provided such changes do not materially alter the original plans and specifications or change the general nature of the work as a whole. Such changes shall not be considered as waiving or invalidating any condition or provision of the Contract.
- B. **Owner's Right to Stop the Work.** If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Section XII(B) or persistently fails to carry out Work in accordance with the Contract Documents, the Owner, by written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section VI(A).
- C. **Owner's Right to Carry Out the Work.** If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may

after such seven-day period give the Contractor a second written notice to correct such deficiencies within a second seven-day period. If the Contractor within such second seven-day period after receipt of such second notice fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Consultant's additional services and expenses made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such payments, the Contractor shall pay the difference to the Owner.

- D. **Owner's Right to Reject Work.** The Owner shall have the authority to reject Work which does not conform to the Contract Documents.
- E. **Owner's Right to Approve Payment Applications.** The Owner shall have the right to review, evaluate and approve or reject Applications for Payment and Certificates for Payment.

SECTION III -- THE CONTRACTOR

A. Review of Contract Documents and Field Conditions.

1. The Contractor shall carefully study and compare the Contract Documents with each other and shall at once report to the Consultant or Owner any errors, inconsistencies or omissions discovered. The Contractor shall not be liable to the Owner or Consultant for damage resulting from errors, inconsistencies or omissions in the Contract Documents unless the Contractor recognized such error, inconsistency or omission and knowingly failed to report it to the Consultant or Owner. The Contractor shall do all work as provided in the Contract Documents and shall do such additional extra and incidental work as may be considered necessary to complete the work in a satisfactory and acceptable manner. The Contractor shall furnish all labor, materials, tools, equipment and incidentals necessary to the prosecution of the work, unless otherwise specified. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Consultant, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the attributable costs for correction.
2. The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Consultant before proceeding with the work.

B. Supervision and Construction Procedures.

1. The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters.
2. The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Contractor.
3. The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Consultant in the Consultant's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.
4. The Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work.

C. Labor and Materials.

1. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
2. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

D. Warranty. The Contractor warrants to the Owner and Consultant that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Consultant, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

E. Taxes. The Contractor shall pay all applicable sales, consumer, use and similar taxes for the Work or any portions thereof.

F. Permits, Fees and Notices.

1. Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for permits, fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when Bids are received. Building permits from local municipalities are required for Work.
2. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work.
3. If the Contractor observes that portions of the Contract Documents are at variance with applicable laws, statutes, ordinances, building codes or other applicable rules and regulations, the Contractor shall promptly notify the Consultant and Owner in writing, and necessary changes shall be accomplished by appropriate Change Order.
4. If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Consultant and Owner, the Contractor shall assume full responsibility for such Work and shall bear any costs attributable to such work.

G. Allowances.

1. The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection.
2. Unless otherwise provided in the Contract Documents:
 - a. Materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work.
 - b. Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts.
 - c. Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances.
 - d. Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order.

H. Superintendent and Other Workers. The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The Contractor shall submit the name and experience qualifications of the proposed

superintendents to the Owner for approval. The Consultant may demand the dismissal of any person or persons employed by the Contractor, in, about, or on the work, who shall misconduct himself or be incompetent or negligent in the proper performance of his or her duties or neglect or refuse to comply with the directions of the Consultant, and such persons shall not be employed again thereon without the written consent of the Consultant. Should the Contractor continue to employ or again employ such person or persons without the written consent of the Consultant, then the Consultant may withhold all progress payments which are, or may become due, or may suspend the work until compliance of such orders. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

- I. Day's Work: Working Hours. Works shall be done only during regular and commonly accepted and prescribed working hours. No work shall be done nights, Sundays, or regular holidays unless a special order or permit is given by the Consultant to do so. Eight (8) hours shall constitute a day's work and the Contractor shall observe all State laws and City ordinances governing hours of work.
- J. Contractor's Construction Schedules.
 1. Prior to the Notice to Proceed being issued, the Contractor shall prepare and submit for the Owner's and Consultant's information a "90 Day Construction Schedule" which shall be used to monitor the progress of the Work during the first ninety (90) calendar days of the Contract. During this ninety day period, the Contractor shall prepare and submit the "Critical Path Construction Schedule" for the entire project, including the "90 day Project Schedule", which shall be used to monitor the remainder of the Work. The overall duration of the "Construction Schedule" shall coincide with and shall not exceed the time limits specified in the Contract Documents. During construction, if the progress of the Work does not meet the "Construction Schedule" the Contractor shall revise and resubmit the schedule for the delayed activities within 21 days of any delayed activity. Resubmitted schedules shall indicate the revised times for each activity and shall not exceed the time limits specified in the Contract Documents and any approved Change Orders. Failure to resubmit the delayed activity or maintain a current "Construction Schedule" shall be considered a breach of the Contract.
 2. The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Consultant.
 3. Failure of the Contractor to construct the Work in accordance with the "90 Day Construction Schedule" or the "Construction Schedule" shall be considered a substantial breach of the Contract Documents and the Owner may terminate the Contract in accordance with Section 14.2. All "Float" time in the "Construction Schedule" shall be available to the Owner for the Owner's use.
 4. The Contractor shall prepare and keep current, for the Consultant's approval, a schedule of submittals which is coordinated with the Contractor's "Construction

Schedule” and allows the Consultant reasonable time to review submittals.

K. Documents and Samples at the Site

1. The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, Addenda, Change Orders and other Contract Documents, in good order and marked currently to record changes and selections made during construction and, in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Consultant and shall be delivered to the Consultant for submittal to the Owner upon completion of the Work.
2. Additionally, the Contractor shall maintain at the site the Drawings that have been stamped and approved by the Norman Fire Marshal. This approved set of Drawings is only for the use of the Norman Fire Marshal's office.

L. Shop Drawings, Product Data and Samples.

1. Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.
2. Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
3. Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.
4. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate, for those portions of the Work for which submittals are required, the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Consultant is subject to the limitations of Section IV(A)(7).
5. The Contractor shall review, approve and submit to the Consultant Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate Contractors. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.
6. The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Consultant. Such Work shall be in accordance with approved submittals.

7. By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
 8. The Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Consultant's approval of Shop Drawings, Product Samples or similar submittals unless the Contractor has specifically informed the Consultant in writing of such deviation at the time of submittal and the Consultant has given written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Consultant's approval thereof.
 9. The Contractor shall direct specific attention, in writing, or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Consultant on previous submittals.
 10. Informational submittals upon which the Consultant is not expected to take responsive action may be so identified in the Contract Documents.
 11. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Consultant shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.
- M. Use of Site. The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents.
- N. Cutting and Patching
1. The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.
 2. The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate Contractor except with written consent of the Owner and of such separate Contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate Contractor the Contractor's consent to cutting or otherwise altering the Work.
- O. Cleaning Up.
1. The Contractor shall keep the premises and surrounding area free from accumulation of

waste materials or rubbish caused by operations under the Contract. At completion of the Work the Contractor shall remove from and about the Project site, all waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

2. If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.
- P. Access to Work. The Contractor shall provide the Owner and Consultant access to the Work in preparation and progress wherever located.
- Q. Royalties and Patents. The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of patent rights and shall hold the Owner and Consultant harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Consultant.
- R. Indemnification.
1. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Consultant, Consultant's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than the Work itself including loss of use resulting there from, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section E(16).
 2. In claims against any person or entity indemnified under this Section E(16) by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section E(16) shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under Oklahoma's workers' compensation laws.

SECTION IV. CONTRACT ADMINISTRATION

- A. Consultant's Administration of the Contract.

1. The Consultant will provide administration of the Contract as described in the Contract Documents, and will be the Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the correction period described in Section XII(B). The Consultant will advise and consult with the Owner. The Consultant will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with other provisions of the Contract.
2. The Consultant and sub-consultants will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Consultant will not be required to make exhaustive or continuous on-site inspections to check quality or quantity of the Work. On the basis of onsite observations as an Architect or Engineer, the Consultant will keep the Owner informed of progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work.
3. The Consultant will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Section III(B). The Consultant will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Consultant will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.
4. Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate through the Consultant and copy the Program Manager. Communications by and with the Consultant's consultants shall be through the Consultant. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.
5. Based on the Consultant's observations and evaluations of the Contractor's Applications for Payment, the Consultant will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.
6. The Consultant will have authority to reject Work that does not conform to the

Contract Documents. Whenever the Consultant considers it necessary or advisable for implementation of the intent of the Contract Documents, the Consultant will have authority to require additional inspection or testing of the Work in accordance with Section XIII(H) whether or not such Work is fabricated, installed or completed. However, neither this authority of the Consultant nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Consultant to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

7. The Consultant will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Consultant's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate Contractors, while allowing sufficient time in the Consultant's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities (which shall be measured according to the United States Standards Measurement at the point of delivery) or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Consultant's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections III(B, D and K). The Consultant's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Consultant, of any construction means, methods, techniques, sequences or procedures. The Consultant's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
8. When modifications to the Contract or Contract Documents are being requested, the Contractor shall prepare and submit a Change Order to the Consultant. The Work described in the approved Change Order may be started by the Contractor upon receipt of the approved "Change Order".
9. The Consultant will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.
10. If the Owner and Consultant agree, the Consultant will provide one or more project representatives to assist in carrying out the Consultant's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract

Documents.

11. The Consultant will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the Owner or Contractor. The Consultant's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Consultant shall be furnished in compliance with this Section IV(A), then delay shall not be recognized on account of failure by the Consultant to furnish such interpretations until 15 days after written request is made for them.
12. Interpretations and decisions of the Consultant will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings.

B. Claims and Disputes.

1. **Definition.** A Claim is a demand or assertion by the Contractor seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be made by submitting a Change Order .
2. **Decision of Consultant.** Claims, including those alleging an error or omission by the Consultant, shall be referred initially to the Consultant for action as provided in Section IV(C). A decision by the Consultant, as provided in Section IV(C)(4) shall be required as a condition precedent to consideration by the Owner.
3. **Time Limits on Claims.** Claims must be made within 24 hours after occurrence of the event giving rise to such Claim or within 24 hours after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.
4. **Continuing Contract Performance.** Pending final resolution of a Claim, including protest, unless otherwise agreed in writing the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make monthly progress payments in accordance with the Contract Documents.
5. **Waiver of Claims: Final Payment.** The making of final payment shall constitute a waiver of Claims except those arising from:
 - a. liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;

- b. failure of the Work to comply with the requirements of the Contract Documents; or
 - c. terms of special warranties required by the Contract Documents.
- 6. Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then written notice by the Contractor shall be given to the Consultant and Owner promptly before conditions are disturbed and in no event later than seven (7) days after first observance of the conditions. The failure by the Contractor to give such written notice of the discovered concealed or unknown condition prior to executing any additional Work shall constitute a waiver of any claim for additional compensation or time extension. Upon receipt of a written notice, the Consultant will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. Any change in the Contract Sum or Contract Time shall only be made by the execution of a Change Order. If the Consultant determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Consultant shall so notify the Owner and Contractor in writing, stating the reasons. Claims by the Contractor in opposition to such determination must be made within 21 days after the Consultant has given notice of the decision.
- 7. Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section (X)(B). If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Consultant, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Consultant, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with the procedure established herein. Any change in the Contract Sum shall only be made by the execution of a Change Order.
- 8. Claims for Additional Time
 - a. If the Contractor wishes to make Claim for an increase in the Contract

Time, written notice as provided herein shall be given. The Contractor's Claim shall include a description of the probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary. Any change in the Contract Time shall only be made by the execution of a Change Order.

- b. Consultant and Authority must be notified of all potential claims for additional days that exceed the work days as indicated in the Authority of Norman Office of the Purchasing Division, Invitation to Bid No. 1617-38 and the Contract Documents thereof, within (24) hours of the occurrence of the claim, in writing, with documentation from the National Oceanic & Atmospheric Administration (NOAA) Norman/Max Westheimer site at (<http://w1.weather.gov/data/obhistory/KOUN.html>). Other sources must be submitted to the Consultant and Owner, the Authority of Norman, for approval prior to use.
 - c. All claims for additional time due to adverse weather conditions, e.g. the requirement of rainfall at the construction site in excess of 0.5 inches, within (8) hours of the next working day, or a minimum of 0.5 inches of rain at the beginning of work occurring on the Critical Path Schedule planned for that day, or during the work day, with evidence substantiating the resultant loss of working time on the Critical Path Schedule, shall be submitted as stated previously, and reviewed and approved or rejected by the Consultant with the monthly payment application.
 - d. Claims for weather conditions and lost work days shall be recorded daily by the Contractor as required by Section IV(B)(8)(b) and submitted to the Consultant with the monthly payment applications, along with an updated construction schedule. A Change Order shall be executed and signed by all parties for all valid claims in order to add time to the original Contract Time as indicated in the Contract Documents.
 - e. Weather conditions and lost work days shall be recorded daily by the Contractor and submitted to the Consultant with the monthly payment applications.
9. Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Section IV(B)(7) or (8).

C. Resolution of Claims and Disputes

1. The Consultant will review Claims and take one or more of the following preliminary actions within ten days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) reject the Claim in whole or in part, stating reasons for rejection, (3) recommend approval of the Claim by the Owner or (4) suggest a compromise. The Consultant may also, but is not obligated to notify the surety, if any, of the nature and amount of the Claim.
2. If a Claim has been resolved, the Consultant will prepare or obtain appropriate documentation.
3. If a Claim has not been resolved, the Contractor shall, within ten days after the Consultant's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Consultant, (2) modify the initial Claim or (3) notify the Consultant that the initial Claim stands.
4. If a Claim has not been resolved after consideration of the foregoing and of further evidence presented to the Owner by the Consultant or Contractor, the Owner will notify the Consultant and Contractor in writing that the Owner's decision will be made within seven days. Upon expiration of such time period, the Owner will render to the parties the Owner's written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Owner may, but is not obligated to, notify, the surety and request the surety's assistance in resolving the controversy.
5. The Contractor may appeal the Owner's decision by submitting written notice of a protest to the Consultant within ten (10) days of receiving the Owner's decision as described in Section IV(C)(4) above.

SECTION V. SUBCONTRACTORS

A. Award of Subcontracts and Other Contracts for Portions of the Work.

1. The Contractor, within seven (7) days of issuance of the Notice to Proceed, shall furnish in writing to the Owner, through the Consultant, the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Consultant will promptly reply to the Contractor in writing stating whether or not the Owner or the Consultant, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Consultant to reply promptly shall constitute

notice of no reasonable objection.

2. The Contractor shall not contract with a proposed person or entity to whom the Owner or Consultant has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.
 3. If the Owner or Consultant has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Consultant has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued. However, no increase in the Contract Sum shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.
 4. The Contractor shall not change a Subcontractor, person or entity previously selected if the Owner or Consultant makes reasonable objection to such change.
- B. Sub-Contractual Relations. By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and Consultant. Each subcontract agreement shall preserve and protect the rights of the Owner and Consultant under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.
- C. Nothing herein should be construed to relieve the Contractor from its responsibility for the Work. The Contractor, shall at all times, when work is in operation, be represented either in person or by a qualified superintendent or other designated representative.

SECTION VI. CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

A. Owner's Right to Perform Construction and to Award Separate Contracts.

1. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided elsewhere in the Contract Documents.
2. The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule and Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

B. Mutual Responsibility

1. The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.
2. If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Consultant apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.
3. Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.
4. The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section X(A)(7).

- C. Owners' Right to Clean Up.** If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section III(N), the

Owner may clean up and allocate the cost among those responsible as the Consultant determines to be just.

SECTION VII. CHANGES IN THE WORK

A. Changes.

1. Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or order for a minor change in the Work, subject to the limitations stated in this Section VII and elsewhere in the Contract Documents.
2. A Change Order shall be based upon agreement among the Owner, Contractor and Consultant and an order for a minor change in the Work may be issued by the Consultant alone.
3. Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order.

B. Change Orders.

1. A Change Order, Form G701, is a written instrument prepared by the Consultant and signed by the Owner, Contractor and Consultant, stating their agreement upon all of the following:
 - i. a change in the Work;
 - ii. the amount of the adjustment in the Contract Sum, if any; and
 - iii. the extent of the adjustment in the Contract Time, if any.
2. The cost or credit to the Owner resulting from a change in the work shall be determined by the Contractor completing a Change Order which requires a listing of:
 - i. All materials with the cost per item;
 - ii. all labor with the number and cost of hours; and
 - iii. all equipment used with an hourly cost.
3. The Contractor must include a breakdown of costs for each Subcontractor similar to the requirements in Section VII(B)(2).

C. Minor Changes in the Work. The Consultant will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out

such written orders promptly.

SECTION VIII. TIME

A. Progress and Completion.

1. Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Contract the Contractor confirms that the Contract Time is a reasonable period for performing the Work.
2. The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the date of commencement as established by the Notice to Proceed issued by the Owner.
3. The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.
4. All Work at the Site shall be performed during regular working hours Monday through Friday. Contractor shall not perform Work on Saturday, Sunday, or any legal holiday unless the Contractor submits a written request to the Owner which requests working outside of regular working hours, or on Saturdays, Sundays, or legal holidays. The Owner will respond to each of these requests, individually.

B. Delays and Extensions of Time.

1. If the Contractor is delayed at any time in progress of the Work by an act or neglect of the Owner or Consultant, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending hearing results, or by other causes which the Consultant determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Consultant and Owner may determine.
2. Claims relating to time shall be made in accordance with applicable provisions of Section IV(B).
3. An extension of the Contract Time is the sole and exclusive remedy available to the Contractor, in the event of delays described in Section 8(B). In no event, and under no circumstances, shall the Contract Sum be increased, nor shall the Contractor claim, recover or receive payment for any delay to the Project, whether or not such delayed event is in the critical path of the construction schedule.

C. Failure to Complete Work on Time.

1. Time is of the essence. The Parties stipulate that the damage for failure to complete the project within the designated Contract Time is \$500 per day. For each working day that exceeds the Contract Time, \$500 per day will be deducted from the monies due the Contractor.

SECTION IX. PAYMENTS AND COMPLETION

A. **Contract Sum.** The Contract Sum is \$3,654,500 and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. The Contract Sum shall only be changed by a Change Order.

B. **Schedule of Values.** Before the first Application for Payment is submitted, the Contractor shall submit to the Consultant and Owner a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Consultant and Owner may require. Each value indicated on the Schedule of Values shall be the exact amount of each subcontract or portion of the Work it represents. This schedule, unless objected to by the Consultant or Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment.

C. Applications for Payment.

1. At least ten days before the date established for each progress payment, the Contractor shall submit to the Consultant an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized and supported by such data substantiating the Contractor's right to payment as the Owner or Consultant may require, such as copies of requisitions from Subcontractors and material suppliers.
2. The period covered by each Application for Payment shall be one calendar month ending the last day of the month.
3. Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.
4. Five percent (5%) of all partial payments made shall be withheld as retainage.
5. All payment applications must be accompanied by the affidavits provided with the Contract Documents.
6. Such applications shall not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or

other reason.

7. Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location properly bonded or insured as a warehouse for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. All stored materials shall be protected from weather conditions by properly secured methods. The Owner shall not pay for stored materials that are not properly protected.
8. The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

D. Certificates for Payment.

1. The Consultant will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Consultant determines is properly due, or notify the Contractor and Owner in writing of the Consultant's reasons for withholding certification in whole or in part as provided in Section IX(E)(1). The Owner shall have the right to review and approve the Certificates for Payment.
2. The issuance of a Certificate for Payment will constitute a representation by the Consultant to the Owner, based on the Consultant's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The amount indicated in the Certificate of Payment shall be computed as follows:
 - i. Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedules of values, less retainage of five percent (5%).

- ii. Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of five percent (5%).
- iii. Subtract the aggregate of previous payments made by the Owner; and
- iv. Subtract amounts, if any, for which the Consultant has withheld or nullified a Certificate for Payment as provided for herein.

E. Decisions to Withhold Certification.

1. The Consultant or Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Consultant's opinion the representations to the Owner required by Section (IX)(D)(2) cannot be made. If the Consultant is unable to certify payment in the amount of the Application, the Consultant will notify the Contractor and Owner as provided in Subparagraph 9.4.1. If the Contractor and Consultant cannot agree on a revised amount, the Consultant will promptly issue a Certificate for Payment for the amount for which the Consultant is able to make such representations to the Owner. The Consultant may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Consultant's opinion to protect the Owner from loss because of:
 - i. defective Work not remedied;
 - ii. third party claims filed or reasonable evidence indicating probable filing of such claims;
 - iii. failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
 - iv. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
 - v. damage to the Owner or another Contractor;
 - vi. reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
 - vii. persistent failure to carry out the Work in accordance with the Contract Documents.
2. When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

F. Progress Payments.

1. After the Consultant has issued a Certificate for Payment, the Owner shall review for approval and make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Consultant.
2. The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.
3. The Consultant will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Consultant and Owner on account of portions of the Work done by such Subcontractor.
4. Neither the Owner nor Consultant shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law
5. Payment to material suppliers shall be treated in a manner similar to that provided in Section IX(F)(2), (3) and (4).
6. A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.
7. Should the project extend beyond the Contract Time, progress payments shall continue including approved Change Orders. Progress payments made after the Contract Time will be reduced by any applicable disincentives provided herein.

G. Substantial Completion.

1. When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Consultant a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include all items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Consultant will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Consultant's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract Documents, the

Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Consultant. The Contractor shall then submit a request for another inspection by the Consultant to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Owner will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

2. Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Consultant, the Owner shall make payment, reflecting adjustment for retainage for such Work or portion thereof as provided in the Contract Documents.

H. Partial Occupancy or Use.

1. The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is authorized by the Owner. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, Retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Consultant as provided under Section IX(G)(1). Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Consultant.
2. Immediately prior to such partial occupancy or use, the Owner, Contractor and Consultant shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
3. Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

I. Final Completion and Final Payment.

1. Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Consultant will promptly make such inspection and, when the Consultant finds the Work acceptable under the Contract Documents and the Contract fully performed, the Consultant will promptly issue a final Certificate for Payment stating that to the best of the Consultant's knowledge, information and belief, and on the basis of the Consultant's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Consultant's final Certificate for Payment will constitute a further representation that conditions listed in Section (DC)(I)(2) as precedent to the Contractor's being entitled to final payment have been fulfilled.
2. Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Consultant an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied.
3. Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. Such waivers shall be in addition to the waiver described in Section IV(B)(5).
4. When the Contract Time has been exceeded, including approved Change Orders, and claims for additional compensation are submitted by Consultants for extended services that are made necessary solely by the delay of the Contractor, the Owner shall deduct the amount of the claims from the final payment to the Contractor.

SECTION X. PROTECTION OF PERSONS AND PROPERTY

A. Safety of Persons and Property.

1. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:
 - i. employees on the Work and other persons who may be affected thereby.
 - ii. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
 - iii. other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal,

relocation or replacement in the course of construction.

2. The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
3. The Contractor shall not enter upon private property for any purpose without first obtaining permission and he shall be responsible for the preservation of and shall use every precaution necessary to prevent damage to all trees, fences, culverts, bridges, pavements driveways, sidewalk, etc. to all water, sewer, gas or electric lines or appurtenance thereof and to all other public or private property along or adjacent to the work.
4. The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.
5. Materials shall be stored so as to insure the preservation of their quality and fitness for the work. When directed by Consultant, they shall be placed on wooden platforms or other hard, clean surfaces and not on the ground, and shall be placed under cover when directed. Stored materials shall be located so as to facilitate prompt inspection.
6. When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
7. The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Section IX(A)(1) caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Section IX(A), except damage or loss attributable to acts or omissions of the Owner or Consultant or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section III(Q).
8. The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Consultant.
9. The Contractor shall not load or permit any part of the construction or site to be loaded

so as to endanger its safety.

- B. Emergencies. In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Section IV(B) and Section VII.

SECTION XI. INSURANCE AND BONDS

A. Contractor's Liability Insurance

1. The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the State of Oklahoma such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- i. claims under worker compensation;
- ii. claims involving contractual liability insurance;
- iii. liability insurance required by 61 O.S. §113 in an amount not less than \$25,000 for any claim of loss of property arising out of a single act, \$125,000 for any claim of injuries, including accidental death; and \$1,000,000 for any number of claims arising out of a single accident; and
- iv. builder's risk insurance

2. The insurance required by Section XI(A)(1) shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverage, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final acceptance by the Owner.

3. Certificates of Insurance acceptable to the Owner shall be filed with the Owner with the executed Contract. These Certificates and the insurance policies required by this Section XI(A) shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner.

B. Performance Bond, Maintenance Bond and Statutory Bond

1. The Contractor is required to have three bonds for Contracts with the Authority exceeding Fifty Thousand Dollars (\$50,000.00):

- i. Performance Bond for 100% of the value of the Contract to insure completion of the Work.
 - ii. Maintenance Bond for 100% of the value of the Contract to provide correction of defects in the construction and equipment for one year after acceptance of the Work; and
 - iii. Statutory Bond for 100% of the Contract to assure that the Owner is protected from the action of Subcontractors, suppliers and employees for unpaid debts of the Contractor.
2. All bonds shall be on the forms prescribed and issued by the Owner. All bond submittals shall contain all terms and conditions of the bonds or applicable to the bonds.
3. Irrevocable Letters of Credit may be used as a substitute for the bonds required in (B)(2) above. The Letters must be on the forms prescribed and provided by the Owner and issued by a financial institution insured by Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
4. Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor or the Owner shall promptly furnish a copy of the bonds or of letters of credit or shall permit a copy to be made.

SECTION XII. UNCOVERING AND CORRECTION OF WORK

A. Uncovering of Work.

1. If a portion of the Work is covered contrary to the Consultant's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Consultant, be uncovered for the Consultant's observation and be replaced at the Contractor's expense without change in the Contract Time.
2. If a portion of the Work has been covered which the Consultant has not specifically requested to observe prior to its being covered, the Consultant may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract Documents, the Contractor shall pay such costs unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

B. Correction of Work.

1. The Contractor shall promptly correct Work rejected by the Consultant or failing to conform to the requirements of the Contract Documents, whether observed before or

after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Consultant's services and expenses made necessary thereby.

2. If, within one year after the date of Final Completion of the Work or after the date for commencement of warranties established under Section IX(G)(1), or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. This obligation under this Section XII(B)(2) shall survive acceptance of the Work under the Contract and termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.
3. The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
4. If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section II(C). If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Consultant, the Owner may remove it and store the salvable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten days after written notice, the Owner may upon ten additional days written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Consultant's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.
5. The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate Contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.
6. Nothing contained in this Section XII(B) shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents.

SECTION XIII. MISCELLANEOUS PROVISIONS

- A. **Governing Law.** The Contract shall be governed by Oklahoma law.
- B. **Successors and Assigns.** The Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or any portion thereof without written consent of the Owner. If the Contractor attempts to make such an assignment without such consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract.
- C. **Written Notice.** Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice.
- D. **The Owner's Representative is:** Terry Floyd, Development Coordinator
- E. **The Contractor's Representative is:** Peter Morrival
- F. **The Consultant's Representative is:** Matthew Kruntorad
- G. **Rights and Remedies.**
1. Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.
 2. No action or failure to act by the Owner, Consultant or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.
 3. **Contractor's Claim for Damages.** Should the Contractor claim compensation for any alleged damage by reasons of the acts or omissions of the Owner, he shall within ten (10) days after the sustaining of such damage, make a written statement to the Consultant setting out in detail the nature of the alleged damage. On or before the 25th day of the month succeeding that in which any such damage is claimed to have been sustained, the Contractor shall file with the Consultant an itemized statement of the details and amount of such damage and upon request give the consultant access to all books of accounts, receipts, vouchers, bills of lading and other books or papers containing any evidence as to the amount of such damage. Unless such statement shall be filed as thus required, the Contractor's claim for compensation shall be waived and he shall not be entitled to payment on account of any such damage.
- H. **Tests and Inspections.**

1. Tests, inspections and approvals of portions of the Work required by the Contract

Documents shall be made at appropriate times as specified. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with the independent testing laboratory under separate contract with the Owner. The Contractor shall give the Consultant timely notice of when and where tests and inspections are to be made so the Consultant may observe such procedures. The Owner shall bear costs of tests, inspections or approvals.

2. If the Consultant or Owner determine that portions of the Work require additional testing, inspection or approval not included under Section XIII(H)(1), the Consultant will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Consultant of when and where tests and inspections are to be made so the Consultant may observe such procedures. The Owner shall bear such costs except as provided in Section XIII(H)(3).

3. If such procedures for testing, inspection or approval under Section XIII(H)(1) and (2) reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Contractor shall bear all costs made necessary by such failure including those of repeated procedures and compensation for the Consultant's services and expenses.

4. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Consultant.

5. If the Consultant is to observe tests, inspections or approvals required by the Contract Documents, the Consultant will do so promptly and, where practicable, at the normal place of testing.

6. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

I. Audits and Records: As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting this contract, the Contractor agrees any pertinent entity will have the right to examine and audit all records relevant to execution of the resultant contract. The contractor is required to retain all records relative to this contract for the duration of the contract term and for a period of three years following completion and/or termination of the contract. If an audit, litigation, or other action involving such records are started before the end of the three year period, the records are required to be maintained for three years from the date that all issues arising out of the action are resolved or until the end of the three year retention period, whichever is later.

J. The Contractor certifies that it and all proposed subcontractors, whether known or unknown at

the time this contract is executed or awarded, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employee Verification Program (E-Verify) available at www.dhs.gov/e-verify.

- K. Americans with Disabilities Act of 1990 ("ADA") (42 U.S.C. 12101). As a public entity, the City may only contract with other entities which comply with the ADA. Contractors, by signing the bid documents and entering into a contract with the City of Norman, signify that they are aware of and comply with the requirements of the ADA. Failure to be in compliance with the ADA may require cancellation of a contract.

SECTION XIV. TERMINATION OR SUSPENSION OF THE CONTRACT

A. Termination by the Contractor.

1. The Contractor may terminate the Contract if the Work is stopped for a period of 30 days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor, for any of the following reasons:
 - i. issuance of an order of a court or other public authority having jurisdiction;
 - ii. an act of government, such as a declaration of national emergency, making material unavailable; or
 - iii. If repeated suspensions, delays or interruptions by the Owner as described in Section XIV(C) constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.
2. If one of the above reasons exists, the Contractor may, upon seven additional days written notice to the Owner and Consultant, terminate the Contract and recover from the Owner payment for Work executed.
3. If the Work is stopped for a period of 60 days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days written notice to the Owner and the Consultant, terminate the Contract and recover from the Owner as provided in Section XIV(A)(2).

B. Termination by the Owner for Cause

1. The Owner may terminate the Contract if the Contractor:
 - i. persistently or repeatedly refuses or fails to supply enough properly skilled

- workers or proper materials;
 - ii. fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
 - iii. persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
 - iv. repeatedly fails to comply with the terms and conditions of the Contract and Contract Documents.
 - v. otherwise is guilty of substantial breach of a provision of the Contract Documents.
2. When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:
- i. take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 - ii. accept assignment of subcontracts; and
 - iii. finish the Work by whatever reasonable method the Owner may deem expedient.
3. When the Owner terminates the Contract for one of the reasons stated in Section B(1) herein, the Contractor shall not be entitled to receive further payment until the Work is finished.
4. If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Consultant's services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Consultant, upon application, and this obligation for payment shall survive termination of the Contract.

C. Suspension by the Owner for Convenience

1. The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.
2. An adjustment shall be made for increases in the cost of performance of the Contract. No adjustment shall be made to the extent:
- i. that performance is, was or would have been so suspended, delayed or interrupted by another cause which the Contractor is responsible; or
 - ii. that an equitable adjustment is made or denied under another provision of this Contract.

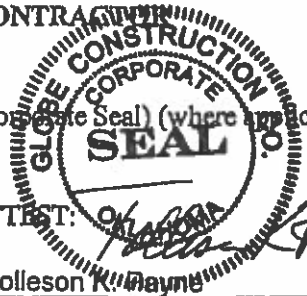
3. Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

Contract # K-1617-68

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed, in three (3) duplicate originals, the day and year first above written.

CONTRACTOR
(Corporate Seal) (where applicable)

ATTEST: [Signature]
Tolleson K. Payne
Corporate Secretary (where applicable)



John A. Lippert
Principal
Signed: [Signature]
Authorized Representative
President
Title
Address: P.O. Box 17420
Oklahoma City, OK 73136
Telephone: 405-478-3502

Contract Affidavit:
STATE OF Oklahoma
COUNTY OF Oklahoma

John A. Lippert, of lawful age, being first duly sworn, on oath says that (s)he is the agent authorized by CONTRACTOR to submit the above CONTRACT to the CITY. Affiant further states that CONTRACTOR has not paid, given or donated or agreed to pay, give, or donate to any officer or employee of the CITY any money or other thing of value, either directly or indirectly, in the procuring of the CONTRACT.

[Signature]
Principal

Submitted and sworn to before me this 23rd day of February, 20 17.

[Signature]
Notary Public



My Commission Expires:
1.8.19 15000171

OWNER

Approved as to form and legality this 20 day of February, 2017

[Signature]
General Counsel

Approved by the Norman Municipal Authority this 25th day of FEBRUARY, 2017

ATTEST:
[Signature]
City Clerk

[Signature]
Mayor



Bond # B-1617-26

PERFORMANCE BOND

Bond No.: 106631013

KNOW ALL MEN BY THESE PRESENTS:

Travelers Casualty and Surety

That we Globe Construction Co., as Principal, and Company of America, a corporation organized under the laws of the State of Connecticut, and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound unto the Norman Municipal Authority, a public trust of the State of Oklahoma, herein called Authority, in the full and just sum of Three Million Six Hundred Fifty Four Thousand Five Hundred DOLLARS, (\$3,654,500), for the payment of which sum Principal, and Surety bind themselves, their heirs, executors, and its successors and assigns jointly and severally, firmly by these presents.

The conditions of this obligation are such, that whereas, said Principal is the lowest and most advantageous bidder on the following project.:

**NORMAN PUBLIC LIBRARY EAST
(BASE BID PLUS ALTERNATES 1-10)**

and has entered into a certain written contract (K-1617-68) with the Norman Municipal Authority, dated 2/28 2017, for the erection and construction of this Project, that Contract being incorporated herein by reference as if fully set forth.

NOW, THEREFORE, if said Principal shall, in all particulars, well, truly and faithfully perform and abide by said Contract and each and every covenant, condition and part thereof and shall fulfill all obligations resting upon said Principal by the terms of said contract and said specifications; and if said Principal shall promptly pay, or cause to be paid, all labor, materials and/or repairs and all bills for labor performed on said work, whether by subcontract or otherwise; and if said Principal shall protect and save harmless said City of Norman and Norman Municipal Authority from all loss, damage and expense to life or property suffered or sustained by any person, firm, or corporation caused by said Principal or his or its agents, servants, or employees in the construction of said work, or by or in consequence of any negligence, carelessness or misconduct in guarding and protecting the same, or from any act or omission of said Principal or his or its agents servants, or employees, and if said Principal shall protect and save the City of Norman and Norman Municipal Authority harmless from all suits and claims of infringement or alleged infringement or patent rights or processes, 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 thereto that no changes or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

It is further expressly agreed that the Principal's obligations under this Bond include payment of not less than the prevailing hourly rate of wages as established by the Commissioner of Labor and by the Secretary of the U.S. Department of Labor or as determined by a court on appeal.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), on the 23rd day of Feb., 2017 and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its authorized representative, on the 23rd day of Feb., 2017.

(Corporate Seal) (where applicable)
Principal

Globe Construction Co.

ATTEST:

Signed: [Signature]

Authorized Representative

John A. Lippert, President

Title

Address: P.O. Box 17420, Oklahoma City, OK 73136

Corporate Secretary (where applicable)

Telephone: 670-448-3502

Travelers Casualty and Surety
Company of America

(Corporate Seal) (where applicable)
Surety

ATTEST:

Signed: [Signature]

Authorized Representative

[Signature]
Corporate Secretary (where applicable)

Title Dillon Rosenhamer, Attorney-in-Fact

Address: 5100 N. Classen Blvd., Ste 300, Oklahoma City, OK 73118

Telephone: (405) 523-2100

CORPORATE ACKNOWLEDGMENT

STATE OF OKLAHOMA Oklahoma
COUNTY OF Oklahoma

The foregoing instrument was acknowledged before me this 23rd day of February, 2017, by John A. Lippert, President (Name & Title) of Globe Construction Co. an Oklahoma corporation, on behalf of the corporation.

WITNESS my hand and seal this 23rd day of February, 2017.

[Signature]
Notary Public

My Commission Expires: 1-8-19

#15000171



INDIVIDUAL ACKNOWLEDGMENT

STATE OF OKLAHOMA _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20__ by _____ of
_____ (Name and Title) of
_____.

WITNESS my hand and seal this ____ day of _____, 20__.

Notary Public
My Commission Expires: _____

PARTNERSHIP ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this ____ day of _____,
20__ by _____ partner (agent) on behalf of
_____, a partnership.

WITNESS my hand and seal this ____ day of _____, 20__.

Notary Public
My Commission Expires: _____

NORMAN MUNICIPAL AUTHORITY

Approved as to form and legality this 27th day of February, 2017.

[Signature]
City Attorney

Approved by the NORMAN MUNICIPAL AUTHORITY this 28th day of FEBRUARY, 2017.

ATTEST:
[Signature]
Secretary



[Signature]
Chairperson

Bond # B-1617-27

STATUTORY BOND

Bond No.: 106631013

KNOW ALL MEN BY THESE PRESENTS:

Travelers Casualty and Surety

That we, Globe Construction Co., as Principal, and Company of America, a corporation organized under the laws of the State of Connecticut, and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound unto the Norman Municipal Authority, a public trust of the State of Oklahoma, herein called Authority in the sum of Three Million Six Hundred Fifty Four Thousand Five Hundred DOLLARS (\$3,654,500), for the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS. The conditions of this obligation are such that the Principal, being the lowest and most advantageous bidder on the following Project:

**NORMAN PUBLIC LIBRARY EAST
(BASE BID PLUS ALTERNATES 1-10)**

and has entered into a certain written contract (K-1617-68) with the Norman Municipal Authority, dated February 28, 2017, for the erection and construction of this Project, that Contract being incorporated herein by reference as if fully set forth.


NOW, THEREFORE, if the Principal, shall properly and promptly complete the work on this Project in accordance with the Contract, and shall well and truly pay all indebtedness incurred for labor and material and repairs to and parts for equipment furnished in the making of the Project, whether incurred by said Principal, its subcontractors, or any material men, then this obligation shall be void. Otherwise, this obligation shall remain in full force and effect. If debts are not paid within thirty (30) days after same becomes due and payable, the person, firm, or corporation entitled thereto may sue and recover on this bond, the amount so due and unpaid.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

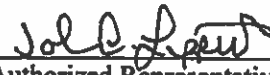
It is further expressly agreed that the Principal's obligations under this Bond include payment of not less than the prevailing hourly rate of wages as established by the Commissioner of Labor of the State of Oklahoma and by the Secretary of the U.S. Department of Labor or as determined by a court on appeal.

B-1617-27

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), on the 23rd day of Feb, 2017 and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its authorized representative, on the 23rd day of Feb, 2017.

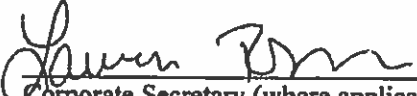
(Corporate Seal) (where applicable)
ATTEST: 
Corporate Secretary (where applicable)

Globe Construction Co.
Principal

Signed: 
Authorized Representative
John A. Lippert, President
Title

Address: P.O. Box 17420, Oklahoma City, OK 73136
Telephone: (405)478-3502
Travelers Casualty and Surety Company
of America

Surety
Signed: 
Authorized Representative

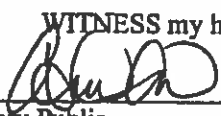
(Corporate Seal) (where applicable)
ATTEST:

Corporate Secretary (where applicable)

Dillon Roscnhamer, Attorney-in-Fact
Title 5100 N. Classen Blvd., Ste 300
Address: Oklahoma City, OK 73118
Telephone: (405)523-2100

CORPORATE ACKNOWLEDGMENT

STATE OF OKLAHOMA Oklahoma)
COUNTY OF Oklahoma)

The foregoing instrument was acknowledged before me this 23rd day of February, 2017, by John A. Lippert, President (Name & Title) of Globe Construction Co., an Oklahoma corporation, on behalf of the corporation.

WITNESS my hand and seal this 23rd day of February, 2017.

Notary Public

My Commission Expires: 1-8-19
#15000171



INDIVIDUAL ACKNOWLEDGMENT

STATE OF OKLAHOMA _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__
by _____ of _____
(Name and Title) of _____.

WITNESS my hand and seal this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

PARTNERSHIP ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this ____ day of _____, 20__
by _____ partner (agent) on behalf of
_____, a partnership.

WITNESS my hand and seal this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

NORMAN MUNICIPAL AUTHORITY

Approved as to form and legality this 24 day of February, 2017.

[Signature]
City Attorney

Approved by the NORMAN MUNICIPAL AUTHORITY this 28th day of FEBRUARY, 2017.

ATTEST:
[Signature]
Secretary



[Signature]
Chairperson

MB-1617-27

MAINTENANCE BOND

Bond No.: 106631013

Know all men by these presents that Globe Construction Co., as Principal, and Globe Construction Co., a corporation organized under the laws of the State of Travelers Casualty and Surety Company of America, and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound under the Norman Municipal Authority, a public trust of the State of Oklahoma, hereinafter designated as the Authority, in the sum of Three Million Six Hundred Fifty Four Thousand Five Hundred dollars (\$3,654,500), such sum being equal to the contract price and being in force for a period of one year from the date of the acceptance of the below described improvements by the Trustees of the Norman Municipal Authority and/or the Council of the City of Norman, Oklahoma, for the payment of which sum Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, the conditions of this obligation are such, that the Principal, being the lowest and most advantageous bidder on the following project:

NORMAN PUBLIC LIBRARY EAST

has entered into a written Contract (K-1617-68) with the Norman Municipal Authority, dated 2/28/17, for the erection and construction of this Project, that Contract being incorporated herein by reference as if fully set forth; and,

WHEREAS, the Principal is required to furnish to the Authority a maintenance bond covering said construction of this Project, the bond to include the terms and provisions hereinafter set forth, as a condition precedent to final acceptance of the Project.

NOW THEREFORE, if the Principal shall keep and maintain, subject to normal wear and tear, the construction, except for defects not occasioned by improper workmanship, materials, or failure to protect new work until it is accepted, and if the Principal shall promptly repair, without notice from the Authority any and all defects arising from improper workmanship, materials, or failure to protect new work until it is accepted; all for a period of one (1) year from the date of the written final acceptance by the Trustees of the Authority and/or Council of the City of Norman, then this obligation shall be null and void. Otherwise, this obligation shall remain in full force and effect at all times.

Provided further, however, that upon neglect, failure or refusal of the Principal to maintain or make any needed repairs upon the construction on the Project, as set out in the preceding paragraph, within ten (10) days after the mailing of notice to the Principal by letter deposited in the United States Post Office at Norman, Oklahoma, addressed to the Principal at the address set forth below, then the Principal and Surety shall jointly and severally be liable to the Authority and the City of Norman for the cost and expense for making such repair, or otherwise maintaining the said construction.

MB-1617-27

MB-1617-27

If is further expressly agreed and understood by the parties hereto that no changes or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), on the 23rd day of Feb, 2017 and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its authorized representative, on the 23rd day of Feb, 2017.

(Corporate Seal) (where applicable)
Principal

Globe Construction Co.

ATTEST:

Signed: [Signature]

Authorized Representative

John A. Lippert, President

Title

Address: P.O. Box 17420, Oklahoma City, OK 73136

Corporate Secretary (where applicable)

Telephone: (405) 498-5502

Travelers Casualty and Surety

Company of America

(Corporate Seal) (where applicable)
Surety

Signed: [Signature]

Authorized Representative

ATTEST:

Title Dillon Rosenhamer, Attorney-in-Fact

Address: 5100 N. Classen Blvd., Ste 300, Oklahoma City, OK 73118

Telephone: (405)523-2100

Corporate Secretary (where applicable)

CORPORATE ACKNOWLEDGMENT

STATE OF OKLAHOMA Oklahoma)

COUNTY OF Oklahoma)

The foregoing instrument was acknowledged before me this 23rd day of February, 2017, by John A. Lippert, President (Name & Title) of Globe Construction Co. an Oklahoma corporation, on behalf of the corporation.

WITNESS my hand and seal this 23rd day of February, 2017.

Notary Public My Commission

Expires: 1-8-19

#15000171



INDIVIDUAL ACKNOWLEDGMENT

STATE OF OKLAHOMA _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20__, by _____, _____ of
_____, (Name and Title) of
_____.

WITNESS my hand and seal this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

PARTNERSHIP ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this ____ day of _____,
20__, by _____ partner (agent) on behalf of
_____, a partnership.

WITNESS my hand and seal this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

NORMAN MUNICIPAL AUTHORITY

Approved as to form and legality this 24th day of February, 2017.

City Attorney

[Handwritten Signature]

Approved by the NORMAN MUNICIPAL AUTHORITY this 28th day of FEBRUARY, 2017.

ATTEST
[Handwritten Signature]
Secretary



[Handwritten Signature]
Chairperson



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 229122

Certificate No. 007030652

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Gary M. Jarmon, Jeffrey J. Burton, V. David Dutton, Michael F. Ross, Jana D. Dean, Bill Orcutt, Dillon Rosenhamer, Carrie True, and Jana Taylor

of the City of Oklahoma City, State of Oklahoma, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 2nd day of November, 2016.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: Robert L. Raney, Senior Vice President

On this the 2nd day of November, 2016, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal. My Commission expires the 30th day of June, 2021.



Marie C. Tetreault
Marie C. Tetreault, Notary Public



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/23/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, Inc. 1230 North Robinson Ave Oklahoma City OK 73103-4820	CONTACT NAME: Janet Neal	
	PHONE (A.C. No. Ext): 405-839-3805	FAX (A.C. No.): 866-855-8998
E-MAIL ADDRESS: janet_neal@ajg.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Travelers Property Casualty Co of A		25674
INSURER B: HARTFORD FIRE IN CO		19682
INSURER C: Travelers Indemnity Company		25658
INSURER D: Phoenix Insurance Company		25623
INSURER E: Travelers Casualty Insurance Co of		19046
INSURER F:		

INSURED GLOBCON-01
 Globe Construction Co
 PO BOX 17420
 Oklahoma City OK 73136


COVERAGES CERTIFICATE NUMBER: 178288384 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
C	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	DTCO1G677743	8/1/2016	8/1/2017	EACH OCCURRENCE	\$1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$300,000
						MED EXP (Any one person)	\$5,000
						PERSONAL & ADV INJURY	\$1,000,000
						GENERAL AGGREGATE	\$2,000,000
						PRODUCTS - COMP/OP AGG	\$2,000,000
							\$
D	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		BA1G877743	8/1/2016	8/1/2017	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
						BOODLY INJURY (Per person)	\$
						BOODLY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
							\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED: RETENTION \$		ZJP31M3741016NF	8/1/2016	8/1/2017	EACH OCCURRENCE	\$10,000,000
						AGGREGATE	\$10,000,000
							\$
E	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	DTSUB1G677743	8/1/2016	8/1/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
						E.L. EACH ACCIDENT	\$500,000
						E.L. DISEASE - EA EMPLOYEE	\$500,000
						E.L. DISEASE - POLICY LIMIT	\$1,000,000
B	Builders Risk		38MSZR1876	8/1/2016	8/1/2017	Builders Risk Deductible	\$10,000,000 \$5,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Norman Municipal Authority and MSR (Architect) are included as Additional Insured on the General Liability policy, as per endorsement # CGD246.

CERTIFICATE HOLDER **CANCELLATION**

Norman Municipal Authority PO Box 370 Norman OK 73070	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
---	--



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73089

Master

File Number: K-1617-105

File ID: K-1617-105	Type: Contract	Status: Consent Item
Version: 1	Reference: Item 18	In Control: City Council
Department: Public Works Department	Cost: \$427,000.00	File Created: 02/23/2017
File Name: James Garner - Acres to Flood engineering design contract with Cabbiness Engineering		Final Action:

Title: CONTRACT K-1617-105: A CONTRACT BY AND BETWEEN THE NORMAN MUNICIPAL AUTHORITY AND CABBINESS ENGINEERING, L.L.C., IN AN AMOUNT NOT-TO-EXCEED \$427,000 TO PROVIDE ENGINEERING AND DESIGN SERVICES FOR THE JAMES GARNER AVENUE ROADWAY AND BRIDGE PROJECT FROM ACRES AVENUE TO FLOOD AVENUE.

Notes: ACTION NEEDED: Acting as the Norman Municipal Authority, motion to approve or reject Contract K-1617-105 with Cabbiness Engineering, L.L.C., in the amount of \$427,000; and, if approved, authorize the execution thereof.

ACTION TAKEN: BC/KA 8/0

Agenda Date: 03/14/2017

Agenda Number: 18

Attachments: Text File K-1617-105, Location Map, K-1617-105, Requisition
Project Manager: Tim Miles, Capital Projects Engineer

Entered by: rachel.warila@normanok.gov Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	03/14/2017					

Text of Legislative File K-1617-105

Body
BACKGROUND: On November 8, 2016, the Norman City Council approved programming Resolution R-1617-49 requesting federal funds to widen James Garner Avenue from Acres Street to Flood Avenue. This Resolution states the City's commitment to adhere to the terms and conditions of a federally funded project. Through the Association of Central Oklahoma Governments (ACOG), the Oklahoma Department of Transportation (ODOT) agrees to provide 80% of the cost of construction with a 20% matching share from the City of Norman. The construction cost of this project is estimated to be \$5 million. In order to receive the federal funding, the City of Norman is required to enter in an agreement with ODOT to complete the design, acquire all rights-of-way and relocate existing utilities/encroachments at City's cost.

This Norman Forward Street Improvement Project will create a new entry into downtown and will help alleviate traffic on both Flood Avenue and Porter Avenue.

DISCUSSION: The Public Works Department prepared a Request for Proposal (RFP) to solicit the engineering services necessary to prepare plans, specifications and bid packages, and to provide technical assistance throughout the design and construction of eight (8) separate projects including the James Garner Avenue Project. Nineteen (19) proposals were received for the group of projects, including nine (9) that expressed an interest in this project. The Selection Committee included three (3) staff members consisting of Masoud Pajoh, Capital Projects Engineer; Carrie Everson, Stormwater Engineer; Tim Miles, Capital Projects Engineer; and two (2) private citizens including Luis Malave, Oklahoma Department of Transportation's Division 3 Maintenance Engineer; and Andrew Seaman, D5 Architecture. The Selection Committee members independently scored each proposal on a point scale as defined in the request for proposal. Upon review of the proposals by the Selection Committee, five (5) firms were selected for interviews. The proposal by Cabbiness Engineering of Norman, Oklahoma was selected for the project.

Staff has negotiated the attached contract with Cabbiness Engineering to provide preliminary and final design services in the amount of \$427,000.

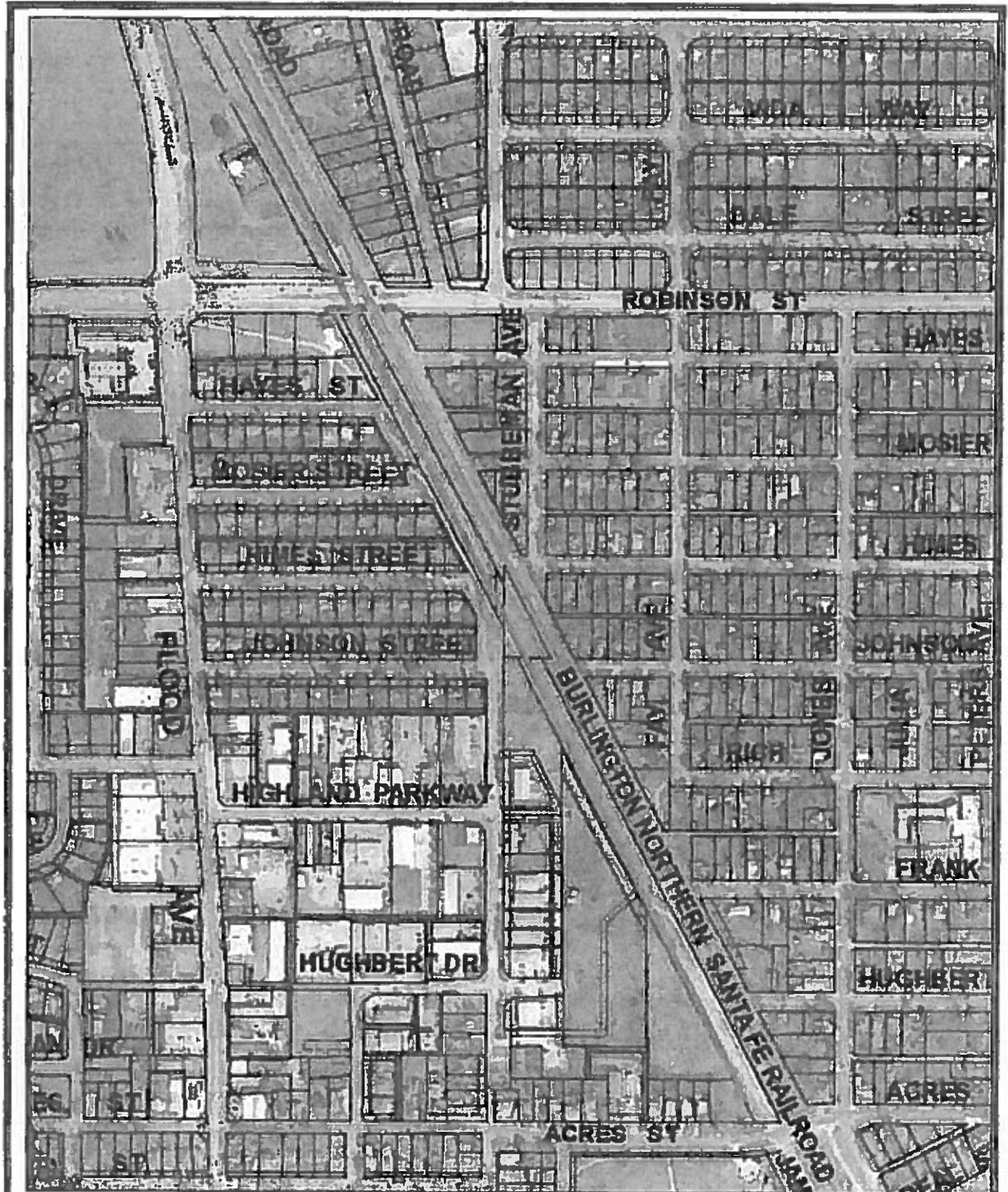
The design services include:

- Detailed Topographic Survey;
- Pedological Survey;
- Written Analysis;
- Preliminary Plans;
- Public Meeting;
- Bridge Design;
- Intersection Analysis at Flood Avenue;
- Stormwater Drainage System Design;
- Legacy Trail Design at Robinson Street;
- Low Impact Drainage and Landscaping Design in road median;
- Easement Documents;
- Final Plans;
- As-Built Drawings

The James Garner Avenue extension was included as an authorized NORMAN FORWARD project. Funding has already been appropriated by Council into various accounts for this project. However, the account specifically for design has not yet been funded. To properly track this expenditure for this project, the funds for design in the amount of \$427,000 need to be transferred from Utilities (account 051-9405-431.67-01; Project NFB004) to the NORMAN FORWARD James Garner Avenue from Acres Street to Flood Avenue Project, Design (account 051-9405-431.62-01; Project NFB004). This interfund transfer is a housekeeping matter and does not require Council action.

Staff anticipates having construction documents complete, environmental clearances obtained, utilities relocated, and right-of-way acquired by February 2019. Then, construction will follow as soon as federal funding can be programmed for the James Garner Avenue Project.

RECOMMENDATION: Staff recommends approval of Contract K-1617-105 with the Norman Municipal Authority and Cabbiness Engineering for preliminary and final design services on the James Garner Avenue Project, in an amount not-to-exceed \$427,000. Funding for this expenditure will then be tracked according to the interfund transfer as outlined above.



James Garner - Acres Street to Flood Avenue

0 100 200 400 Feet



AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is entered into between The Norman Municipal Authority (AUTHORITY) and Cabbiness Engineering, LLC (CONSULTANT) for the following reasons:

1. AUTHORITY intends to construct a new roadway and bridge improvement project along the identified James Garner Avenue corridor (the Project); and,
2. AUTHORITY requires certain professional survey, design, analysis and engineering services in connection with the Project (the Services); and,
3. CONSULTANT is prepared to provide the Services.

In consideration of the promises contained in this Agreement, AUTHORITY and CONSULTANT agree as follows:

ARTICLE 1 - EFFECTIVE DATE

The effective date of this Agreement shall be 14th day of MARCH 2017.

ARTICLE 2 - GOVERNING LAW

This Agreement shall be governed by the laws of the State of Oklahoma.

ARTICLE 3 - SCOPE OF SERVICES

CONSULTANT shall provide the Services described in Attachment A, Scope of Services.

ARTICLE 4 - SCHEDULE

CONSULTANT shall exercise its reasonable efforts to perform the Services described in Attachment A according to the Schedule set forth in Attachment B.

ARTICLE 5 - COMPENSATION

AUTHORITY shall pay CONSULTANT in accordance with Attachment C, Compensation. Invoices shall be due and payable upon receipt. AUTHORITY shall give prompt written notice of any disputed amount and shall pay the remaining amount.

ARTICLE 6 - AUTHORITY'S RESPONSIBILITIES

AUTHORITY shall be responsible for all matters described in Attachment D, Authority's Responsibilities. AUTHORITY hereby represents that it owns the intellectual property rights in any plans, documents or other materials provided by AUTHORITY to CONSULTANT. If AUTHORITY does not own the intellectual property rights in such plans, documents or other materials, prior to providing same to CONSULTANT, AUTHORITY shall obtain a license or right to use, including the right to sublicense to CONSULTANT. AUTHORITY hereby grants CONSULTANT the right to use the intellectual property associated with plans, documents or other materials it owns or has the right to use for the limited purpose of performing the Services. AUTHORITY represents that CONSULTANT'S use of such documents will not infringe upon any third parties' rights.

ARTICLE 7 - STANDARD OF CARE

The same degree of care, skill, and diligence shall be exercised in the performance of the Services as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances. No other warranty, express or implied, is included in this Agreement or in any drawing, specification, report, opinion, or other instrument of service, in any form or media, produced in connection with the Services.

ARTICLE 8 - INDEMNIFICATION AND LIABILITY

Indemnification. The CONSULTANT and the AUTHORITY each hereby agree to defend, indemnify, and hold harmless the other party, its officers, servants, and employees, from and against any and all liability, loss, damage, cost, and expense (including attorneys' fees and accountants' fees) caused by an error, omission, or negligent act of the indemnifying party in the performance of services under this Agreement. The CONSULTANT and the AUTHORITY each agree to promptly serve notice on the other party of any claims arising hereunder, and shall cooperate in the defense of any such claims. In any and all claims asserted by any employee of the CONSULTANT against any indemnified party, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONSULTANT or any of the CONSULTANT'S employees under workers' compensation acts, disability benefit acts, or other employee benefit acts. The acceptance by AUTHORITY or its representatives of any certification of insurance providing for coverage other than as required in this Agreement to be furnished by the CONSULTANT shall in no event be deemed a waiver of any of the provisions of this indemnity provision. None of the foregoing provisions shall deprive the AUTHORITY of any action, right, or remedy otherwise available to the AUTHORITY at common law.

Survival. The terms and conditions of this Article shall survive completion of the Services, or any termination of this Agreement.

ARTICLE 9 - INSURANCE

During the performance of the Services under this Agreement, CONSULTANT shall maintain the following insurance:

- (a) General Liability Insurance, with a limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
- (b) Automobile Liability Insurance, with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- (c) Workers' Compensation Insurance in accordance with statutory requirements and Employers' Liability Insurance, with a limit of \$500,000 for each occurrence.
- (d) Professional Liability Insurance, with a limit of \$1,000,000 per claim and annual aggregate.

CONSULTANT shall, upon written request, furnish AUTHORITY certificates of insurance which shall include a provision that such insurance shall not be canceled without at least thirty days' written notice to AUTHORITY. AUTHORITY shall require all Project contractors to include AUTHORITY, CONSULTANT, and its parent company, affiliated and subsidiary entities, directors, officers and employees, as additional insureds on their General and Automobile Liability insurance policies, and to indemnify both AUTHORITY and CONSULTANT, each to the same extent

ARTICLE 10 - LIMITATIONS OF RESPONSIBILITY

CONSULTANT shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project; (b) the failure of any contractor, subcontractor, vendor, or other Project participant, not under contract to CONSULTANT, to fulfill contractual responsibilities to AUTHORITY or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to CONSULTANT in Attachment A, Scope of Services. In the event the AUTHORITY requests CONSULTANT to execute any certificates or other documents, the proposed language of such certificates or documents shall be submitted to CONSULTANT for review at least 15 days prior to the requested date of execution. CONSULTANT shall not be required to execute any certificates or documents that in any way would, in CONSULTANT's sole judgment, (a) increase CONSULTANT'S legal or contractual obligations or risks; (b) require knowledge, services or responsibilities beyond the scope of this Agreement; or (c) result in CONSULTANT having to certify, guarantee or warrant the existence of conditions whose existence CONSULTANT cannot ascertain.

ARTICLE 11 - OPINIONS OF COST AND SCHEDULE

Because CONSULTANT has no control over the cost of labor, materials, or equipment furnished by others, or over the resources provided by others to meet Project schedules, CONSULTANT'S opinion of probable costs and of Project schedules shall be made on the basis of experience and qualifications as a practitioner of its profession. CONSULTANT does not guarantee that proposals, bids, or actual Project costs will not vary from CONSULTANT'S cost estimates or that actual schedules will not vary from CONSULTANT'S projected schedules.

ARTICLE 12 - REUSE OF DOCUMENTS

All documents, including, but not limited to, plans, drawings, and specifications prepared by CONSULTANT as deliverables pursuant to the Scope of Services are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by AUTHORITY or others on modifications or extensions of the Project or on any other project. Any reuse without prior written verification or adaptation by CONSULTANT for the specific purpose intended will be at AUTHORITY'S sole risk and without liability or legal exposure to CONSULTANT. AUTHORITY shall indemnify and hold harmless CONSULTANT and its subconsultants against all judgments, losses, damages, injuries, and expenses, including reasonable attorneys' fees, arising out of or resulting from such reuse. Any verification or adaptation of documents will entitle CONSULTANT to additional compensation at rates to be agreed upon by AUTHORITY and CONSULTANT.

ARTICLE 13 - AUTHORITYSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided herein, documents, drawings, and specifications prepared by CONSULTANT and furnished to AUTHORITY as part of the Services shall become the property of AUTHORITY; provided, however, that CONSULTANT shall have the unrestricted right to their use. CONSULTANT shall retain its copyright and ownership rights in its design, drawing details, specifications, data bases, computer software, and other proprietary property. Intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of CONSULTANT.

ARTICLE 14 - TERMINATION AND SUSPENSION

This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement; provided, however, the nonperforming party shall have 14 calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party. AUTHORITY may terminate or suspend performance of this Agreement for AUTHORITY'S convenience upon written notice to CONSULTANT. CONSULTANT shall terminate or suspend performance of the Services on a schedule acceptable to AUTHORITY, and AUTHORITY shall pay CONSULTANT for all the Services performed. Upon restart of suspended Services, an equitable adjustment shall be made to CONSULTANT'S compensation and the Project schedule.

ARTICLE 15 - DELAY IN PERFORMANCE

Neither AUTHORITY nor CONSULTANT shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either AUTHORITY or CONSULTANT under this Agreement. CONSULTANT shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances.

Should such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

ARTICLE 16 - NOTICES

Any notice required by this Agreement shall be made in writing to the address specified below:

AUTHORITY:

Tim M. Miles, P.E.
Capital Projects Engineer
Norman Municipal Authority
P.O. Box 370
Norman, OK 73070

Cabbiness Engineering, LLC :

Bret Cabbiness, P.E.
President
333 12th Avenue SE, Suite 200
Norman, OK, 73071

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of AUTHORITY and CONSULTANT.

ARTICLE 17 - DISPUTES

In the event of a dispute between AUTHORITY and CONSULTANT arising out of or related to this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. If the parties cannot thereafter resolve the dispute, each party shall nominate a senior officer of its management to meet to resolve the dispute by direct negotiation or mediation.

Should such negotiation or mediation fail to resolve the dispute, either party may pursue resolution of the dispute by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association; provided, however, in the event the parties are unable to reach agreement to arbitrate under terms reasonably acceptable to both parties, either party may pursue resolution in any court having jurisdiction. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.

ARTICLE 18 - EQUAL EMPLOYMENT OPPORTUNITY

CONSULTANT hereby affirms its support of affirmative action and that it abides by the provisions of the "Equal Opportunity Clause" of Section 202 of Executive Order 11246 and other applicable laws and regulations. CONSULTANT affirms its policy to recruit and hire employees without regard to race, age, color, religion, sex, sexual preference/orientation, marital status, citizen status, national origin or ancestry, presence of a disability or status as a Veteran of the Vietnam era or any other legally protected status. It is CONSULTANT'S policy to treat employees equally with respect to compensation, advancement, promotions, transfers and all other terms and conditions of employment. CONSULTANT further affirms completion of applicable governmental employer information reports including the EEO-1 and VETS-1 00 reports, and maintenance of a current Affirmative Action Plan as required by Federal regulations.

ARTICLE 19 - WAIVER

A waiver by either AUTHORITY or CONSULTANT of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 20 - SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

ARTICLE 21 - INTEGRATION

This Agreement, including Attachments A, B, C, and D incorporated by this reference, represents the entire and integrated agreement between AUTHORITY and CONSULTANT. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

ARTICLE 22 - SUCCESSORS AND ASSIGNS

AUTHORITY and CONSULTANT each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to the successors, executors, administrators, permitted assigns, legal representatives, and partners of such other party in respect to all provisions of this Agreement.

ARTICLE 23 - ASSIGNMENT

Neither AUTHORITY nor CONSULTANT shall assign any rights or duties under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, CONSULTANT may assign its rights to payment without AUTHORITY'S consent. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent CONSULTANT from engaging independent CONSULTANTS, associates, and subcontractors to assist in the performance of the Services.

ARTICLE 24 - NO THIRD PARTY RIGHTS

The Services provided for in this Agreement are for the sole use and benefit of AUTHORITY and CONSULTANT. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than AUTHORITY and CONSULTANT.

IN WITNESS WHEREOF, AUTHORITY and Cabbiness Engineering, LLC have executed this Agreement.

DATED this 14th day of MARCH, 2017.

The Norman Municipal Authority
(AUTHORITY)

Cabbiness Engineering, LLC

Signature [Signature]

Signature [Signature]

Name Lynne Miller

Name J. Bret Cabbiness, P.E.

Title Chairman

Title President

Date 3/14/17

Date March 1, 2017

Attest:
[Signature]
City Clerk

Attest:
[Signature]
Secretary



Approved as to form and legality this 10 day of March 2017.

[Signature]
City Attorney

**ATTACHMENT A
SCOPE OF SERVICES**

The Norman Municipal Authority (Authority) describes the basic scope of work to provide all engineering services necessary to prepare preliminary and final construction plans, specifications, and bid documents in accordance with the requirements of the Oklahoma Department of Transportation (ODOT) and provide technical assistance throughout the design and construction of the James Garner Avenue Project located in the central part of Norman (See Figure 1)

This project will extend James Garner Avenue from Acres Street to Flood Avenue north of Robinson Street with a boulevard type roadway section. Ultimately, this new road will have a direct connection from the north part of Norman to the downtown area. An initial conceptual study on this roadway extension began in the mid-1990s and was planned as a future project with ultimate design considerations included in the Robinson Street Underpass project.

The general civil engineering scope of work to be provided by the Cabbiness Engineering lead design team will include the following design aspects:

- Design the new James Garner Avenue as a boulevard type, two lane road with a landscaped center median from Flood Avenue to Acres Street.
- Design a feasible and functional roadway connection at Flood Avenue that will have an iconic entryway into Norman. Provide a conceptual design of the intersection for Authority or City review and approval prior to commencing the final design.
- Modify the current design of the new James Garner Avenue Bridge over Robinson Street to the latest ODOT specifications and incorporate feasible and functional aesthetics to the structure.
- Re-align the 10 foot wide Legacy Trail to the west side of the new James Garner Avenue roadway and re-connect to the existing trail near the intersection of Flood Avenue and Robinson Street. Also extend Legacy Trail from where it turns west on the south side of Robinson Street across the new James Garner Avenue Bridge and then west to the northeast corner of the Robinson Street/Flood Avenue intersection.
- Incorporate low impact design features, where applicable, into the roadway design, storm water improvements and landscaping.
- Provide a new decorative fence along the west right of way line of the BNSF Railroad for the project extents.
- Prepare all necessary construction documents for the ODOT to advertise, bid and award this project.

Tasks and sub-tasks to be performed to accomplish the scope of work will include the following:

Task 1 ~ Overall Project Management

1. Meet with the Authority, ODOT and stakeholders to discuss the project expectations and overall design concepts.
2. Provide the owner with monthly project updates of the work being performed by the design team. This includes project management of all sub-consultants, communication with stakeholders and coordination with all public entities related to this project.
3. Provide detailed project schedules and monthly updates of the project progress.
4. When requested, attend the City Council meetings or study sessions to provide updates on the project, attend all public meetings with stakeholders to discuss the project's design, and meeting with Authority or City staff.

Task 2 ~ Project Design

Conceptual Design Evaluation and Roadway Geometric design

1. Conduct a project reconnaissance to become familiar with the proposed improvements, the scope of work, and the area affected.
2. Perform a detailed topographic survey locating all adjacent property lines, fences, trees, utilities (above and underground), and other pertinent physical features. Survey data will include alignment ties to section corners, quarter corners or established survey monuments.
3. Generate and analyze up to three intersection configuration alternatives for Flood Avenue and James Garner Avenue connection using traffic data provided by the City of Norman and the Association of Central Oklahoma Governments (ACOG).
4. Perform link level traffic capacity analysis to determine appropriate roadway configuration along James Garner Avenue from Acres Street to Flood Avenue.
5. Meet with the Authority or City to discuss the conceptual design aspects, the results of the traffic capacity analysis and receive design direction.

Environmental Public Meeting

1. The design team will conduct a Public Meeting to present the conceptual plans and solicit input from the public on the proposed improvements. The design team will be responsible for preparing the PowerPoint presentation, display boards, co-present with Authority or City staff at the meeting, and prepare meeting minutes from notes and the audio recording of the meeting.

Preliminary Design Plans

1. The design team will prepare a NEPA footprint exhibit based on the Authority approved conceptual design for the project. The design team will also complete

the NEPA checklist form and submit it along with the NEPA footprint exhibit to the Authority or City for official submission to ODOT. ODOT will handle the environmental clearance process including all documentation necessary for the various studies required. The design team will attend kick-off meeting with ODOT Environmental Programs Division to discuss scope of work and environmental document requirements. We will assist, as needed, by answering questions and providing design information throughout the process.

2. The design team will conduct all required geotechnical field explorations and prepare a detailed study to assist in the roadway and bridge design. This will include the pedological survey to obtain all relevant soil information, including sulfate levels, needed for the design of the pavement. Soil borings will be made along the project alignment for both the roadway and bridge designs. An on-site engineer or geologist will assist with the soil bore logging, visual classification of the subsurface stratigraphy per the Unified Soil Classification System (USCS). The engineer will collect intermittent soil samples for both field and laboratory material testing. Laboratory tests will be assigned based on the specific subsurface materials encountered during exploration. Test type and quantity may vary, but are expected to include:
 - a. Classification tests (liquid and plastic limits and percent passing the no. 200 sieve or gradation)
 - b. Moisture content
 - c. Dry unit weight
 - d. Unconfined compressive strength on NX-core samples
 - e. Standard proctor testing of bulk subgrade samples
 - f. Resilient modulus testing of bulk subgrade samples

The design team will prepare a summary report of the geotechnical investigation to include:

- a. Appendix with the boring locations, boring logs, laboratory test results, and a key to the symbols used.
- b. Discussion of subsurface conditions and soil properties indicated by the field and laboratory work, and the implications for design.
- c. Foundation recommendations for the proposed bridge crossing, including abutment retaining walls. Lateral earth pressures will be provided when appropriate.
- d. Pavement thickness recommendations for the proposed roadway, including subgrade preparation and base requirements (when applicable).
- e. General discussion of expected construction related issues.
- f. Earthwork related recommendations for use during development of the plans and specifications.

3. The design team will develop preliminary design construction plans (30% complete) based upon the Authority or City approved conceptual design. The preliminary design will include:
 - a. Roadway horizontal alignment and vertical profile depicted on plan and profile sheets
 - b. Finalize Flood Avenue/Robinson Street intersection configuration. A traditional signalized intersection design fee has been assumed for this contract. If an alternate configuration is selected, additional design fees will be handled with a supplemental agreement.
 - c. Bridge general plan and elevation sheets
 - d. Storm water management and storm sewer design including low-impact design concepts
 - e. Roadway cross section sheets
 - f. Legacy Trail relocation and design compliant with current ADA guidelines
 - g. Landscaping and streetscape conceptual designs (median only)
 - h. Street lighting and pedestrian (trail) lighting
 - i. Preliminary construction sequencing plan

4. The design team will prepare a written analysis that includes design requirements (i.e., pavement design, drainage, etc.), all necessary calculations, and a detailed cost estimate. The design analysis will be submitted for written approval to the Authority or City before proceeding with the next milestone submittal of plans and specifications.

Right-of-Way and Utility Design Submittal (65% Complete Plans)

1. The design team will refine the Authority or City approved preliminary construction plans to a level of completeness to accurately depict the necessary right-of-way requirements for the project. This level of completeness is approximately 65% complete construction plans. The Right-of-Way and Utility Design plans will include:
 - a. Finalized roadway horizontal alignment and vertical profile depicted on plan and profile sheets
 - b. Pay item summaries and general notes
 - c. Refined bridge general plan and elevation sheets
 - d. Refined bridge superstructure, girders, deck and railing sheets
 - e. Refined bridge substructure sheets
 - f. Refined storm water management and storm sewer design including low-impact design concepts
 - g. Refined roadway cross section sheets
 - h. Refined Legacy Trail design compliant with current ADA guidelines
 - i. Refined landscaping and streetscape conceptual designs
 - j. Refined street lighting and pedestrian (trail) lighting
 - k. Refined construction sequencing plan

2. The design team will strive to avoid all existing utilities. However, it is anticipated some existing utilities will need to be relocated. If new utility corridors are to be established, these will require new right-of-way and easements necessary for construction. The design team will furnish required plans and specifications to each utility company affected as determined to be necessary to coordinate the project construction and utility relocations. The design team will request written approvals from all utility companies as to the accuracy of all facilities to remain in place shown on the plans.
3. The design team will prepare all necessary right-of-way plans and documents for the project including legal descriptions, plot plans and easement forms for the appraisers use during acquisitions. New easement staking will also be provided.
4. The design team will prepare a detailed cost estimate based upon the level of completeness of the construction plans. The cost estimate will be submitted for written approval to the Authority or City before proceeding with the next milestone submittal of plans and specifications.

Final Design (95% Complete Plans) Submittal

1. The design team will complete the project's final design of the James Garner Avenue plans and submit to the Authority or City, 95% complete construction plans for final review and approval. The final design plans will show all right-of-way information including existing and proposed right-of-way limits and platted property lines. The design team will prepare detailed plans including, but not limited to:
 - a. Title Sheet
 - b. Typical Sections Sheet
 - c. Pay Item Summaries and General Notes
 - d. Survey Data Sheets
 - e. Roadway Plan and Profile Sheets
 - f. Storm Water Plan and Profile Sheets
 - g. Trail Plan and Profile Sheets
 - h. Bridge General Plan and Elevations Sheets
 - i. Bridge Superstructure, Girders, Deck and Railing Sheets
 - j. Bridge Pier and Abutment Sheets
 - k. Street Lighting Sheets
 - l. Landscaping and Streetscape Plan and Detail Sheets
 - m. Miscellaneous Detail Sheets
 - n. Temporary and Permanent Erosion Control Plan Sheets
 - o. Construction Sequencing Plan and Detail Sheets

2. The design team will prepare final construction plans, special provisions and a construction cost estimate in accordance with the requirements of the ODOT policies and procedures.

Final Plans, Specifications and Estimate (P,S & E) Submittal

1. The design team will make final changes to the project's design as requested by the Authority or City and ODOT from their 95% complete plans review.
2. The design team will prepare the final plans, specifications, list of special provisions and a detail construction estimate for submittal to the Authority or City and ODOT. All final plans and specifications will be signed and sealed by a licensed Professional Engineer registered in the State of Oklahoma.

Task 3 ~ Bidding Services

1. The design team will provide the Authority and ODOT support services during the bidding for this project. Those support services include:
 - a. Attendance at the pre-bid meeting
 - b. Review all questions and comments presented at the pre-bid meeting and formulate written responses
 - c. Review bid tabulations and make recommendations as required
 - d. Prepare a written award recommendation letter as required

Task 4 ~ Construction Support Services

1. The design team will provide the Authority and ODOT support services during the construction of this project. Those support services include:
 - a. Attendance at the pre-work meeting
 - b. Review all questions and comments presented at the pre-work meeting and formulate written responses
 - c. Review all Requests for Information (RFI's) and formulate written responses for the Authority or City
 - d. Review all Shop Drawings and Submittals and formulate written responses for the Authority or City
 - e. Review all Change Orders (CO's) and formulate written responses for the Authority or City
 - f. Attend construction progress meeting as needed or requested by the Authority or City

Task 5 ~ As-Built Plan Services

1. The design team will provide the Authority or City and ODOT as-built construction drawing in electronic format (PDF's and CADD Files) at the completion of construction.

Scope of Work Assumptions

1. The Authority or City will provide all traffic counts and data needed for the traffic capacity analysis.
2. The Authority or City will coordinate with ACOG for their update of the regional traffic model to reflect a connection of James Garner Avenue to Flood Avenue north of Robinson Street.
3. ODOT Environmental Programs Division will prepare the environmental clearance documents and perform studies necessary per the NEPA process.
4. The Authority or City will provide notices for all public meetings in accordance with ODOT/NEPA public meeting requirements.

Additional Services To Be Added by Contract Amendment

1. Railroad Coordination: If required by the Authority or City or ODOT, coordination with the BNSF Railroad will be handled by the specialty consultant and the design team. This service will be paid on an hourly not to exceed basis.
2. Public (City of Norman) Utility Relocations: If required by the Authority or City or ODOT, public utility relocation designs will be handled by the design team. This service will be paid on a lump sum not to exceed basis.
3. Permitting: Any required local, state or federal permitting for public utilities will be handled by the design team. The utility owner (the City of Norman) will be responsible for payment of all fees for these permits.
4. Additional Topographical Survey: If required by the Authority or City or ODOT, any additional topographical survey will be added by a specific contract amendment. This service will be paid on an hourly basis with a not to exceed fee negotiated prior to commencement of work.

Figure 1.



**ATTACHMENT B
PROJECT SCHEDULE**

ARTICLE 4 of the AGREEMENT is amended and supplemented to include the following agreement of the parties.

It is understood and agreed that the date of beginning, rate of progress, and the time of completion of SERVICES under this AGREEMENT are essential provisions of this AGREEMENT. It is further understood and agreed that the SERVICES under this AGREEMENT shall commence upon execution of the AGREEMENT between the AUTHORITY and the CONSULTANT and after receipt of a written Notice to Proceed from the CONSULTANT. The parties mutually agree that time is of the essence in the performance of this AGREEMENT in order for the AUTHORITY to take advantage of existing funding. The CONSULTANT agrees to provide SERVICES for each phase of the PROJECT as stated in Attachment A - Scope of Services, in accordance with the time frame as stated below:

Notice to Proceed	March 2017
Conceptual Design Services	July 2017
Preliminary Design	December 2017
65% Plan-in-Hand (R/W & Utility Submittal)	May 2018
ROW Acquisition Documents Final	July 2018
Final Plans 95% - Not Bid Set	November 2018
Submit TIPs to ACOG	January 2019
Plans, Specifications and Estimate (P,S,& E) Submission	February 2019

The parties further agree that the CONSULTANT will meet this schedule using standards and procedures for their submissions consistent with those currently used by Engineers/Surveyors practicing in Oklahoma. This schedule excludes the governing agency review time (except as provided above) and anytime lost while the CONSULTANT is waiting for direction either by a government agency or the AUTHORITY, and any excusable delays as described in ARTICLE 15 of the AGREEMENT.

Dates indicated are dependent upon timely review by the AUTHORITY, environmental clearance, Right-of-Way acquisitions, utility relocations and other factors beyond direct control of the CONSULTANT.

**ATTACHMENT C
COMPENSATION**

ARTICLE 5 of the AGREEMENT is amended and supplemented to include the following agreement of the parties.

The CONSULTANT agrees to perform the SERVICES identified in Attachment A - Scope of Services, in accordance with the limitations and conditions set forth in the AGREEMENT. The AUTHORITY agrees, in accordance with the limitations and conditions set forth in the AGREEMENT to pay an amount not to exceed \$427,000.00 unless changed or modified by a mutually executed contact amendment between the AUTHORITY and the CONSULTANT.

The AUTHORITY shall pay the CONSULTANT for completion of the SERVICES of each task identified in Attachment A - Scope of Services, in accordance with the amounts stated below:

James Garner Avenue Extension Design Fees	
Task 1 ~ Overall Project Administration	\$ 35,600.00
Task 2A ~ Preliminary Design	\$ 137,455.00
Task 2B ~ R/W & Utility Submittal (65% Complete Design)	\$ 133,641.25
Task 2C ~ Final Design (95% Complete Design)	\$ 75,416.25
Task 2D ~ Final Plans, Specifications & Estimate (P,S&E Submittal)	\$ 26,587.50
Task 3 ~ Bidding Services	\$ 4,800.00
Task 4 ~ Construction Support Services	\$ 6,000.00
Task 5 ~ As-Built Plans & Contract Closeout	\$ 7,500.00
Total Design Fees	\$427,000.00

Payment claims or invoices for incremental work completed on each task may be submitted by the CONSULTANT to the AUTHORITY for prompt payment on a monthly basis.

Final payment shall not be deemed to waive any rights or obligation of the AUTHORITY or the CONSULTANT to this AGREEMENT.

**ATTACHMENT D
AUTHORITY'S RESPONSIBILITIES**

ARTICLE 6 of the AGREEMENT is amended and supplemented to include the following agreement of the parties.

AUTHORITY'S RESPONSIBILITIES

1. The AUTHORITY shall furnish to the CONSULTANT all available information pertinent to PROJECT including previous reports, construction plans and any other data relative to design and construction of the PROJECT.
2. The AUTHORITY shall be responsible for all permit fees.
3. The AUTHORITY shall examine all studies, reports, sketches, estimates specifications, plan drawings, proposals and any other documents presented by the CONSULTANT and render in writing decisions pertaining thereto within a reasonable time so as not to delay the SERVICES of the CONSULTANT.
4. The AUTHORITY shall designate in writing a person to act as its representative in respect to the work to be performed under this AGREEMENT, and such person shall have complete authority to transmit instructions, receive information, interpret, and define the AUTHORITY's policies and decisions with respect to materials, equipment, elements and systems pertinent to the services covered by this AGREEMENT.
5. The AUTHORITY shall furnish legal assistance as required in the preparation, review and approval of construction documents.
6. The AUTHORITY shall provide for meeting facilities (or arrange for meeting facilities) for all PROJECT meetings with AUTHORITY.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/01/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh Sponsored Programs a division of Marsh USA Inc. PO Box 14404 Des Moines IA 50306	CONTACT NAME 	
	PHONE (A/C No. Ext): 800-338-1391	FAX (A/C, No): 888-621-3173
EMAIL ADDRESS: acecclientrequest@marsh.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Sentinel Insurance Company Ltd		11000
INSURER B: Twin City Fire Insurance Co		29459
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

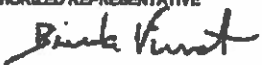
COVERAGES	CERTIFICATE NUMBER:	REVISION NUMBER:
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADOL	UBUM	INSR	WVD	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	Y				B4SBWIH7342	04/15/2016	07/15/2017	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y				B4SBWIH7342	04/15/2016	07/15/2017	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$10,000					B4SBWIH7342	04/15/2016	07/15/2017	EACH OCCURRENCE \$9,000,000 AGGREGATE \$9,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in HI) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N			N/A	B4WEGZF6796	07/15/2016	07/15/2017	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Valuable Papers					B4SBWIH7342	07/15/2016	07/15/2017	Limit \$250,000 Deductible \$250

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
RE: K-1617-105 / James Garner Avenue This project will extend James Garner Avenue from Acres Street to Flood Avenue north of Robinson Street with a boulevard type roadway section.
OWNER, CONSULTANT, and its parent company, affiliated and subsidiary entities, directors, officers and employees are included as additional insured on the above referenced policies when required by written contract. 30 day notice of cancellation for the certificate holder per policy endorsement.

CERTIFICATE HOLDER	CANCELLATION
---------------------------	---------------------

City of Norman Attn: Tim M. Miles, P.E. P.O. Box 370 Norman, OK 73070	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/01/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh Sponsored Programs a division of Marsh USA Inc. PO Box 14404 Des Moines IA 50306	CONTACT NAME _____	
	PHONE (A/C No. Ext) 800-338-1391	FAX (A/C No.) 888-621-3173
E-MAIL ADDRESS: acecclientrequest@marsh.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Beazley Insurance Company, Inc.		37540
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED Cabbiness Engineering, LLC 333 12th Ave. SE, Suite 200 Norman OK 73071
--

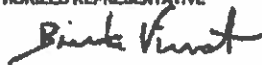
COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSUR LTR	TYPE OF INSURANCE	ADDITIONAL INSURER	W/O	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPROP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A						WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			V15UPM160701	07/09/2016	07/09/2017	Per claim \$1,000,000 Aggregate \$1,000,000 Deductible \$25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 This policy is not project specific and therefore includes: K-1617-105 / James Garner Avenue This project will extend James Garner Avenue from Acres Street to Flood Avenue north of Robinson Street with a boulevard type roadway section.

CERTIFICATE HOLDER**CANCELLATION**

City of Norman Attn: Tim M. Miles, P.E. P.O. Box 370 Norman, OK 73070	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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PURCHASE ACQUISITION NO: 0000276239

ACQUISITION BY: TWILSS
STATUS: DIVISION APPROVAL
REASON: DESIGN SERVICES ON JAMES GARNER AVE PROJECT
DATE: 3/01/17

DELIVER BY DATE: 3/01/17

SUGGESTED VENDOR: 1:251 CAROLINESS ENGINEERING LLC

LINE	DESCRIPTION	QUANTITY	UNIT	EXTEND	UNIT	EXTEND	VENDOR PART NUMBER
NR				COST		COST	

1	FRECK AND FIBAL DESIGN SERVICES, JAMES GARNER	427000.00	DOL	1.0000	427000.00		
---	---	-----------	-----	--------	-----------	--	--

COMMODITY: CONSULTING SERVICES
SUB-COMMOD: ENGINEERING CONSULTING

ACQUISITION TOTAL: 427000.00

ACCOUNT INFORMATION

LINE #	ACCOUNT	PROJECT	AMOUNT
1	051948833-6203	Ecological Projects- Design	427000.00
		James Garner:Flood-Acres	427000.00

REQUISITION IS IN THE CURRENT FISCAL YEAR.

REQUISITION COMMENTS

FUNDING FOR THIS PROJECT WILL REQUIRE COUNCIL ACTION TO APPROPRIATE FUNDS FROM WEGMAN FORWARD FUND BALANCE ACCOUNT 051-0000-253.20-06 TO THE WEGMAN FORWARD PROJECT NO. WEP004, DESIGN ACCOUNT 051-9405-431.52-01.



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: AP-1617-15

File ID: AP-1617-15	Type: Appointment	Status: Consent Item
Version: 1	Reference: Item 10	In Control: City Council
Department: City Clerk Department	Cost:	File Created: 01/23/2017
File Name: Griffin Park and Reves Park Ad Hoc Group Appts	Final Action:	

Title: CONSIDERATION OF THE MAYOR'S APPOINTMENTS AS FOLLOWS:

GRIFFIN PARK AD HOC ADVISORY GROUP
 CAROL DILLINGHAM, CHAIR
 CHRISTY FUENTES
 STEVE GILLIS
 RANDY LAFFOON
 TOM WOODFIN

REAVES PARK AD HOC ADVISORY GROUP
 GARRY ARMSTRONG, CHAIR
 ANN MARIE ECKART
 WILLIAM MURRAY
 CRAIG PARKER
 TRENT WELLS

Notes: ACTION NEEDED: Motion to confirm, or reject the appointments.

ACTION TAKEN: GH/SH 9/6

Agenda Date: 02/14/2017

Agenda Number: 10

Attachments:

Project Manager: Brenda Hall, City Clerk

Entered by: ellen.usry@normanok.gov

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	02/14/2017					

Text of Legislative File AP-1617-15



DATE: January 5, 2017

TO: City Councilmembers

FROM: Mayor Lynne Miller

SUBJECT: Nominations for the Griffin Park Ad Hoc Group and the Reaves Parks Ad Hoc Group

I would like your permission to make the following appointments to the Griffin Park Ad Hoc Group and the Reaves Parks Ad Hoc Group. When the original applications were submitted for the NORMAN FORWARD Oversight Committee others were received showing interest to serve on a specific ad groups as well. Some of the nominations are from those applications.

The consultant contracts are anticipated to be submitted for Council approval sometime in February and it is important to get the ad hoc groups organized as the projects begin the design/development process. Staff has made contact with each individual and all have indicated a willingness to serve.

<u>GRIFFIN PARK AD HOC GROUP</u>	<u>BACKGROUND</u>
Tom Woodfin	Professor – Bicycle Advisory Committee
Steve Gillis	Norman Youth Soccer Association
Christy Fuentes	Norman Youth Soccer Association
Carol Dillingham	Attorney/Visit Norman Board
* Randy Laffoon	Sports Talk Radio/NYSCA/Visit Norman Board
<u>REAVES PARK AD HOC GROUP</u>	<u>BACKGROUND</u>
Ann Marie Eckart	Medieval Fair
* Trent Wells	Baseball background
Craig Parker	Silver Star Construction/volunteer coach
* Garry Armstrong	OU Huston Huffman Center/baseball background
William Murray	Montford Inn/Visit Norman Board

Unless I hear objections, these appointments will be placed on the February 14, 2017, City Council Agenda.

bsh
attachments

office memorandum

From: webteam@normanok.gov on behalf of [City of Norman](#)
To: [Brenda Hall](#)
Subject: Form submission from: Board Application Form
Date: Friday, January 06, 2017 1:01:58 PM

Submitted on 01/06/2017 - 12:48pm
 Submitted by anonymous user: [72.198.25.206]

Submitted values are:

Full Name:

First Name: Garry

Middle Name:

Last Name: Armstrong

Personal Information:

Address:

Number: 1113

Street: Sparrow Hawk Dr.

Zip: 73072

Home Phone: 4056644447

Email Address: garryarmstrong69@gmail.com

Are you a resident of Norman?: Yes

Number of years resided in Norman: 26

Civic Activities: BOD meals on wheels, sports committee for CVB, volunteer Special Olympics.

Occupation:

Position: Assistant Director

Employer: University of Oklahoma

Business Address:

Number/Street: 1401 Asp Ave., Room 170

City/State: Norman, OK

Zip Code: 73019

Business Phone: 4053253053

Board Related Information:

Additional employment or education information that would be applicable to the particular board or commission:

University of Oklahoma Intramural Sports Director since 1994, coached youth baseball through Norman Optimist Club from 2005-2012, ad hoc sports committee with Norman CVB that help bring tournaments and events to Norman.

List boards/commissions/committees/task forces on which you desire appointment and explain why you are interested in service:

Reaves Park Ad Hoc Group

Do you have any direct or indirect financial or economic interest in any business or other undertaking (whether for profit or not for profit) that may have business coming before the board or commission for which you have applied? : No

If yes, please describe that interest in the space below:

From: webteam@normanok.gov on behalf of **City of Norman**
To: **Brenda Hall**
Subject: Form submission from: Board Application Form
Date: Friday, January 06, 2017 1:47:19 PM

Submitted on 01/06/2017 - 1:34pm
Submitted by anonymous user: [98.168.191.164]

Submitted values are:

Full Name:

First Name: Ann

Middle Name: Marie

Last Name: Eckart

Personal Information:

Address:

Number: 136

Street: E. Tiller Dr.

Zip: 73110

Home Phone: 405-741-4283

Email Address: ameckart@ou.edu

Are you a resident of Norman?: No

Number of years resided in Norman: 0

Civic Activities: Member of Norman Arts Council Roundtable, Medieval Fair

Coordinator

Occupation:

Position: Medieval Fair Coordinator

Employer: University of Oklahoma

Business Address:

Number/Street: 1700 Asp Ave.

City/State: Norman

Zip Code: 73072

Business Phone: 405-325-8610

Board Related Information:

Additional employment or education information that would be applicable to the particular board or commission:

Education-Bachelor Business Administration in Business Communications from University of Central Oklahoma.

Employment-University of Oklahoma, Program Specialist/Medieval Fair Coordinator

List boards/commissions/committees/task forces on which you desire appointment and explain why you are interested in service:

Reaves Park Ad Hoc Group for the NORMAN FORWARD improvements to the park.

I am interested in appointment to this group because the changes to Reaves Park will directly affect the Medieval Fair, the execution of which is my primary job function. I also believe I can be a valuable asset because of my intimate knowledge of the lay of the park and many of its issues, knowledge that comes from my many years of working at Norman's largest festival, first as a volunteer and later as the coordinator.

Do you have any direct or indirect financial or economic interest in any business or other undertaking (whether for profit or not for profit) that may have business coming before the board or commission for which you have applied? : No

From: webteam@normanok.gov on behalf of City of Norman
To: Brenda Hall
Subject: Form submission from: Board Application Form
Date: Friday, January 06, 2017 12:41:24 PM

Submitted on 01/06/2017 - 12:28pm
Submitted by anonymous user: [70.165.18.99]

Submitted values are:

Full Name:

First Name: William

Middle Name: Holmes

Last Name: Murray

Personal Information:

Address:

Number: 329

Street: W. Tonhawa St.

Zip: 73069

Home Phone: 405-623-5482

Email Address: whmdad@yahoo.com

Are you a resident of Norman?: Yes

Number of years resided in Norman: 32

Civic Activities: 8+ years on VisitNorman BOD, NAC Grants Committee
(3x), Leadership Norman

Occupation:

Position: owner

Employer: Montford Inn

Business Address:

Number/Street: 322 W. Tonhawa St.

City/State: Norman, OK

Zip Code: 73069

Business Phone: 405-321-2200

Board Related Information:

Additional employment or education information that would be applicable to the particular board or commission:

List boards/commissions/committees/task forces on which you desire appointment and explain why you are interested in service:

Reaves Park Ad Hoc Group

Do you have any direct or indirect financial or economic interest in any business or other undertaking (whether for profit or not for profit) that may have business coming before the board or commission for which you have applied? : No

If yes, please describe that interest in the space below:

From: webteam@normanok.gov on behalf of City of Norman
 To: Brenda Hall
 Subject: Form submission from: Board Application Form
 Date: Tuesday, November 03, 2015 6:28:22 AM

Submitted on 11/03/2015 - 6:22am
 Submitted by anonymous user: [24.248.119.154]

Submitted values are:

Full Name:

First Name: Craig
 Middle Name: Wendell
 Last Name: Parker

Personal Information:

Address:

Number: 625
 Street: Manor Hill Dr
 Zip: 73072

Home Phone: 405-321-3689

Email Address: craig@silverstarconst.com

Are you a resident of Norman?: Yes

Number of years resided in Norman: 46

Civic Activities: Youth Baseball Coach, Norman Chamber Centurion

Occupation:

Position: Exec Vice President
 Employer: Silver Star Construction Co., Inc.

Business Address:

Number/Street: 2401 S. Broadway
 City/State: Moore, OK
 Zip Code: 73160

Business Phone: 405-793-1725

Board Related Information:

Additional employment or education information that would be applicable to the particular board or commission:

Past President, Oklahoma Asphalt Pavement Association
 Past President, Oklahoma Municipal Contractors Association
 Exec Board of the National Asphalt Pavement Association
 Incoming 1st Vice Chairman, National Asphalt Pavement Association

List boards/commissions/committees/task forces on which you desire appointment and explain why you are interested in service:

Norman Forward Expenditure Citizen Oversight Board

Revised

Do you have any direct or indirect financial or economic interest in any business or other undertaking (whether for profit or not for profit) that may have business coming before the board or commission for which you have applied? : Yes

If yes, please describe that interest in the space below:

I am a principal in Silver Star Construction Co. A paving and Excavation Co that does business with The City of Norman.

From: webteam@normanok.gov on behalf of City of Norman
To: Brenda Hall
Subject: Form submission from: Board Application Form
Date: Friday, January 06, 2017 10:48:46 AM

Submitted on 01/06/2017 - 10:35am
Submitted by anonymous user: [129.15.169.38]

Submitted values are:

Full Name:

First Name: Trent

Middle Name: Robert

Last Name: Wells

Personal Information:

Address:

Number: 4211

Street: Ridgeline Circle

Zip: 73072

Home Phone: 405-642-7555

Email Address: twells@ou.edu

Are you a resident of Norman?: Yes

Number of years resided in Norman: 42

Civic Activities: I am very actively involved in little league athletics.

Occupation:

Position: Vice-President and Chief Financial Officer

Employer: The University of Oklahoma Foundation, Inc.

Business Address:

Number/Street: 100 Timberdell Road

City/State: Norman Oklahoma

Zip Code: 73019

Business Phone: 405-310-4822

Board Related Information:

Additional employment or education information that would be applicable to the particular board or commission:

List boards/commissions/committees/task forces on which you desire appointment and explain why you are interested in service:

Reaves Park Ad Hoc Group - I am interested in this group as I am very actively involved with little league baseball in Norman. I usually coach two or three teams a season. Plus, I have four kids, so I really care about youth athletics in general.

Do you have any direct or indirect financial or economic interest in any business or other undertaking (whether for profit or not for profit) that may have business coming before the board or commission for which you have applied? : No

If yes, please describe that interest in the space below:

From: webteam@normanok.ok.gov on behalf of City of Norman
To: Brenda Hall
Subject: Form submission from: Board Application Form
Date: Saturday, January 14, 2017 7:16:20 PM

Submitted on 01/14/2017 - 7:02pm
Submitted by anonymous user: [68.97.17.172]

Submitted values are:

Full Name:

First Name: Tom

Middle Name: McCall

Last Name: Woodfin

Personal Information:

Address:

Number: 232

Street: Ness Drive

Zip: 73069

Home Phone: 4057017074

Email Address: thomaswoodfin@yahoo.com

Are you a resident of Norman?: Yes

Number of years resided in Norman: 6

Civic Activities: cycling advocacy, support of PAS Norman, Earth Day

Occupation:

Position: Professor

Employer: University of Oklahoma

Business Address:

Number/Street: 830 Van Vleet Oval, Gould Hall Rm 252

City/State: Norman

Zip Code: 73019-6141

Business Phone: 4053252299

Board Related Information:

Additional employment or education information that would be applicable to the particular board or commission:
registered landscape architect (# 710 Texas)
active in recreation advocacy in Norman
chair of Norman Bicycle Advisory Committee

List boards/commissions/committees/task forces on which you desire appointment and explain why you are interested in service:
Giffin Park Ad Hoc Advisory Group

Do you have any direct or indirect financial or economic interest in any business or other undertaking (whether for profit or not for profit) that may have business coming before the board or commission for which you have applied? : No

If yes, please describe that interest in the space below:

BOARDS/COMMISSIONS/COMMITTEES
CITY OF NORMAN

Please Print

Fuentes Christy F
NAME (Last) (First) (Middle)

ADDRESS 3916 SE 41st Pl 73160 (Number/Street/Zip Code) (Home Phone) 405-514-6401 (Work/Cell Phone)

NUMBER OF YEARS RESIDED IN NORMAN 15 ARE YOU A RESIDENT OF NORMAN? No

E-MAIL ADDRESS christyfuentesloans@gmail.com

CIVIC ACTIVITIES NYSA Board 2008-present; positions held Secretary, President, Elected President, Past President

EMPLOYER Citywide Mortgage OCCUPATION Loan Officer

BUSINESS ADDRESS 9400 S.J-35 S.W.Rd. OKC 73160 405-794-4412
(Number/Street) (City/State) (Zip Code) (Phone)

ADDITIONAL EMPLOYMENT OR EDUCATIONAL INFORMATION THAT WOULD BE APPLICABLE TO THE PARTICULAR BOARD OR COMMISSION:

All Saints PTO 2013-Present, positions held Treasurer, 1st Vice-President, President
Griffin Steering Committee
Participated in the Advisory Services Panel with the City of Norman & ULI

LIST BOARDS/COMMISSIONS/COMMITTEES/TASK FORCES ON WHICH YOU DESIRE APPOINTMENT AND EXPLAIN WHY YOU ARE INTERESTED IN SERVICE:

Griffin Park Soccer Improvements/Norman Forward-
I have been actively involved in soccer's portion of the Norman Forward initiative.
I would like to continue to be involved in the planning and execution of the improvements to Griffin Park.

DO YOU HAVE ANY DIRECT OR INDIRECT FINANCIAL OR ECONOMIC INTEREST IN ANY BUSINESS OR OTHER UNDERTAKING (whether or not for profit) THAT MAY HAVE BUSINESS COMING BEFORE THE BOARD OR COMMISSION FOR WHICH YOU HAVE APPLIED? No Yes

IF YES, PLEASE DESCRIBE THAT INTEREST IN THE SPACE IMMEDIATELY BELOW (if you need additional space, please attach additional sheets, as necessary)

CAF 12-9-15
(Signature) (Date)

Note: The City of Norman Charter requires those members serving on the Norman Regional Hospital Authority, Parks Board, and Reapportionment Commission be registered voters of the City of Norman.

I recognize the City of Norman has an Ethics Policy for appointed members of all City Board, Commissions, and Committees and I agree to conduct myself in conformance with said policy.

Return To: CITY CLERK
POST OFFICE BOX 370
NORMAN, OKLAHOMA 73070
FAX 405-366-5389

From: webteam@normanok.gov on behalf of [City of Norman](#)
To: [Brenda Hall](#)
Subject: Form submission from: Board Application Form
Date: Wednesday, November 18, 2015 8:35:50 PM

Submitted on 11/18/2015 - 8:29pm
 Submitted by anonymous user: [72.200.205.179]

Submitted values are:

Full Name:
First Name: Steve
Middle Name:
Last Name: Gillis
Personal Information:
Address:
Number: 4315
Street: Lorings Circle
Zip: 73072
Home Phone: 405-329-2455
Email Address: swg13@cox.net
Are you a resident of Norman?: Yes
Number of years resided in Norman: 40
Civic Activities: Various school activities, PTA, Booster Club, Norman Youth Soccer Assoc.
Occupation:
Position: Owner/Operator
Employer: Self employed DBA: SW Gillis
Business Address:
Number/Street: PO Box 815
City/State: Norman, OK
Zip Code: 73070
Business Phone: 405-329-2455
Board Related Information:
Additional employment or education information that would be applicable to the particular board or commission:
 Over the last 25 years I have been involved with the Norman Youth Soccer Association holding various board positions along with 2 terms as the President. I have a vast knowledge of the day in and day out operations of the soccer complex including: league scheduling, hosting tournaments, field layout, grass/turf management, field lighting, irrigation and pump system operations and maintenance, and parking needs.

List boards/commissions/committees/task forces on which you desire appointment and explain why you are interested in service:
 The committee on which I wish to serve is the Griffin Park Soccer Complex Improvements Committee. I have had an opportunity to work with the Norman Youth Soccer Program from the early years of my children playing to the present being involved with the oversight and maintenance of the complex and am looking forward to an opportunity to participate in the improvements of which Norman Forward can bring to the community and the youth of Norman.

Do you have any direct or indirect financial or economic interest in any business or other undertaking (whether for profit or not for profit) that may have business coming before the board or commission for which you have applied? : No

If yes, please describe that interest in the space below:

From: webteam@normanok.gov on behalf of **City of Norman**
To: **Brenda Hall**
Subject: Form submission from: Board Application Form
Date: Friday, January 06, 2017 11:46:22 AM

Submitted on 01/06/2017 - 11:33am
 Submitted by anonymous user: [70.164.206.225]

Submitted values are:

Full Name:

First Name: Randy

Middle Name:

Last Name: Laffoon

Personal Information:

Address:

Number: 4705

Street: Isabella

Zip: 73072

Home Phone: 4056308563

Email Address: randy@sportstalk1400.com

Are you a resident of Norman?: Yes

Number of years resided in Norman: 41

Civic Activities: Norman Rotary Club, Norman Public School Foundation

Board Member

Occupation:

Position: Owner of SportsTalk 1400/99.3 and Boyd Street Magazine

Employer: Self

Business Address:

Number/Street: 2020 East Alameda

City/State: Norman

Zip Code: 73071

Business Phone:

Board Related Information:

Additional employment or education information that would be applicable to the particular board or commission:

Norman Regional Hospital Foundation Board Member, Visit Norman Board Member

Mayoral Appointment,

Norman Chamber of Commerce Board Member

List boards/commissions/committees/task forces on which you desire appointment and explain why you are interested in service:

Ad Hoc member of the Griffin Park Norman Forward Committee. I am a former President of NYSA

and was part of the group that raised the money for the improvements that were done 10 years ago to the current site. i believe done correctly Griffin Park will have a huge economic effect on our city.

Do you have any direct or indirect financial or economic interest in any business or other undertaking (whether for profit or not for profit) that may have business coming before the board or commission for which you have applied? : No

If yes, please describe that interest in the space below:

From: webteam@normanok.gov on behalf of [City of Norman](#)
To: [Brenda Hall](#)
Subject: Form submission from: Board Application Form
Date: Sunday, January 08, 2017 2:51:59 PM

4

Submitted on 01/08/2017 - 2:38pm
Submitted by anonymous user: [156.110.99.121]

Submitted values are:

Full Name:

First Name: Carol

Middle Name: Price

Last Name: Dillingham

Griffin

Personal Information:

Address:

Number: 1711

Street: S Pickard Avenue

Zip: 73072

Home Phone: 405-826-7160

Email Address: cdillingham52@gmail.com

Are you a resident of Norman?: Yes

Number of years resided in Norman: 40+

Civic Activities: Bethesda, Girl Scouts, CASA fundraising, VisitNorman,
City Council,

Occupation:

Position: Civil Division Attorney

Employer: DA District 21

Business Address:

Number/Street: 201 S. Jones Suite 300

City/State: Norman, OK

Zip Code: 73069

Business Phone: 405-573-1301

Board Related Information:

Additional employment or education information that would be applicable
to the particular board or commission:

Involvement with VisitNorman will work nicely with planning the Norman
Forward sports venues. It will give the CVB some really good direction in
its long range planning, and my understanding of the impact that these venues
will have on our city finances, increasing the "heads in beds" will increase
the guest tax which will help the arts and parks etc.

List boards/commissions/committees/task forces on which you desire
appointment and explain why you are interested in service:

COMMITTEE RELATED TO SPORTS VENUES FOR NORMAN FORWARD
Griffin Park Ad Hoc Group

Do you have any direct or indirect financial or economic interest in any
business or other undertaking (whether for profit or not for profit) that may
have business coming before the board or commission for which you have
applied? : No

If yes, please describe that interest in the space below:



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: K-1617-97

File ID: K-1617-97	Type: Contract	Status: Passed
Version: 2	Reference: Item 22	In Control: City Council
Department: Legal Department	Cost: \$100,000.00	File Created: 01/17/2017
File Name: Westwood Complex Sculpture Project		Final Action: 01/24/2017

Title: **CONTRACT K-1617-97: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND MGA SCULPTURE STUDIO, L.L.C., IN THE AMOUNT OF \$100,000 FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND FOR THE PURCHASE OF A SCULPTURE TO BE PLACED AT THE WESTWOOD COMPLEX.**

Notes: ACTION NEEDED: Motion to approve or reject Contract K-1617-97 with MGA Sculpture Studio, L.L.C., in the amount of \$100,000; and, if approved, authorize the execution thereof.

ACTION TAKEN: GH/BH-8/0

Agenda Date: 01/24/2017

Agenda Number: 22

Attachments: Text File MGA, Contract, Location map, Westwood sculpture rendering

Project Manager: Leah Messner, Assistant City Attorney

Entered by: sancinias@normanok.gov

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
2	City Council	01/24/2017	Approved				Pass
Action Text: A motion was made by Council Member Helple, seconded by Council Member Hickman, that this Contract be Approved . The motion carried by the following vote:							

Text of Legislative File K-1617-97

Body

BACKGROUND: The City of Norman, the Norman Arts Council (NAC) and the Public Arts Board (PAB) have partnered in projects to install art in public places within the City of Norman. Through this partnership, the NAC has purchased art pieces, and the City provides a location for the piece(s) within public spaces owned by the City of Norman.

With the adoption of Norman Forward, the City committed to expend an amount not to exceed 1% of the aggregate construction costs of major facilities and community parks improvements costs on public art at those facilities and parks. Because of the City's positive relationship with the NAC and the NAC's commitment to the sense of community fostered by public art, the NAC has agreed to expand the partnership with the City of Norman to assist with the selection, location, and installation of public art purchased with Norman Forward sales tax revenue. The terms of this partnership were discussed at the City Council Conference of February 9, 2016 and at the Norman Forward Citizen's Financial Oversight Committee meeting of March 28, 2016.

Under the terms of the approved Services Agreement, Contract K-1516-132, the NAC will serve as the administrator for the selection, location, and installation of public art purchased with Norman Forward sales tax funds. The NAC works cooperatively with the City to recommend appropriate works of art for selected facilities and sites paid for with Norman Forward funds.

The NAC administers the selection of public art through four phases. The first phase, Project Development, includes research by the NAC into similar projects at applicable locations such as libraries, parks, sports facilities, aquatic centers, and public pools. During Project Development, the NAC will assemble a Project Team comprised of NAC members; community members with pertinent expertise; Norman Forward Ad Hoc Committee member(s); and Norman Public Arts Board member(s). The City may choose to appoint a Councilmember and/or City Staff person to the Project Team.

Once the Project Team is assembled, the Team will evaluate public art opportunities; develop a project budget; create a Selection Panel for selection of the art work; and establish a timeline for each project. The Selection Panel may be different for each work of art, but the Panel may be made up of the following members: community stakeholders; design professionals; City Manager designee; and member(s) of the Norman Forward Ad Hoc Committee relevant to the proposed site for the public art installation.

The second phase is the Selection Process, including the following: project announcement and advertising; Selection Panel review of submissions as a "blind jury"; development of a finalist short list; mandatory site visits for selected finalists; final proposal presentations; selection of artist; and contract negotiation and approval. Once an artist is chosen, the NAC, through the City Attorney's Office, will negotiate a contract with the chosen artist. City Council will then consider the contract for approval, and the artist shall complete the work of art according to the terms of his or her contract.

The third phase will be the Execution and Installation Process. During this phase, NAC will coordinate with the City for permitting and plan approvals; with the artist for fabrication and installation; and with either the City or the artist regarding any issues which might arise.

The last phase is Public Engagement and Education. During this phase, once the work of art is complete, the NAC will design and install appropriate markers for the work of art as well as taking archive-quality audio, video, and/or photographs. The NAC will also work to generate public awareness and appreciation for each work of art through press releases, social media, and other appropriate channels. The NAC will also collaborate with City Staff regarding care and maintenance of each work of art.

Under the terms of the Services Agreement, the City of Norman will fund public art installed at or as a part of Norman Forward sales tax funded projects up to 1% of construction costs for: Central Library, East Library, Indoor Sports Complex Facility, Indoor Aquatic Center, Westwood Recreational Complex, Ruby Grant Park, Andrews Park, Saxon Park, Reaves Park, and Griffin Park. These costs (the "Norman Forward Public Arts Funds" or "NFPAF"), aggregated together, are estimated to be \$1.2 million.

Of the NFPAF, at least 90% shall be allocated to: art selection, artist fees, fabrication, installation, and maintenance. The remaining amount, up to 10% of the total NFPAF, shall be paid to NAC as an administrative fee. As projects come forward, the City will make the administrative fee available to NAC. The NAC will submit quarterly reports detailing the progress made including funds received and expended.

The Services Agreement is for an initial one year term and will renew automatically for subsequent one year terms so long as Norman Forward revenues remain for the purchase and installation of public art.

DISCUSSION: The first project has reached the point in the process where it is necessary for Council to approve a contract with the selected artist. This artist, Mark Aeling, with MGA Sculpture Studio, has been selected by the Selection Panel to create a piece of sculpture, entitled "Splash," to be installed at the Westwood Complex. The Selection Panel was composed of Jim Griffith, David Minihan, Brook Haney, Ally Richardson, Rick McKinney, and Jud Foster. Committee facilitators were Erinn Gavaghan and Debby Williams. The permanent location for the work shall be in a grassy area on the west side of the parking lot at the east end of Westport Drive in Norman, Oklahoma. A map is attached showing the proposed location of the sculpture.

This proposed Contract is similar to previous contracts approved by Council for public art, most recently the contract to install the mosaic at Lions Park. Under the terms of the Contract, the artist will design, execute, fabricate, transport, install and document the sculpture. The artist shall perform all services and furnish all supplies, materials and equipment necessary for the design, execution, fabrication, transportation and installation of the sculpture. In addition, The Artist shall be responsible for the delivery, setting and secure installation of the Work at the prepared site in Norman, Oklahoma. The Artist shall be responsible for ensuring the base design is engineered appropriately to support the completed Work in a safe and secure manner and shall provide the Owner with documentation confirming approval by an engineer registered in the State of Oklahoma. Artist shall also be required to obtain a building permit and an electrical permit from the City of Norman.

The sculpture is proposed to be completed and installed no later than July 1, 2017. In addition, prior to implementing any changes to the sculpture, the Artist is required to obtain approval from the City of Norman. The total cost of the sculpture is \$100,000. That cost will be paid over four payments: \$25,000 upon delivery of a signed contract; \$25,000 at the beginning of fabrication; \$20,000 upon completion of the sculpture; and \$30,000 upon final acceptance by the City of Norman.

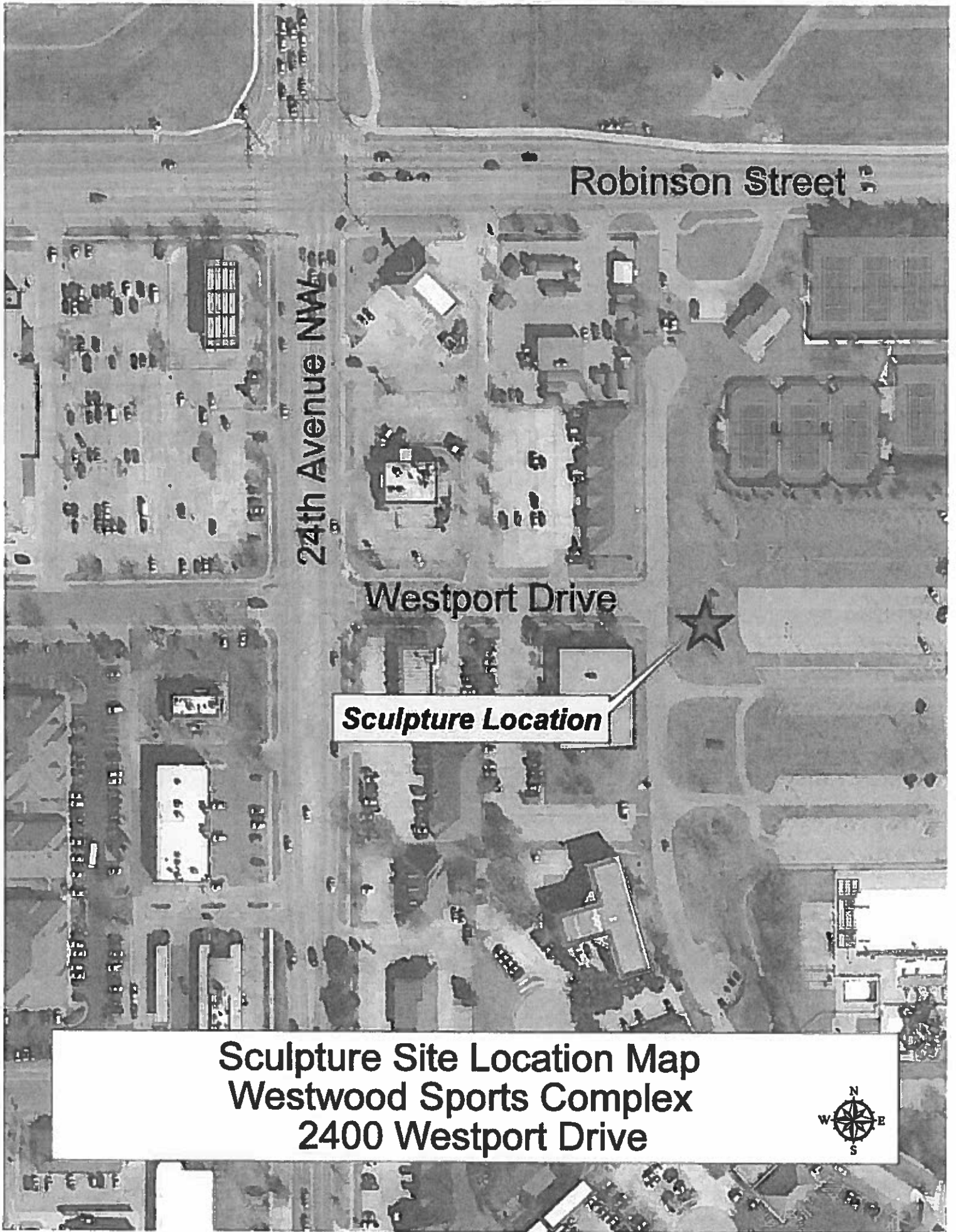
Final acceptance will be determined solely by the City of Norman. The City of Norman retains the right to subsequently remove the work if it presents a safety hazard or cannot be reasonably restored to its original structural or aesthetic integrity.

As an independent contractor, the artist is responsible for any Worker's Compensation insurance and employee liability insurance that may be necessary while the work is being made, transported, or installed. Proof of insurance is required prior to beginning any work. The artist agrees to defend, indemnify and hold harmless the City of Norman, its agents and employees, from and against legal liability for all claims, losses, damages and expenses to extent they are caused by the Artist, its agents and employees. The artist will indemnify the City of Norman, Oklahoma up to one hundred twenty-five thousand dollars (\$125,000). All rights under the Copyrights Act of 1976 and the Visual Artists Rights Act of 1990 are applicable to this contract.

In addition, after the piece is installed, the City of Norman agrees not to alter, modify, change, destroy, or damage the piece without attempting to consult the artist first. However, the City of Norman may remove the piece if it becomes a safety hazard due to deterioration in its condition.

The public art pieces of Norman Forward were anticipated to be funded as pay-as-you-go projects. Funds were previously appropriated with the adoption of the FYE17 budget and are available for the Norman Forward Westwood complex public art piece in NORMAN FORWARD Public Arts Projects, Construction (account number 051-9500-452.61-01; project NFP100).

RECOMMENDATION: Based upon the above and foregoing discussion, it is the staff recommendation that Council approve and sign the attached contract, K-1617-97, if Council wishes to have Mr. Aeling's sculpture fabricated and installed at the Westwood Complex.



Robinson Street

24th Avenue NW

Westport Drive

Sculpture Location

**Sculpture Site Location Map
Westwood Sports Complex
2400 Westport Drive**





Contract to Commission Artwork
Between
City of Norman, OK
And
MGA Sculpture Studio LLC

THIS CONTRACT, made this 24th day of January 2017 by and between the City of Norman (hereinafter referred to as the "Owner"), and MGA Sculpture Studio LLC (hereinafter referred to as the "Artist") for a work of art (hereinafter referred to as the "Work") to be placed in a grassy area on the west side of the parking lot at the east end of Westport Drive in Norman, Oklahoma.

WHEREAS, the City Council of the City of Norman believe the beautification of the Westwood Complex will further enhance the quality of life in Norman, Oklahoma;

WHEREAS, all parties wish to promote and maintain the integrity and clarity of the Artist's ideas and statements as represented by the Work;

WHEREAS, the Selection Panel Advisory Board, the Public Arts Board, and the Norman Arts Council Board recommend the retention of the Artist for this Work;

WHEREAS, the parties wish to have the creation of the Work governed by the mutual obligations, covenants, and conditions herein.

THEREFORE, in consideration of the foregoing premises and the mutual covenants hereinafter set forth and other valuable considerations, the parties hereto agree as follows:

- I. The Project: The Scope of Services
 - A. The Artist will design, execute, fabricate, transport, install and document the Work. These services shall be performed by Artist, and their assistants, as independent contractors.
 - B. Artist agrees that said Work will be consistent with and substantially similar to the maquette or model presented to the Client.
 - C. The Owner agrees to purchase the Work, under the terms and conditions of this contract upon final approval and acceptance of the Work by the Owner.
 - D. The permanent location for the work shall be in a grassy area on the west side of the parking lot at the east end of Westport Drive in Norman, Oklahoma.

- E. The Artist shall perform all services and furnish all supplies, materials and equipment necessary for the design, execution, fabrication, transportation and installation of the Work.
- F. The Owner shall make known its specifications to the Artist prior to the rendering of their services.
- G. The Owner shall determine the arrangement and placement of the final Work.
- H. The Artist shall be responsible for the delivery, setting and secure installation of the Work at the prepared site in Norman, Oklahoma. The Artist shall be responsible for ensuring the base design is engineered appropriately to support the completed Work in a safe and secure manner and shall provide the Owner with documentation confirming approval by an engineer registered in the State of Oklahoma. Artist shall also be required to obtain a building permit and an electrical permit from the City of Norman.

II. Execution of the Work

- A. The Artist shall complete the fabrication of the work in substantial conformity with the design as recommended by the Norman Public Arts Board and the Norman Arts Council Board and approved by the Owner.
- B. Prior to implementation of any significant changes in the Work, the Artist shall present to the Owner in writing, for further review and approval, a thorough description of such proposed changes. A significant change is any change affecting the scope, intent, design, color, size, material or location of the Work not permitted by, or not in substantial conformity with, the approved design. Owner must approve the proposed changes prior to continued work by the Artist.
- C. In performance of the Work described herein, the Artist shall comply with all applicable State and local laws, rules and regulations.
- D. The Artist shall complete the Work and the installation thereof by no later than July 1, 2017.
- E. The Artist shall notify the Owner in writing when fabrication of the Work is completed and the Artist is ready to deliver the Work and install it at the site.
- F. The Owner shall notify the Artist of construction delays resulting in delays in site preparation prior to the scheduled delivery date or installation date.

A new date shall be agreed upon by the Owner and Artist for completion, delivery and installation of the Work.

- G. Within forty-five (45) days after installation of the Work, completion of landscaping, and prior to final payment, the Artist shall furnish the Owner with two high quality CDs with visual images of the completed Work.
- H. The Artist shall furnish the Owner with a full written narrative description of the Work.
- I. The Artist shall provide the Owner written instructions for appropriate maintenance and preservation of the Work.
- J. Final acceptance shall be determined solely by the Owner and shall constitute the acknowledgement that the Work has been satisfactorily completed and installed according to the terms of this Agreement.
- K. Ownership of the Work shall pass to the Owner (City of Norman) upon final acceptance.

III. Warranties and Copyright

- A. The Artist represents and warrants that:
 - i. The Work is solely the result of the artistic and creative efforts of the Artist;
 - ii. The Work is unique and original and does not infringe upon any copyright;
 - iii. The Work has not been accepted for sale elsewhere; and
 - iv. The Work is free and clear of any liens from any source whatever.
- B. The Artist represents and warrants that:
 - i. The Work, as fabricated and installed, will be free of defects in material and workmanship, including any defects of "inherent vice" or qualities which cause or accelerate deterioration of the Work; and
 - ii. Reasonable maintenance of the Work will not require procedures substantially in excess of those described in the maintenance recommendations to be submitted by the Artist; and
 - iii. The warranties described in this section shall survive for a period of two (2) years after the final acceptance of the Work. The Owner shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the Owner, and at no cost to the Owner, reasonably and promptly cure the breach of any such warranty, which is curable by the Artist and which cure is consistent with professional conservation standards. This includes making repairs to the Work or re-fabricating the Work.

- C. The Artist retains all rights under the Copyright Act of 1976 under 17 U.S.C. § 101 *et seq.*, Visual Artists Rights Act of 1990 (VARA) 17 USC §106A, and all other rights in and to the Work except ownership and possession, except as such rights may be limited by this Agreement. The Artist shall not make any additional exact duplicate reproductions of the final Work, nor shall the Artist grant permission to others to do so except with the written permission of the Owner. The Artist grants to the Client and Owner and its assigns an irrevocable license to make photographic or graphic reproductions of the Work for non-commercial purposes, including but not limited to reproductions used in advertising, brochures, media publicity and catalogs or other similar publications, if the Artist is duly credited, except where the Work is merely an incidental feature of a photograph. A plaque provided by the Owner, identifying the title, date, and Artist, shall be placed on or near the Work. The Artist shall have the right to use photographs of the completed Work as an example of his work and in books or brochures he may publish.

IV. Fee for Services

- A. The total purchase price of creation, preparation and completion of the final Work shall be \$100,000. This fee does not include the cost to Owner for preparation of the site for installation. Owner shall not provide any additional compensation for any alterations or revisions in the final Work which substantially depart from the approved preliminary models and specifications and which cause the Artist an unusual and unanticipated expense.
- B. The Artist shall receive payments from the Client to the Artist to be paid in the amount of \$100,000 as follows:
- i. \$25,000 upon delivery of signed contract by the Client, Owner and Artist;
 - ii. \$25,000 upon 50% completion of the Work to the satisfaction of Owner;
 - iii. \$20,000 upon documented completion of the fabrication of the Work;
 - iv. \$30,000 upon final acceptance of the Work by Owner.
- C. Artist's lack of performance during any of the four payment stages listed above shall initiate a 30-day period to cure the deficiency and/or lack of performance upon receipt of written notice from the Owner which provides a statement addressing Owner's dissatisfaction with Artist's performance as well as what steps the Artist may take to cure the inadequate performance. The Artist must cure the deficiency or take reasonable steps towards curing the deficiency within the 30-day period. Upon failure of the Artist to do so, the Owner may pursue any remedies available to them against the Artist at law and in equity,

including, but not limited to, the right to terminate this Agreement and reimbursement from Artist for all funds expended by Owner thus far including costs to remove the base or foundation.

- D. Artist shall provide proof of completion of the Work by submitting at least ten pictures of the Work from various angles which tend to clearly show the Artist's progression. Additionally, Artist shall submit Form A along with these documents.

V. Funding

- A. Owner guarantees and warrants that it will produce funds in the amount of \$100,000 as required for completion of the Work.

VI. Alteration and De-accession Right

- A. The Owner agrees that it will not consent to intentional alteration, modification, change, destruction of or damage to the Work by the Owner without attempting to consult the Artist.
- B. The Artist shall notify the Owner of changes in their address. The failure to do so, if such failure prevents the Owner from locating the Artist, shall be deemed a waiver by the Artist of the right subsequently to enforce that which requires the express approval of the Artist. The Owner shall make reasonable efforts to locate the Artist when matters arise relating to the Artist's rights.
- C. The Owner may remove the Work from the City of Norman collection if it determines that the Work represents a safety hazard in its present condition or cannot reasonably be restored to its original structural or aesthetic integrity due to technical difficulties or expense disproportionate to the value of the Work. The Owner shall notify the Artist of such a decision to de-access the Work. Such notification shall be made before the de-accession, whenever possible. The Owner has no responsibility to relocate, restore, or replace the Work if it is misplaced, damaged or stolen.

VII. Insurance

The Artist, as independent contractor, is responsible for any requirements pertaining to Workers' Compensation insurance and employee liability insurance, and shall obtain and maintain insurance satisfactory to covering comprehensive general and automobile liability, and all risks of loss, damage to, or theft of the Work while it is being made, transported, or installed by the Artist, until acceptance by the Client and Owner. The Artist shall deliver to the Client and Owner a copy of this insurance prior to beginning work.

VIII. Indemnity

Upon execution of this document, but prior to transfer of ownership, Artist agrees to defend, indemnify and hold harmless Owner, its agents and employees, from and against legal liability for all claims, losses, damages and expenses to the extent such claims, losses, damages or expenses are caused by Artist, its agents or employees' negligent acts, errors or omissions. Artist shall indemnify the City of Norman, Oklahoma up to one hundred twenty-five thousand dollars (\$125,000.00) for any claim arising out of this Agreement. Artist further waives any rights against the City for any and all injuries or damages alleged to have arisen during the term of this Agreement.

IX. Default

If either party defaults in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including reasonable attorney's fees, incurred by the other party in enforcing its rights arising under this Agreement, whether through legal action or otherwise.

X. Binding

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their agents, successors, and assigns.

XI. Integration

This Agreement represents the entire and integrated Agreement between the parties. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may only be changed by a written amendment executed by all parties.

XII. Ownership of Documents and Models

Upon final acceptance, all studies, drawings, designs, maquettes and models prepared and submitted under this Agreement shall be returned to the Artist and shall belong to the Artist unless agreed by all parties.

XIII. Modification

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by all three parties hereto.

XIV. Severability

Any provision of this contract which is hereafter found by a court of law or otherwise to be in conflict with the laws, rules, and/or regulations of the United States, State of Oklahoma or City of Norman shall be considered null and void. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent the contract is capable of execution.

ARTIST

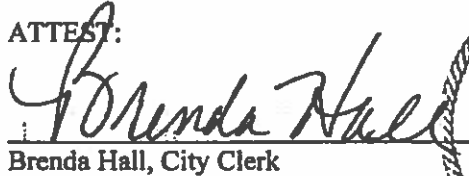

MGA Sculpture Studio LLC

CITY OF NORMAN

APPROVED this 24th day of January 2017, by the Norman City Council.

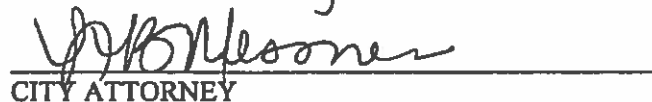

MAYOR

ATTEST:


Brenda Hall, City Clerk



APPROVED as to form and legality this 23rd day of January, 2017.


CITY ATTORNEY

Form A

I _____ hereby declare that the accompanying documents truthfully and accurately depict the most current status of the Work. I further declare that I produced and created the Work pictured in the accompanying documents.

Artist / Project Manager

Date

Address: _____

State of _____

County of _____

Sworn to and subscribed before me this _____ day of _____, 2017.

Notary Public

My commission expires: _____

My commission number: _____