

STILLWATER UTILITIES AUTHORITY MEETING
AGENDA
AUGUST 21, 2023



723 S. Lewis St.
Room 1122B
Stillwater, OK 74074
5:30 PM

Mayor Will Joyce, Vice Mayor Amy Dzialowski, Councilors Kevin Clark, Christie Hawkins, & Tim Hardin

1. Call Meeting to Order

2. Consent Docket

Items listed on the consent docket are routine administrative matters that may be approved without discussion. The Council will take action on these items collectively with a single vote. The requested City Council action is indicated for each item listed. Should a Councilor elect to discuss, amend, revise, or table any item listed on the consent docket, the item will be moved to the section of the agenda titled "Items Removed from the Consent Docket" for consideration and possible action. Additionally, a Councilor or the City Manager may simply ask the Mayor to remove an item from the consent docket prior to action by the City Council and no action will be taken on the removed item at this meeting.

a.	Approve August 7, 2023 regular meeting minutes		
b.	Approve increase to the electric cost of service/rate design agreement with LM Vedder Consulting in an amount of \$24,000, for a total not to exceed \$96,500, and authorize the interim General Manager to sign all related documents	SUA-23-48	Loren Smith

3. Public Comment

Stillwater City Code, Section 2-53(a) & (b), provides that taxpayers or residents of the city, or their authorized legal representatives, may address the Council at a regularly scheduled meeting on **any item of business listed on the meeting agenda** provided they have submitted a written request prior to the meeting either online at Request to speak form or via the form found in the lobby outside Council chambers prior to meetings.

4. Items Removed from the Consent Docket

Items removed from the consent docket are placed on this section of the agenda for discussion, revision, amendment and/or tabling prior to action by the City Council. The City Council may take action, including a vote or series of votes, on items removed to this section of the agenda after the requested discussion, revision or amendment.

5. General Orders

The Stillwater Utilities Authority will hear a staff presentation, discuss, and take action including a vote or series of votes on each item listed as presented or as amended or revised by the Stillwater Utilities Authority

unless the agenda entry specifically states that no action will be taken. The requested action is indicated in each agenda entry but may be amended or revised prior to action by the Stillwater Utilities Authority.

a.	Consider awarding a unit price contract to Utility Field Services, LLC for a total bid amount of \$1,406,915 for the Raw Waterline Repair Project; approve budget amendment appropriating construction expenditures of \$1,547,606; and authorize the Interim General Manager to sign related documents	SUA-23-49	David Barth
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6. Reports from Officers and Boards

Announcements and remarks of general interest may be made by Councilors, City Manager or City Attorney. Items of City business that may require discussion or action including a vote or series of votes are listed below.

a.	Miscellaneous items from the General Counsel
b.	Miscellaneous items from the General Manager
c.	Miscellaneous items from the Trustees

7. Questions and Inquires

8. Adjourn

On August 16, 2023 at 4:22, a true and correct copy of this agenda was posted on the kiosk outside City Hall, 723 S Lewis Street, Stillwater, OK.

The City of Stillwater encourages participation from all citizens. If participation at any public meeting is not possible due to a disability, please notify the City Manager's office at least 48 hours prior to the meeting by calling 405.742.8209.

- Meetings are televised on AT&T U-verse channel 99 and Suddenlink channel 14.
- Find meeting agendas and minutes online at [Agendas and Minutes](#)
- Official minutes are archived in the City Clerk's office.

Strategic Priorities At A Glance



#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT

To provide effective services and accountable government by practicing fiscal responsibility, transparency and outstanding customer service.



#2 MOTIVATED MANAGEMENT

To serve with integrity and demonstrate proactive leadership, motivated management and smart planning skills needed to create a better community.



#3 SAFE COMMUNITY

To promote a safe and secure community for all residents through equitable services, enhanced relationships, and responsive care.



#4 CONNECTED SPACES

To develop a strong sense of place by providing opportunities and services, such as transportation, utilities, and parks to best meet the needs of the public.



#5 UNIQUE CULTURE

To cultivate partnerships that enhance the spirit of Stillwater with equal access to services and amenities, strong and connected neighborhoods, and a thriving economy.



#6 ENGAGED & INVESTED RESIDENTS

To encourage participation and an understanding of government through outreach and inclusive initiatives that inspire trust and pride in local government.

**IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING LAW THE AGENDA
WAS POSTED AUGUST 4, 2023 AT 12:15 P.M. AT THE MUNICIPAL BUILDING,
723 SOUTH LEWIS, STILLWATER, OKLAHOMA**

**MINUTES
STILLWATER UTILITIES AUTHORITY
REGULAR MEETING
COUNCIL HEARING ROOM
723 S. LEWIS
AUGUST 7, 2023**

PRESENT: CHAIR WILLIAM H. JOYCE, VICE CHAIR AMY DZIALOWSKI
TRUSTEES CHRISTIE HAWKINS, KEVIN CLARK AND TIM HARDIN
ABSENT: NONE

1. CALL MEETING TO ORDER

Chair Joyce called the meeting to order at 6:38 p.m.

2. CONSENT DOCKET

- a. Approve regular meeting minutes of July 10, 2023
- b. Approve development agreement with Habitat for Humanity for the City's reimbursement of waterline material costs associated with the Fern Cottages planned unit development at 505 E 18th Avenue; authorize the Interim City Manager/General Manager to execute the agreement; authorize expenditures for an amount not to exceed \$50,000; and approve budget amendment appropriating \$50,000 from the Water Fund
- c. Approve amendment to the Water & Wastewater Cost of Service Study Agreement with NewGen to include evaluation of service fees at a cost of \$28,700; authorize Interim General Manager to execute the amendment; approve budget amendment appropriating \$31,570 from the Water and Wastewater Funds; and authorize total expenditures of \$145,480, including contingency
- d. Approve budget amendment to carry forward compensation contingency account in the amount of \$250,000 from FY23 to FY24 to cover 3% across-the-board pay increase for general employees
- e. Approve budget amendments increasing appropriations from the Water Fund in the amounts of \$21,886, \$65,547, and \$3,212 to cover 3% across-the-board pay increase for general employees
- f. Approve budget amendments increasing appropriations from the Wastewater Fund in the amounts of \$10,727, \$43,852, and \$6,618 to cover 3% across-the-board pay increase for general employees
- g. Approve budget amendments increasing appropriations from the Waste Management Fund in the amounts of \$27,667, \$11,120, \$3,007, and \$5,107 to cover 3% across-the-board pay increase for general employees

MOTION BY TRUSTEE HAWKINS, SECOND BY VICE CHAIR DZIALOWSKI TO APPROVE THE CONSENT DOCKET AS PRESENTED.

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, CLARK-YEA, HARDIN-YEA.
NAY-NONE. MOTION CARRIED WITH FIVE YEA VOTES.

3. PUBLIC COMMENT ON AGENDA ITEMS NOT SCHEDULED FOR PUBLIC HEARING

There were no requests to speak on agenda items not scheduled for public hearing.

4. ITEMS REMOVED FROM CONSENT DOCKET

None.

5. RESOLUTIONS

- a. Resolution SUA-2023-6: A resolution amending Section II, Policy Manual for Utility Accounts, Billing and Collections of the Terms and Conditions of Service for Municipal Utilities to adopt Chapter 6, Advanced Metering Infrastructure (AMI) Opt-Out and Approving the Amended Fees and Charges for Utility Services Schedule to adopt New Fees and Charges for AMI Opt-Out

MOTION BY TRUSTEE CLARK, SECOND BY TRUSTEE HARDIN TO ADOPT RESOLUTION NO. SUA-2023-6 AS PRESENTED

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, CLARK-YEA, HARDIN-YEA. NAY-NONE. MOTION CARRIED WITH FIVE YEA VOTES.

6. REPORTS FROM OFFICERS & BOARDS

- a. Miscellaneous items from the General Counsel: No report.
- b. Miscellaneous items from the General Manager: No report.
- c. Miscellaneous items from Trustees: No report.
 - i) Discussion about scheduling items for upcoming meetings

7. QUESTIONS & INQUIRIES

None.

8. ADJOURN

MOTION BY TRUSTEE HAWKINS, SECOND BY VICE CHAIR DZIALOWSKI TO ADJOURN THE AUGUST 7, 2023 REGULAR MEETING OF THE STILLWATER UTILITIES AUTHORITY.

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, CLARK-YEA, HARDIN-YEA. NAY-NONE. MOTION CARRIED WITH FIVE YEA VOTES.

The August 7, 2023 regular meeting of the Stillwater Utilities Authority adjourned at 6:40 p.m.

WILLIAM H. JOYCE, CHAIR
STILLWATER UTILITIES AUTHORITY

TERESA KADAVY, SECRETARY
STILLWATER UTILITIES AUTHORITY



REPORT TO: STILLWATER UTILITIES AUTHORITY

MEETING DATE: AUGUST 21, 2023

Agenda Item:	SUA-23-48
Prior Council Action/Related Items:	Electric Cost of Service/Rate Design Agreement Expenditure Approval
Issue:	• October 17, 2022 Trustee's authorized staff to enter into an electric cost of service/rate design agreement with LM Vedder Consulting for an amount not to exceed \$72,500, which included a 10% contingency on professional services, and authorize the General Manager to sign all related documents. • Since then staff has been working with LM Vedder Consulting to complete the cost of service study/rate design project. • During the course of the project three items have affected the original agreement cost: ➤ Change of Project Timeline ➤ Change of Test Year and 5-Year Forecast Assumptions ➤ Update of the Non-rate Revenue Model & Creation of New AMI Fees
Solution:	• Based on a completion date of September 25, 2023, Amendment 1 covers efforts to complete the original scope as impacted by these additional activities: 96 hours of effort at \$250 per hour. The budget for Amendment 1 will not exceed \$24,000.
Financial Impact/Funding Source(s):	• Staff is requesting to increase the expenditure limit from \$72,500 to \$96,500 for this agreement. • Sufficient funds are available in the electric fund.
Strategic Plan Alignment:	#1 Effective Services & Accountable Government
Recommended Action/Motion:	• Motion to approve increase to the electric cost of service/rate design agreement with LM Vedder Consulting in an amount of \$24,000, for a total not to

	exceed \$96,500, and authorize the interim General Manager to sign all related documents.
Prepared By:	Loren Smith, Electric Utilities Director
Submitted By:	Brady Moore, Interim General Manager
Attachments:	Contract Amendment

Loren Smith, Electric Utility Director
The City of Stillwater
411 E. Third Avenue
Stillwater, OK 74074

Via email

August 8, 2023

RE: Amendment 1 to Contract for Professional Consulting Services, Electric Cost of Service Study and Rate Design Services Dated December 5, 2022

This letter agreement describes the additional services by LM Vedder Consulting (LVC) for Amendment 1 to the Contract for Professional Consulting Services, Electric Cost of Service Study and Rate Design Services (ECOS) dated December 5, 2022 (Amendment) for the Electric Utility of Stillwater Utilities Authority (SUA), Stillwater, OK (City). Unless noted in this Amendment, all terms of the original agreement remain unchanged.

This Amendment includes efforts to complete the original scope as impacted by additional unbudgeted activities related to:

- **Change of Project Timeline.** The original Scope of Work and budget anticipated a roughly five- to six-month timeline with a Trustee presentation on June 26, 2023. At the end of May, in coordinating this effort with other utility cost studies, the City moved the ECOS Study Trustee presentation to September 25, 2023. Extending the project timeline by three months added the need for additional bi-weekly status meetings, meeting notes, status reports, and project management and administration. These efforts were not included in the original scope or budget.
- **Change of Test Year and 5-Year Forecast Assumptions.** When the decision was made to extend the timeline, the Test Year assumptions were also revised. Given the original timeline, the ECOS Study initially used the FY 2023 budget, a Test Year of FY 2024, and financial and load projections through FY 2028. When the timeline was revised, the decision was made to use the FY 2024 budget, revise the Test Year to FY 2025, and extend financial projections through FY 2029. Given timing, the work had already been completed and had to be redone to accommodate the new data. In addition, all load and escalation assumptions had to be updated to the new five-year window. These efforts were not included in the original scope and budget.
- **Update of the Non-rate Revenue Model & Creation of New Advanced Metering Infrastructure (AMI) Fees.** The original Scope of Work and Budget included neither updating the non-rate revenue Model for various fees nor creating new fees for AMI. This effort was not included in the original scope and budget.

Amendment 1 covers efforts to complete the original scope as impacted by these additional activities: 96 hours of effort at \$250 per hour. The budget for Amendment 1 will not exceed \$24,000.

This letter agreement for Amendment 1 will become effective upon execution of both parties below.



LM Vedder Consulting

August 8, 2023

Date

The City of Stillwater, OK

Date



LM VEDDER CONSULTING

Amendment 1 to Contract for Professional Consulting Services, Electric Cost of Service
Study and Rate Design Services Dated December 5, 2022
Stillwater Utilities Authority

REPORT TO: STILLWATER UTILITIES AUTHORITY

MEETING DATE: AUGUST 21, 2023

Agenda Item:	SUA-23-49						
Prior Council Action/Related Items:	None						
Issue:	• The purpose of this report is to provide Trustees with the bid results and recommended action for the Raw Waterline Repair Project, SUA 23WT06. • After the Raw Waterline experienced excessive pressures in May, Water Utilities (WU) staff have repaired numerous leaks and many leaks still exist. • Staff believe it is in the best interest to hire a contractor to assist with completing the remaining repairs to minimize further impact to staff resources and other impacts created by delaying the repairs.						
Solution:	• The initial advertisement for bids was June 24, 2023 and a pre-bid conference was held on July 12, 2023 with six prospective bidders in attendance. • The project scope includes two specific leak sites and adequate bid quantities for 13 additional leak sites that can be assigned to the contractor through City-issued Work Orders on an on-call basis. The contract allows staff to prioritize and assign more significant or difficult repairs to the contractor when the efforts required will exceed the resources and/or equipment available to WU. • Bids were opened on July 26, 2023 and the total base bids are summarized below. <table border="1"> <thead> <tr> <th>Bidder</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Utility Field Services, LLC</td><td>\$1,406,915</td></tr> <tr> <td>Marsau Enterprises, Inc</td><td>\$1,633,875</td></tr> </tbody> </table> • Staff reviewed the bid packages and recommends the project be awarded to Utility Field Services, LLC.	Bidder	Amount	Utility Field Services, LLC	\$1,406,915	Marsau Enterprises, Inc	\$1,633,875
Bidder	Amount						
Utility Field Services, LLC	\$1,406,915						
Marsau Enterprises, Inc	\$1,633,875						
Financial Impact/Funding Source(s):	A budget amendment has been prepared appropriating a not to exceed amount of \$1,547,606 from the Water Fund for this project.						

Strategic Plan Alignment:	#4 Connected Spaces: To develop a strong sense of place by providing opportunities and services, such as transportation, utilities, and parks to best serve the needs of the public.
Recommended Action/Motion:	Staff recommends a motion to: • award a unit price contract to Utility Field Services, LLC for the total bid amount of \$1,406,915 for the Raw Waterline Project; • approve budget amendment appropriating construction expenditures of \$1,547,606 for the amounts shown below: • \$1,406,915 for the bid • \$140,691 for a 10% contingency; and • authorize the Interim General Manager to sign related documents.
Prepared By:	David Barth, Engineering Manager
Reviewed By:	Candy Staring, Director of Engineering
Submitted By:	Brady Moore, Interim General Manager
Attachment(s):	Construction Agreement for Raw Waterline Repair Budget Amendment



Project Manual
Raw Water Pipeline Repair
Project #23WT06
Bid No. 51-2023

Issued For Bid: 6/24/2023
Bids Open: 7/19/2023

Prepared By:

Stillwater Utilities Authority
PO Box 1449
Stillwater, OK 74076
phone: 405-742-8261
fax: 405-742-8324

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Notice to Bidders

June 24, 2023

Notice is hereby given that the City of Stillwater/Stillwater Utilities Authority will receive sealed bids for the construction of:

**Raw Water Pipeline Repair
Project #23WT06
Bid No. 51-2023**

Scope of work to primarily include the following:

Repair the City's 36-inch diameter steel raw water pipeline at locations specified in the scope of work and at additional locations added by future work orders.

Bids will be received in the Office of the City Clerk at 723 S. Lewis Street, Room 1075, Stillwater Oklahoma 74074 or electronically only through <https://stillwater.ionwave.net> until **3:00 PM on Wednesday July 19, 2023**. Sealed Bids can also be mailed to the City Clerk at P.O. Box 1449, Stillwater, Oklahoma, 74076 as long as they are received by the date and time referenced above. Bids shall be opened and read aloud at the above stated time for receipt of bids. Bid opening will occur in Room 1112-B of the Municipal Building, 723 South Lewis, Stillwater, Oklahoma, 74074.

Bids shall be submitted as stated in the Instructions to Bidders.

Any bid received by the City Clerk more than ninety-six (96) hours, excluding Saturdays, Sundays and holidays, before the time set for the opening of bids, or any bid so received after the time set for opening of bids, shall not be considered and shall be returned unopened to the bidder submitting same.

Bids will be referred to city staff for evaluation. The City Council may award to the "lowest and best responsible bidder". The Council reserves the right to reject any or all bids or portions thereof and to waive any technicalities in the bidding process. No bid may be altered, withdrawn, or resubmitted within 45 days after the date set for the opening of bids.

The documents describing the requirements for this request for bids may be examined at <https://stillwater.ionwave.net> or in the Engineering Department, 723 South Lewis, Stillwater, Oklahoma, during regular working hours. Questions regarding the bid package should be directed to Roy Haden at roy.haden@stillwater.org

Each bidder is required to submit with their bid a guarantee in the form of an acceptable bidder's bond, a certified check, or a cashier's check on a solvent bank in the state of Oklahoma, and in the

amount of not less than five percent (5%) of the amount bid. The successful bidder shall execute a contract within 14 days of notice of award by the city.

The successful bidder shall file a performance bond, maintenance bond, statutory bond and certificates of insurance in the statutory amounts for public liability and workers compensation insurance at the time of signing the contract.

Any agreement entered into as a result of this invitation to bid shall be construed under the laws of the State of Oklahoma, and the venue for enforcement of the agreement shall be the State of Oklahoma.

The City may issue addenda as may be necessary in the best interest of the public and the City of Stillwater. Addenda may amend the date and/or time for receipt of bids or any specification, item, document, or requirement in the Bidding Documents upon notice to all prospective bidders who signed the sign-in sheet at the Pre-Bid Conference.

A MANDATORY pre-bid conference will be held at 10:00 AM on Wednesday July 12, 2023 in Room 2073 of the Municipal Building, 723 South Lewis, Stillwater, Oklahoma. Anyone that intends to submit a bid is REQUIRED to attend this meeting.
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Teresa Kadavy
City Clerk

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AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN COUNCIL OF ENGINEERING COMPANIES

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General Contractors of America

Construction Specifications Institute



Knowledge for Creating
and Sustaining
the Built Environment

**EJCDC
AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR
CONSTRUCTION CONTRACT**

THIS AGREEMENT is by and between City of Stillwater, Oklahoma/Stillwater Utilities Authority (Owner) and <to be filled out after bidding> (Contractor).

OWNER and CONTRACTOR, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1 - WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Repair leaks on the City's 36-inch diameter steel raw pipeline at locations specified in the scope of work and at additional locations added by future work orders

ARTICLE 2 - THE PROJECT

- 2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

SUA Project 23WT06 – Raw Water Pipeline Repairs

ARTICLE 3 - ENGINEER

- 3.01 The Project has been designed by Owner. Owner shall assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents

ARTICLE 4 - CONTRACT TIMES

- 4.01 Time of the Essence - Project will commence upon Notice to Proceed and continue for a period of ONE (1) YEAR with an option of an additional 1-year extension, based on successful completion of issued work orders and mutual agreement between the parties.

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- B. Non-Appropriations Clause: Contractor acknowledges that Stillwater is subject to the debt limitation provisions of Article 10, § 14 of the Oklahoma Constitution. Contractor further acknowledges and agrees that this contract extends over multiple fiscal years and pursuant to constitutional debt limitations there is no guarantee that funding will be available to service this contract after June 30, 2024 and/or any subsequent fiscal year upon exercising the option to extend for an additional 1-year term. In the event that no appropriation is made that is sufficient to service this contract, then this contract shall be null and void. Stillwater shall notify Contractor in writing of any such non-allocation of funds at the earliest possible date.

- 4.02 Days to Achieve Substantial Completion and Final Payment

- A. The Work will be substantially completed as provided in the General Conditions and Special Provisions, and completed and ready for final payment in accordance with the General Conditions and Special Provisions.

- 4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also

recognize the delays, expense, and difficulties involved in proving in a legal ~~or arbitration~~ proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner as specified in the Special Provisions for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner as specified in the Special Provisions for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraph 5.01.A below:

- A. For all Work, at the prices stated in the Contractor's Bid, attached hereto as an exhibit ~~and summarized below~~, Owner agrees to pay Contractor a contract sum not to exceed:

\$ _____ (\$ _____)

- B. Contractor hereby acknowledges and agrees that Stillwater does not guarantee a minimum dollar amount to be paid to Contractor under this Agreement.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the same day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements. Five percent (5%) of each partial payment will be withheld as retainage. ~~When the work of the Contractor has been determined by the Owner to be at least 50% complete, the retainage amount will be reduced to two and one half percent (2.5%) of the partial payment.~~

- B. Stillwater shall make payments to Contractor per work order in the following manner:

Contractor will furnish to Stillwater a notification that the work order is complete. Contractor shall furnish proof that all claims and obligations incurred by him in connection with the performance of said work have been fully paid and settled; said information shall be in the form of an affidavit, which shall bear the approval of the Contractor. Stillwater shall make payment within thirty (30) days of notice of completion, provided that Stillwater confirms the work has been satisfactorily completed. Upon completion of the work, but prior to the acceptance thereof by Stillwater, it shall be the duty of the Director of City Engineering to determine, by examination that said work has been completely and fully performed in accordance with the Contract Documents. The parties hereto recognize that Stillwater is a political subdivision of the State of Oklahoma, and it cannot make payments for services rendered unless funds have been encumbered for said services. Contractor agrees to provide Stillwater with itemized contemporaneously documented hourly billings, on at least a monthly basis. The billings shall itemize the individual services rendered, time spent on each service, and expenses incurred as to each service.

6.03 Final Payment

1. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 - INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of three-fourths of one percent (0.0075) percent per month with the following provisions:
- 7.02 Lump Sum Contract: The interest shall commence thirty (30) days after the work under the contract has been completed and accepted and all required material certifications and other documentation required by the contract has been furnished to Owner by Contractor and shall run until the final payment or estimate is remitted to the Contractor. When contract quantities or the final payment amount is in dispute, the interest bearing period shall be suspended until the settlement of the dispute.
- 7.03 Contracts Bid by Unit Price: The interest shall commence sixty (60) days after the work under the contract has been completed and accepted and all required material certifications and other documentation required of the Contractor has been furnished to Owner by Contractor and shall run until the final payment or estimate is remitted to Contractor. When contract quantities or the final payment amount is in dispute, the interest bearing period shall be suspended until the settlement of the dispute.

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.
 - E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means,

methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.

- F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given Owner and Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Owner and Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages A-1 to A-7, inclusive).
 - 2. Performance bond (pages B-1 to B-4, inclusive).
 - 3. Statutory bond (pages B-5 to B-6, inclusive).
 - 4. Maintenance bond (pages B-7 to B-8, inclusive).
 - 5. Standard General Conditions (pages C-1 to C-41, inclusive).
 - 6. Supplementary Conditions (pages D-1 to D-2, inclusive).
 - 7. Special Provisions (pages E-1 to E-14, and Exhibits 1 to 4, inclusive).
 - 8. Supplementary Specifications (pages F-1 to F-12, inclusive).
 - 9. The most recent version of the City of Stillwater Standards (Design and Construction) are incorporated herein as if fully set forth and are on file with the City of Stillwater (723 South Lewis, Stillwater, Oklahoma 74076) or available through accessing the City's website. Not attached to the Agreement.
 - 10. Addenda (numbers to , inclusive).
 - 11. Exhibits to this Agreement (enumerated as follows):
 - a. List of Document Required (pages H-1, inclusive).
 - b. Signature and Submission Requirements for Bidding Documents (pages I-1 to I-4, inclusive).
 - c. Bid Form (pages 1 to 7, inclusive).
 - d. Bid Bond (pages K-1 to K-2, inclusive).

- e. Documentation submitted by Contractor prior to Notice of Award (pages _____ to _____, inclusive).
 - f. Business Relationships Affidavit (pages L-1 to L-2, inclusive).
 - g. Non-Collusion Affidavit (pages M-1 to M-2, inclusive).
 - h. Certificate of Nondiscrimination Form (pages N-1 to N-2, inclusive).
 - i. Qualification Statement (pages O-1 through O-10, inclusive).
 - j. Certificates of Insurance.
12. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
- a. Notice to Proceed (pages _____ to _____, inclusive).
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Other Provisions

A. None.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in duplicate. One counterpart each has been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

OWNER:

City of Stillwater, Oklahoma/Stillwater Utilities Authority

By: _____

Name/Title: City Manager/ General Manager

Address for giving notices:

PO Box 1449

Stillwater, OK 74076

APPROVED AS TO FORM AND LEGALITY THIS

_____ DAY OF _____, 20____.

JOHN E. DORMAN - City Attorney

CONTRACTOR:

By: _____

Name/Title: _____

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

License Number: _____

(where applicable)

Agent for service or process: _____

(If Contractor is a corporation or a partnership, attach evidence of authority to sign.)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That on this _____ day of _____, 20_____,
we, _____ as Principal, and
_____ as Surety, a
corporation organized and existing under the laws of the State of _____,
and duly authorized to transact business in the State of Oklahoma, are held and firmly
bound unto the CITY OF STILLWATER, a municipal corporation/STILLWATER UTILITIES
AUTHORITY, a public trust, established under the constitution and laws of the State of
Oklahoma, in the penal sum of _____

(\$ _____),

in lawful money of the United States of America, such sum being equal to one hundred
percent (100%) of the contract price as set forth herein, well and truly to be made, we bind
ourselves and each of us, our heirs, executors, administrators, trustees, successors, and
assigns, jointly and severally, firmly by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT WHEREAS, said
Principal has entered into a written contract with the City of Stillwater/Stillwater Utilities
Authority for the construction of **Repair leaks on the City's 36-inch diameter steel raw
water pipeline at locations specified in the scope of work and at additional locations
added by future work orders.** (general nature of work), said project being specifically
titled **Project No. 23WT06 – Raw Water Pipeline Repairs, Bid No. 51 – 2023** reference
to which is made here, and said contract, plans, specifications and all attachments or
appendices thereto, are hereby incorporated by reference thereto and made a part of this
instrument.

If said Principal shall, fully and faithfully execute the work and perform said contract in full
accordance with its terms, conditions and covenants of said contract, plans, specifications
and all attachments or appendices thereto, this obligation shall become null and void;

otherwise it shall remain in full force and effect.

Surety hereby waives notice of any alteration or extension of time made by the City of Stillwater/Stillwater Utilities Authority.

Whenever Contractor shall be, and declared by the City of Stillwater/Stillwater Utilities Authority to be in default under the contract, the City having performed City's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

- (1) Complete the contract in accordance with its terms and conditions, or
- (2) Obtain a bid or bids for completing the contract in strict accordance with its terms and conditions, and upon determination by Surety, of the lowest responsible bidder, or, if the City of Stillwater/Stillwater Utilities Authority elects, upon determination by the City and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and City, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by the City of Stillwater/Stillwater Utilities Authority to Contractor under the contract and any amendments thereto, less the amount properly paid by City to Contractor.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the City of Stillwater/Stillwater Utilities Authority named herein or the heirs, executors, administrators or successors of the City.

It is further expressly agreed and understood by the parties hereto that no changes or alterations to said contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the Surety, or any of them, from the obligations of

this bond.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officer, and the said Surety has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed by its Attorney-in-Fact, duly authorized so to do, the day and year first above written.

PRINCIPAL

ATTEST:

(name)

Secretary

(authorized representative/title)

SURETY

(name)

Attorney-in-Fact

(Accompany this bond with Attorney-in-fact's Authority from the Surety Company certified to include the date of the bond.)

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STATUTORY BOND

KNOW ALL MEN BY THESE PRESENTS:

That on this _____ day of _____, 20_____,
We, _____ as Principal, and
_____ as Surety, a
corporation organized and existing under the laws of the State of _____, and
duly authorized to transact business in the State of Oklahoma, are held and firmly bound unto
the CITY OF STILLWATER, a municipal corporation/STILLWATER UTILITIES AUTHORITY, a
public trust, established under the constitution and laws of the State of Oklahoma, in the penal
sum of _____

(\$ _____),

in lawful money of the United States of America, such sum being equal to one hundred
percent (100%) of the contract price as set forth herein, well and truly to be made, we bind
ourselves and each of us, our heirs, executors, administrators, trustees, successors, and
assigns, jointly and severally, firmly by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT WHEREAS, said
Principal has entered into a written contract with the City of Stillwater/Stillwater Utilities
Authority for the construction of **Repair leaks on the City's 36-inch diameter steel raw
water pipeline at locations specified in the scope of work and at additional locations
added by future work orders.** (general nature of work), said project being specifically titled
Project No. 23WT06 – Raw Water Pipeline Repair, Bid No. 51 – 2023 reference to which is
made here, and said contract, plans, specifications and all attachments or appendices thereto,
are hereby incorporated by reference thereto and made a part of this instrument.

If said Principal shall fail or neglect to pay all indebtedness incurred by said Principal or
Subcontractors and or Suppliers of said Principal who perform work in the performance of
such contract, for labor and materials, rental of machinery and equipment, and repairs to and
parts for equipment used and consumed in the performance of said contract within thirty (30)
days after the same becomes due and payable, the person, firm or corporation entitled thereto

may sue and recover on this bond, the amount so due and unpaid. Should said Principal pay all such indebtedness, this obligation shall become null and void; otherwise, it shall remain in full force and effect.

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

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its duly authorized officers, and the said Surety has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed by its Attorney-in-Fact, duly authorized thereunto so to do, the day and year first above written.

PRINCIPAL

ATTEST:

(name)

Secretary

(authorized representative/title)

SURETY

(name)

Attorney-in-Fact

(Accompany this bond with Attorney-in-fact's Authority from the Surety Company certified to include the date of the bond.)

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That on this _____ day of _____, 20_____,
we, _____ as Principal, and
_____ as Surety, a
corporation organized and existing under the laws of the State of _____, and
duly authorized to transact business in the State of Oklahoma, are held and firmly bound unto
the CITY OF STILLWATER, a municipal corporation/STILLWATER UTILITIES AUTHORITY, a
public trust, established under the constitution and laws of the State of Oklahoma, in the penal
sum of _____

(\$ _____),
in lawful money of the United States of America, such sum being equal to one hundred
percent (100%) of the contract price as set forth herein, well and truly to be made, we bind
ourselves and each of us, our heirs, executors, administrators, trustees, successors, and
assigns, jointly and severally, firmly by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT WHEREAS, said
Principal has, pursuant to a written contract with the City of Stillwater/Stillwater Utilities
Authority for the construction of **Repair leaks on the City's 36-inch diameter steel raw
water pipeline at locations specified in the scope of work and at additional locations
added by future work orders.** (general nature of work), said project being specifically titled
Project No. 23WT06 – Raw Water Pipeline Repair, Bid No. 51 – 2023 reference to which is
made here, and said contract, plans, specifications and all attachments or appendices thereto,
are hereby incorporated by reference thereto and made a part of this instrument.

Principal is obligated to protect the City of Stillwater/Stillwater Utilities Authority against any
and all defects in said construction resulting from faulty materials or workmanship for a period
of 1 (one) year from the date of acceptance of said project by the City.

Should Principal protect the City of Stillwater/Stillwater Utilities Authority against any and all
defects in said construction resulting from faulty materials or workmanship for a period of

1 (one) year from the date of acceptance of said project by the City, this obligation shall become null and void; otherwise, it shall remain in full force and effect.

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

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its duly authorized officers, and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact, duly authorized so to do, the day and year first above written.

PRINCIPAL

ATTEST:

(name)

Secretary

(authorized representative/title)

SURETY

(name)

Attorney-in-Fact

(Accompany this bond with Attorney-in-fact's Authority from the Surety Company certified to include the date of the bond.)

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN COUNCIL OF ENGINEERING COMPANIES

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by



The Associated General Contractors of America



Construction Specifications Institute

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

3. *Application for Payment*--The form acceptable to Owner which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidder*--The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, bid security of acceptable form, if any, and the Bid Form with any supplements.

9. *Change Order*--A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the

Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*-- Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor's submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*--The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any, (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment ~~as evidenced by Engineer's written recommendation of final payment.~~

15. *Contractor*--The individual or entity with whom Owner has entered into the Agreement.

16. *Cost of the Work*--See Paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *Engineer* --The individual or entity named as such in the Agreement as the "Engineer of Record". For purposes of this Agreement, Owner is the Engineer. Whenever Engineer is used it shall be interpreted to mean Owner.

20. *Field Order*--A written order issued by Engineer/Owner which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

21. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

22. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

23. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

24. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

25. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

26. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*--The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

28. *Notice to Proceed*--A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.

29. *Owner*--The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*--Polychlorinated biphenyls.

31. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

32. *Progress Schedule*--A schedule, prepared and maintained by Contractor, describing the sequence and

duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

33. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

34. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

35. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

36. *Related Entity* -- An officer, director, partner, employee, agent, consultant, or subcontractor.

37. *Resident Project Representative*--The authorized representative of Engineer and/or Owner who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Schedule of Submittals*--A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

40. *Schedule of Values*--A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

41. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

42. *Site*--Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

43. *Specifications*--That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.

44. *Subcontractor*--An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

45. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Owner, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof. The Work shall not be considered substantially complete unless damages to all third party assets and/or services including, but not limited to utilities and utility services, landscaping, fences, driveways, walkways, structures, buildings, facilities, improvements and/or appurtenances of any kind have been repaired and restored to the satisfaction of the third party and/or Owner and no reasonable (in the opinion of Owner) claim or potential claim against the Contractor and/or Owner for Contractor damages remains outstanding.

46. *Successful Bidder*--The Bidder submitting a responsive Bid to whom Owner makes an award.

47. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

48. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or any Subcontractor.

49. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

50. *Unit Price Work*--Work to be paid for on the basis of unit prices.

51. *Work*--The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

52. *Work Change Directive*--A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer (if review is requested by Owner) ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 Terminology

A. The following words or terms are not defined but, when used in the Bidding Requirements or Contract Documents, have the following meaning.

B. Intent of Certain Terms or Adjectives

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer and/or Owner. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer and/or Owner as to the Work. It is intended that such exercise of professional judgment, action or determination will be solely to evaluate, in general, the Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. Day

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. Defective

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

a. does not conform to the Contract Documents, or

b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents, or

c. has been damaged prior to Owner's approval of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. *Furnish, Install, Perform, Provide*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, "provide" is implied.

F. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance:* Within 15 days of Notice of Award, Contractor shall deliver to Owner, Engineer, and any other additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which may be reasonably requested) which Contractor is required to purchase and maintain in accordance with Article 5.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the ~~thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the~~ day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time ~~within 30 days~~ after the Effective Date of the Agreement. ~~In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.~~

2.04 *Starting the Work*

A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Owner for timely review:

1. a preliminary Progress Schedule; indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 *Preconstruction Conference*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, including the project superintendent, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records. The Owner will designate the time and location of the conference.

2.07 Initial Acceptance of Schedules

A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Owner as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Owner.

1. The Progress Schedule will be acceptable to Owner if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Owner responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve Contractor from Contractor's full responsibility therefore.

2. Contractor's Schedule of Submittals will be acceptable to Owner if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Owner as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 Intent

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to Owner.

C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer and/or Owner as provided in Article 9.

3.02 Reference Standards

A. Standards, Specifications, Codes, Laws, and Regulations

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, or Engineer, or any of, their Related Entities, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 Reporting and Resolving Discrepancies

A. Reporting Discrepancies

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Owner any conflict, error, ambiguity, or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Owner before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, Contractor shall promptly report it to Owner in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor knew or reasonably should have known thereof.

B. Resolving Discrepancies

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

- a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
- b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 Amending and Supplementing Contract Documents

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;
2. Engineer's approval of a Shop Drawing or Sample; (Subject to the provisions of Paragraph 6.17.D.3); or
3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier or other individual or entity performing or furnishing all of the Work under a direct or indirect contract with Contractor, shall not:

1. have or acquire any title to or ownership—rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or Engineer's consultants, including electronic media editions; or

2. reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaption by Engineer.

B. The prohibition of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

A. Copies of data furnished by Owner or Engineer to Contractor or Contractor to Owner or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

~~B~~C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If Contractor believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *Engineer's Review:* After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. Possible Price and Times Adjustments

1. The Contract Price and Contract Time may only be changed by a Change Order. Any claim for an adjustment in the Contract Price or Contract Time shall be based on written notice by Contractor to the Owner submitted in accordance with the provisions of Paragraph 10.05. The Contract Price or the Contract Times, or both, may be adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or

both, a Claim may be made therefor as provided in Paragraph 10.05. However, Owner and Engineer, and any of their Related Entities shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

- a. reviewing and checking all such information and data,
- b. locating all Underground Facilities shown or indicated in the Contract Documents,
- c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction, and
- d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be

responsible for the safety and protection of such Underground Facility.

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. [Contractor shall make such request for an adjustment in Contract Price or Contract Time in accordance with provisions of Article 12.](#) If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

A. Engineer shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Owner whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel under the direct supervision of a Professional Land Surveyor, Licensed to practice in the State of Oklahoma."

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the Engineer in the preparation of the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered to Contractor written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in

Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

GH. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

HI. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish performance, maintenance, and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent must be accompanied by a certified copy of the agent's authority to act.

C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of

the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. Contractor shall deliver to Owner/Engineer, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner, Engineer, or any other additional insured) which Contractor is required to purchase and maintain.

5.04 *Contractor's Liability Insurance*

A. Contractor shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

b. by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insured (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include completed operations insurance;

4. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

7. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment.

a. Contractor shall furnish Owner and each other additional insured identified in the Supplementary

Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

C. The limits of liability for the insurance required by paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation, and related coverages under paragraphs 5.04.A.1 and A.2 of the General Conditions:

a. State:	Statutory
b. Applicable Federal (e.g., Longshoreman's):	Statutory
c. Employer's Liability:	-\$500,000.00
<u>Aggregate Comprehensive</u>	<u>\$1,000,000.00</u>

2. Contractor's General Liability under paragraphs 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages:

a. General Aggregate	<u>\$1,000,000.00</u>
b. Products - Completed Operations Aggregate	<u>\$1,000,000.00</u>
c. Personal and Advertising Injury	<u>\$1,000,000.00</u>
d. Each Occurrence (Bodily Injury and Property Damage)	<u>\$500,000.00</u>
e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.	
f. Excess or Umbrella Liability	
General Aggregate	<u>\$1,000,000.00</u>
Each Occurrence	<u>\$1,000,000.00</u>

3. Automobile Liability under paragraph 5.04.A.6. of the General Conditions:

a. Bodily Injury:	
Each person	<u>\$300,000.00</u>
Each Accident	<u>\$1,000,000.00</u>
b. Property Damage:	
Each Accident	<u>\$500,000.00</u>
c. Combined Single Limit of	<u>\$1,000,000.00</u>

4. The Contractual Liability coverage required by paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following amounts:

a. Bodily Injury:	
Each accident	<u>\$500,000.00</u>

Annual Aggregate \$1,000,000.00

b. Property Damage:

Each Accident	<u>\$500,000.00</u>
Annual Aggregate	<u>\$1,000,000.00</u>

5. The following entities are to be included on the policy as additional insureds and also be certificate holders:

City of Stillwater, Oklahoma
Stillwater Utilities Authority

6. Owner, the City of Stillwater, Oklahoma, is a municipal corporation and notwithstanding any insurance coverage contained herein, does not waive any of the defenses or protection afforded it under the Oklahoma Governmental Tort Claims Act, Title 51 Oklahoma State Statutes, Section 151 et seq. Owner shall be included on ~~Engineer's~~ Contractor's insurance policies as an additional insured and shall be a certificate holder provided, however, that the amount of coverage for Owner on the said insurance policies for any liability on claims that are within the scope of the Oklahoma Governmental Tort Claims Act shall not exceed:

- Twenty-five thousand dollars (\$25,000) for any claim or to any claimant who has more than one claim for loss of property arising out of a single act, accident, or occurrence;
- One hundred twenty-five thousand dollars (\$125,000) to any claimant for a claim for any other loss arising out of a single act, accident, or occurrence;
- One million dollars (\$1,000,000) for any number of claims arising out of a single act, accident, or occurrence.

Contractor shall, prior to commencement of work, furnish Owner certificates of insurance which shall include a provision that such insurance shall not be cancelled without at least thirty days' written notice to Owner.

5.05 Owner's Liability Insurance

A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 Property Insurance

A. Contractor shall purchase and maintain property insurance upon the Work at the Site and the amount of the full replacement cost thereof. This insurance shall:

- include the interests of Owner, Contractor, Subcontractors, Engineer, Engineer's Consultants and any other individuals or entities identified in the

Supplementary Conditions, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss and damage to the Work, temporary buildings, falsework, and materials and equipment in transit and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

5. allow for partial utilization of the Work by Owner;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor and Engineer with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. Whenever the aggregate amount of equipment such as pumps, compressors, process equipment, motors, switchgear, transformers, panel board, control equipment, valves, fittings, pipe, or similar equipment may exceed \$10,000 the Contractor shall obtain insurance which shall protect Contractor, Owner, Engineer, and any other additional insureds from all insurable risks of physical loss or damage to materials and equipment not otherwise covered under builder's risk (if obtained), while in warehouses or storage areas, during installation, during testing, and after the Work is completed. It shall be of the "all risks" type, with coverages designed for the circumstances which may occur in the particular Work included in this Contract. The coverage shall be for an amount not less than the insurable value of the Work at completion, less the value of the materials and equipment insured under builder's risk insurance. The value shall include the aggregate value of the Owner-furnished equipment and materials to be erected or installed by Contractor.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

E. Installation floater insurance shall provide for losses to be payable to Contractor, Owner, Engineer, and any other additional insureds as their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against the Contractor, Owner, and Engineer.

F. Certificates of insurance covering installation floater insurance shall quote the insuring agreement and all exclusions as they appear in the policy; or in lieu of certificates, copies of the complete policy may be submitted.

G. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained by Contractor in accordance with paragraphs 5.04 and 5.06 will contain a provision or endorsement that the coverage afforded will not be cancelled or materially changed or renewal refused until at least thirty days' prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with paragraph 5.07.

H. Property insurance will be in the completed value form and will provide coverage to the full limit. The deductible amount for either the builders risk and installation floater property insurance policies shall not exceed \$500 and the Contractor shall be responsible for any deductible or self-insured retention. Property insurance to be purchased by the Contractor shall remain in effect until final payment.

5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect

Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured or additional insured (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

5.08 *Receipt and Application of Insurance Proceeds (Not Used)*

5.09 *Acceptance of Bonds and Insurance; Option to Replace (Not Used)*

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner except under extraordinary circumstances. The superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communications given to or received from the superintendent shall be binding on Contractor.

C. Until formal written acceptance by Owner, the work shall be under the charge and care of Contractor. Contractor shall take every necessary precaution to prevent injury or damage to the work or any part thereof by the action of the elements or any other cause whatsoever, whether arising from the execution or non-execution of the work. Contractor shall at his own expense rebuild, repair, restore, and make good all injuries or damage to any portion of the work occasioned by any of the forgoing causes before formal acceptance of the work by Owner.

6.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent given after prior written notice to Owner.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Owner, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Owner for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is

intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. "*Or-Equal*" Items: If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole,

3) it has a proven record of performance and availability of responsive service; and

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times, and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. Substitute Items

a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. Contractor shall submit sufficient information as provided below to allow Engineer to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment

will not be accepted by Engineer from anyone other than Contractor.

c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented in the General Requirements and as Engineer may decide is appropriate under the circumstances.

d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

1) shall certify that the proposed substitute item will:

- a) perform adequately the functions and achieve the results called for by the general design,
- b) be similar in substance to that specified, and
- c) be suited to the same use as that specified;

2) will state:

- a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time;
- b) whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
- c) whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

- a) all variations of the proposed substitute item from that specified, and
- b) available engineering, sales, maintenance, repair, and replacement services;

4) and shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change,

B. Substitute Construction Methods or Procedures: If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

C. Engineer's Evaluation: Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by either a Change Order for a substitute or an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

D. Special Guarantee: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

E. Engineer's Cost Reimbursement: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute item so proposed or submitted by Contractor, Contractor shall reimburse Owner for the charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

F. Contractor's Expense: Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 Concerning Subcontractors, Suppliers, and Others

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other

individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity, nor

2. shall anything in the Contract Documents create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer and/or Owner through Contractor.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the

Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 Patent Fees and Royalties

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of Owner or Engineer its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

B. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 Permits

A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution

of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work, including those which may be enacted during the course of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

A. Unless otherwise provided, Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

B. Owner is exempt from Oklahoma sales and use tax. An Appointment of Agent letter stating such will be given to the Contractor upon return of executed contract documents to the Contractor

6.11 *Use of Site and Other Areas*

A. Limitation on Use of Site and Other Areas

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other

materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Owner and/or Engineer for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner.

6.13 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work, including but not limited to the requirements of the United States Occupational Safety and Health Administration. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

C. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer, or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

D. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Owner has issued a notice to Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Owner prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Owner determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the acceptable Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. Shop Drawings

a. Submit number of copies specified in the General Requirements.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples*: Contractor shall also submit Samples to Engineer for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals.

a. Submit number of Samples specified in the Specifications.

b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.

B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. the suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

c. all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto; and

d. shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations, that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawing's or Sample Submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. Engineer's Review

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or

incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. Resubmittal Procedures

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

6.18 Continuing the Work

A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 Contractor's General Warranty and Guarantee

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Owner and its Related Entities shall be entitled to rely on representation of Contractor's warranty and guarantee.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;
2. recommendation by Engineer or payment by Owner of any progress or final payment;
3. the issuance of a certificate of Substantial Completion by Owner or any payment related thereto by Owner;
4. use or occupancy of the Work or any part thereof by Owner;
5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

6.20 Indemnification ~~See Supplementary Conditions~~

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

B. In any and all claims against Owner or Engineer or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification

obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 Delegation of Professional Design Services

A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.

B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations

and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 - OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or via other direct contracts therefor, or permit other work performed by utilities, existing right-of-way or easement users, or adjacent property owners.

1. written notice thereof will be given to Contractor prior to starting any such other work; and

2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and shall properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of Owner and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Owner in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities.

B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's actions or inactions.

C. Contractor shall be liable to Owner and any other contractor for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's action or inactions.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor (Not Used)*

8.02 *Replacement of Engineer*

A. In case of termination of the employment of Engineer, Owner shall appoint an engineer whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

8.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. Owner's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by Engineer in preparing the Contract Documents.

8.06 Insurance (Not Used)

8.07 Change Orders

A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 Inspections, Tests, and Approvals

A. Owner's responsibility in respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 Limitations on Owner's Responsibilities

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.10 Undisclosed Hazardous Environmental Condition

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 Evidence of Financial Arrangements

A. If and to the extent Owner has agreed to furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents, Owner's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 Owner's Representative

A. The duties and responsibilities and the limitations of authority of Engineer during construction are set forth

in the Contract Documents and will not be changed without written consent of Owner and Engineer.

9.02 Visits to Site

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 Project Representative

A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 Authorized Variations in Work

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding, with

concurrence by Owner, on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

A. Owner and/or Engineer will have authority to reject Work which Owner and/or Engineer believes to be defective, or that Owner and/or Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Owner and/or Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.

B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.

D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

A. Owner will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Owner will review with Contractor Owner's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Owner's written decision thereon will be final and binding (except as modified by Owner to reflect changed factual conditions or more accurate data) upon Contractor, subject to the provisions of Paragraph 10.05.

9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30

days of the event giving rise to the question. At the request of Owner, Engineer shall serve as interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder.

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. Engineer's written decision on the issue referred will be final and binding on Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer/Owner will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer/Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer/Owner will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review (if requested by Owner) of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with

the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to, the Resident Project Representative, if any, and assistants, if any.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders covering:

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties; and

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

~~3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05;~~

~~provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.~~

10.04 *Notification to Surety*

A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any bond to be given to a surety, the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 *Claims*

A. *Engineer's Decision:* Any Claim, except those waived pursuant to Paragraph 14.09, may be referred to the Engineer for decision at Owner's discretion.

B. *Notice:* Written notice stating the general nature of each Claim, shall be delivered by the Contractor to Owner promptly (but in no event later than 7 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the Contractor. Notice of the amount or extent of the Claim, with supporting data shall be delivered to Owner within 30 days after the start of such event (unless Owner allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event.

C. *Owner's Action:* Owner will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part,

2. approve the Claim, or

3. notify the Contractor that the Owner is unable to resolve the Claim if, in the Owner's sole discretion, it would be inappropriate for the Owner to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Owner does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

E. Owner's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Contractor.

F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in Paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and

returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer (if requested by Owner), which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to Engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer (if requested by Owner), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by

insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expresses, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. Costs Excluded: The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A and 11.01.B.

C. Contractor's Fee: When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. Documentation: Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Owner an itemized cost breakdown together with supporting data.

11.02 Allowances

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner.

B. Cash Allowances

1. Contractor agrees that:

a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. Contingency Allowance

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 Unit Price Work

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price

Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Owner subject to the provisions of Paragraph 9.07.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the Contractor to the Owner in accordance with the provisions of Paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a

mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted

by the Contractor to the Owner in accordance with the provisions of Paragraph 10.05.

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 Delays

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefore as provided in Paragraph 12.02.A. If abnormal weather conditions, as described in paragraph 12.03D, have prevented progression of work, Contractor must submit to Owner a written request for a change to the contract times within seven days of the end of that month (rather than within 7 days of the delaying event, as required in Paragraph 10.05). Owner reserves the right to deny such requests not submitted within the specified time. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

~~B~~C. Compensation for delays shall not exceed five hundred (\$500.00) dollars per day and shall be strictly limited to equipment on site and deemed necessary by Owner for execution of PROJECT at the time of the delay. Rates of equipment claim shall not exceed FEMA's Schedule of Equipment Rates as published on the following web-site on the day of bid opening:

<https://www.fema.gov/assistance/public/schedule-equipment-rates>

~~C~~D. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.D. Abnormal weather conditions shall be as defined as those days or partial days meeting one or more of the four criteria described in 1999 ODOT Standard Specifications Section 108.07(b).

~~D~~E. Owner, Engineer and the Related Entities of each of them shall not be liable to Contractor for any claims, costs, losses, or damages (including but not

limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

~~E~~F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

~~F~~G. Owner and Contractor recognize that time is of the essence for this Agreement and that Owner will suffer financial loss if the work is not substantially complete with the time specified in the Agreement and any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not substantially complete on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay but not as penalty, Contractor shall pay Owner liquidated damages at the rates set forth in the Special Provisions of the contract documents for each day that expires after the time specified in the Contract Documents Agreement and any extensions allowed in accordance with Article 12.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 Notice of Defects

A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 Access to Work

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at all times for their observation, inspecting, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's Site safety procedures and programs so that they may comply therewith as applicable.

13.03 Tests and Inspections

A. Contractor shall give Owner timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in said Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Owner the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Owner, it must, if requested by Owner, be uncovered for observation.

F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Owner timely notice of Contractor's intention to cover the same and Owner has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of Owner, it must, if requested by Owner, be uncovered for Owner's observation and replaced at Contractor's expense.

B. If Owner considers it necessary or advisable that covered Work be observed by Owner or inspected or tested by others, Contractor, at Owner's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Owner may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If, the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or

2. correct such defective Work; or

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work and the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Owner's approval of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Owner to correct defective Work or to remove and replace rejected Work as required by Owner in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the

adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Owner. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. Applications for Payments

1. At least 30 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Owner for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as provided in Oklahoma state law. ~~will be as stipulated in the Agreement.~~

B. Review of Applications

1. Owner will, within 10 days after receipt of each Application for Payment, either approve payment or return the Application to Contractor indicating in writing Owner's reasons for refusing to approve payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

23. By recommending any such payment Engineer/Owner will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

b. that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

34. Neither Engineer's nor Owner's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation and/or Owner's approval of any payment, including final payment, will impose responsibility on Engineer and/or Owner:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

45. Owner may refuse to approve payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Owner's opinion to protect Owner from loss because:

a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09;

d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.; or

e. liability for liquidated damages has been incurred by Contractor;

f. Surety has not provided written authorization to Owner/Engineer to reduce retainage;

g. Engineer or Owner has received instructions from Surety regarding payments; or

h. If in the opinion of the Owner the work is substantially behind the Contractor's initial progress schedule or it is the opinion of the Owner that it is unlikely that Contractor can complete the work within the time specified in the contract documents, then the Owner may refuse to reduce ~~recommend reduction of retainage below 10%, or if it has been reduced below 10% the Owner may recommend that the retainage be increased to 10%.~~

C. Payment Becomes Due

1. Thirty days after presentation of the Application for Payment to Owner the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. Reduction in Payment

1. Owner may refuse to make payment of the full amount because:

a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;

b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

c. there are other items entitling Owner to a set-off against the amount recommended; or

d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount, Owner will give Contractor immediate written

notice stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for such action.

3. If it is subsequently determined that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1.

14.03 Contractor's Warranty of Title

A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 Substantial Completion

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Owner issue a certificate of Substantial Completion.

B. Promptly after Contractor's notification, Owner and Contractor shall make an inspection of the Work to determine the status of completion. If Owner does not consider the Work substantially complete, Owner will notify Contractor in writing giving the reasons therefor.

C. If Owner considers the Work substantially complete, Owner will deliver to Contractor a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment.

~~DE~~. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to complete or correct items on the tentative list.

14.05 Partial Utilization

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions.

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor will certify to Owner and Engineer that such part of the Work is substantially complete and request Owner to issue a certificate of Substantial Completion for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Owner to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner and Contractor shall make an inspection of that part of the Work to determine its status of completion. If Owner does not consider that part of the Work to be substantially complete, Owner will notify Contractor in writing giving the reasons therefor. If Owner considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Owner will promptly make a final inspection with Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. Application for Payment

1. After Contractor has, in the opinion of Owner, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.7;

b. consent of the surety, if any, to final payment;

c. a list of all Claims against Owner that Contractor believes are unsettled; and

d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. Owner's Review of Application and Acceptance

1. If, on the basis of Owner's observation of the Work during construction and final inspection, and Owner's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Owner is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Owner will, within ten days after receipt of the final Application for Payment, approve the final application for payment. At the same time Owner will also give written notice to Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Owner will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to approve final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

1. Thirty days after the Owner's approval of the Application for Payment and accompanying documentation, the amount approved, less any sum Owner is entitled to set off against Contractor's application, including but not limited to liquidated damages, will become due and , will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Owner so

confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer with Owner's approval thereof, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Owner with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 Waiver of Claims

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work noted after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 Owner May Suspend Work

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 Owner May Terminate for Cause

A. The occurrence of any one or more of the following events will justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including,

but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);

2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

3. Contractor's disregard of the authority of Owner and/or Engineer; or

4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion),

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be incorporated in a Change Order. When exercising any rights or remedies under this Paragraph Owner shall not be required to obtain the lowest price for the Work performed.

D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or

payment of moneys due Contractor by Owner will not release Contractor from liability.

F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B, and 15.02.C.

15.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Owner fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner, and provided Owner does not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Owner has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days

to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 - DISPUTE RESOLUTION (NOT USED)

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 *Controlling Law*

A. This Contract ~~shall is to~~ be governed by the law of the State ~~of Oklahoma in which the Project is located.~~ Venue for any legal action shall be in Payne County, Oklahoma.

17.06 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

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SUPPLEMENTARY CONDITIONS

These Supplementary Conditions are included in and are a part of the Bidding Documents and the Agreement/Contract Documents for this project.

1. Nondiscrimination. Neither CONTRACTOR nor any subcontractors employed on this project may discriminate against any employee or applicant for employment because of race, religion, creed, sex, color, national origin, ancestry, age, or disability as defined by the Americans with Disabilities Act. A Certification of Nondiscrimination must be properly signed and submitted with the Agreement. The requirements of the Certificate must be included in any subcontracts connected with the performance of the Agreement. The Agreement may be canceled by OWNER for noncompliance with the provisions of the Certificate and CONTRACTOR may be declared to be ineligible for further contracts until satisfactory proof of intent to comply shall be made by CONTRACTOR and/or any subcontractors.

2. CONTRACTOR'S Responsibility for the Work. Until formal written acceptance by OWNER, the work shall be under the charge and care of CONTRACTOR. CONTRACTOR shall take every necessary precaution to prevent injury or damage to the work or any part thereof by the action of the elements or any other cause whatsoever, whether arising from the execution or non-execution of the work. CONTRACTOR shall at his own expense rebuild, repair, restore, and make good all injuries or damage to any portion of the work occasioned by any of the forgoing causes before formal acceptance of the work by OWNER.

3. Inspection. OWNER and his representatives and the consulting engineer and his representatives shall at all times have access to the work. CONTRACTOR will provide proper and safe access for inspection. OWNER may maintain inspectors on the job site for the purpose of inspecting materials, workmanship, and conditions of work and equipment. CONTRACTOR shall notify OWNER twenty-four (24) hours prior to placing concrete and at any other times required in the Special Provisions. CONTRACTOR shall notify OWNER twenty-four (24) hours prior to performing work relating to exposing, supporting, adjusting, connecting or relocating waterlines.

In addition to the above inspections, CONTRACTOR shall provide proper and safe access for all inspections required by City of Stillwater Ordinances and Codes and any other inspections required by Federal or State laws or regulations.

It is CONTRACTOR's responsibility to arrange for and have conducted any and all inspections required by the City of Stillwater's Building, Plumbing, Electrical, Mechanical, Fire, and Zoning Codes and to comply with all the provisions of said Code.

4. Street Closings and Lane Restrictions and Detours. Street Closings and/or Lane Restrictions and Detours must be in accordance with a Traffic Control Plan (TCP). A project-wide TCP in compliance with MUTCD (Manual of Uniform Traffic Control Devices), ATSSA must be submitted to the City/Transportation Department prior to the pre-construction meeting. Upon approval of the plan, CONTRACTOR is required to provide written notice by 12 PM on Wednesday of the week prior to the week each individual closing or restriction planned. Notification by email is preferred. Notification shall be made to the following:

City of Stillwater
Transportation Department

Email: mstephenson@stillwater.org

Questions please contact: Michael Stephenson at 405-742-8263

Street Closings and Lane Restrictions shall also conform to the requirements set forth for Barricades and Warning Signs set forth below.

5. Barricades and Warning Signs. Where work is carried on, in, or adjacent to, any street, alley or public place, CONTRACTOR shall, at his own expense, furnish, erect and maintain such barricades, fences, lights, warning signs and danger signals and shall provide such watchmen and take such other precautionary measures for the protection of persons or property and of the work as may be necessary. In addition, a sufficient number of barricades shall be erected to keep pedestrians and vehicles from entering on or into any work zone(s). From sunset to sunrise, CONTRACTOR shall furnish and maintain at least one light on each barricade. All devices shall be in conformance with MUTCD Standards. CONTRACTOR shall provide an "after hours" phone number to the City of Stillwater's Emergency Operations Center and to the Police and Fire Dispatch to be used for notification to CONTRACTOR of the need to repair signs, barricades, or other warning or control devices. Failure to comply with these requirements may result in the issuance of a Stop Work Order to remain in effect until the deficiencies are corrected. The issuance of a Stop Work Order shall not act to defer or suspend the counting of the working days for the project.

6. Reserved.

7. Patents/Copyrights. No reports, maps or other documents produced in whole or in part under this contract shall be the subject of an application for patent or copyright by or on behalf of the Contractor.

SPECIAL PROVISIONS

These Special Provisions are included in and are a part of the Bidding Documents, Agreement and Contract Documents for this Project.

Section 1. Project Milestones

The following project milestones shall apply for computation payment/charges stipulated in Table 0100-A:

TABLE 0100-A Contract Times and Liquidated Damages		
Description	Contract Time	Liquidated Damages ^(1, 2)
Substantial Completion Deadline of Leak No. 1	14 calendar days from Notice to Proceed	\$100 per calendar day
Substantial Completion Deadline of Leak No. 2	28 calendar days from Notice to Proceed	\$100 per calendar day
Final Completion Deadline of Leak No. 1	Whichever occurs first: • 24 calendar days, beginning with the date of Notice to Proceed • 10 calendar days, beginning with the date Substantial Completion is achieved	\$100 per calendar day
Final Completion Deadline of Leak No. 2	Whichever occurs first: • 40 calendar days, beginning with the date of Notice to Proceed • 12 calendar days, beginning with the date Substantial Completion is achieved	
Substantial Completion Deadline for Leak Type A issued by work order	14 calendar days from date work order is issued	\$100 per calendar day
Substantial Completion Deadline for Leak Type B Issued by work order	28 calendar days from date work order is issued	\$100 per calendar day
Final Completion Deadline for Leak Type A issued by work order	Whichever occurs first: • 24 calendar days from the date work order is issued • 10 calendar days, beginning with the date Substantial Completion is achieved	\$100 per calendar day

TABLE 0100-A Contract Times and Liquidated Damages		
Description	Contract Time	Liquidated Damages ^(1, 2)
Final Completion Deadline for Leak Type B issued by work order	Whichever occurs first: • 40 calendar days from the date work order is issued • 12 calendar days, beginning with the date Substantial Completion is achieved	\$100 per calendar day
(1) Liquidated Damages (LDs) shall be assessed starting with the first day after a Contract Time expires. Example: if NTP is issued on June 1 and the Contract Time for Substantial Completion is 30 days, then 1 day of LDs would be assessed if substantial completion is achieved on July 1. (2) Substantial LDs end when Final LDs begin.		

Section 2. Videographic and Photographic Documentation of Existing Project Site.

At the pre-construction meeting and prior to commencement of any work on site, Contractor shall provide Owner with digital video of the project area (and photos as necessary) to document the existing condition of the project site.

The video/photos shall clearly show fences, driveways, sidewalks, curbs, building facades, landscaping, signage, etc., and shall be of sufficient quality to clearly document pre-construction existing conditions of said items within the project area.

Video and photos MUST be submitted to the Owner in digital format/DVD disc along with a 3-ring binder of geographically organized, individually labeled photos (or color prints thereof).

Among other uses, the documentation may be used by Owner as the basis to approve or deny claims by property owners, and/or other parties against Contractor and/or Owner.

The cost of providing Videographic/Photographic Documentation shall be considered as incidental and included in the cost of other work

Section 3. Critical Path Schedule (CPS) Requirements

Contractor shall be responsible for planning, scheduling, and reporting the progress of the work as to ensure timely completion of the work called for in the Agreement.

Contractor shall submit a preliminary schedule in accordance with Article 2 of the Standard General Conditions. The preliminary schedule shall be submitted within 10 days of the Effective Date of the Agreement and prior to mobilization.

The Owner-accepted Preliminary Schedule is a resource that will be used by the Owner, Contractor and Engineer to determine if satisfactory progress is being made

by the Contractor in order to complete the work within the Contract Times. Critical path(s) will be used by the Owner and Contractor to estimate contract time changes and overall impacts to the schedule, but will not relieve the Contractor of its responsibility to meet the Contract Times. The Owner will rely on actual and documented work progress, rather than the Contractor's estimated schedule, to establish time changes due to changes in scope.

In addition, the schedule shall meet the requirements as outlined herein.

A Critical Path Schedule (CPS), preferably using Primavera or Microsoft Project, incorporating the sequence of construction as shown on the plans or in the Special Provisions is preferred. The CPS shall be based on the Contract Times provided for in the Agreement.

The approved CPS shall include the following features:

1. It shall be time-scaled in calendar days and shall include any non-working days. All tasks shall be plotted showing their early start and finish dates. The CPS shall show the order and interdependence of tasks and the sequence of work. The critical activities shall be prominently distinguished.
2. In addition to all construction tasks, the CPS shall include mobilization, demobilization, submittal process, approval of samples of materials and shop drawings, procurement of significant materials and equipment, fabrication of special items as well as installation, testing and interfacing with other projects.
3. The tasks shall be sufficiently detailed so that a reviewer can follow the sequence of events. For example, the tasks shall show forming, reinforcing and placement of concrete on the calendar day that each is scheduled to be performed.
4. The tasks shall be organized and described so as to conform to the bid items. Task descriptions shall be unique and specific with respect to type of work and location. The CPS shall show the preceding and following task numbers for each task, the task description, total float, duration of each task in calendar days and the costs associated with each task based on the bid items in the Agreement.
5. If, in the opinion of OWNER, the CPS requires any revisions, subtractions, or additions in whole or in part, OWNER shall so direct CONTRACTOR and CONTRACTOR shall update and re-submit same to OWNER within five (5) calendar days.

Updates to CPS. Contractor shall prepare CPS and report updates under the following conditions:

1. Contractor shall submit a monthly report of actual construction progress during the monthly Construction Progress meeting. Contractor shall update the CPS to reflect all complete and in progress tasks during that reporting period.
2. The report shall be accompanied by a narrative description of the job progress, problem areas, current and anticipated delay factors and their anticipated effect and any corrective actions proposed or taken.
3. If the Contractor falls behind schedule, the Contractor shall prepare and submit for Owner approval a plan to meet the Contract Time requirements.

Section 4. Traffic Control

The Traffic Control Plan (TCP) must be prepared by a American Traffic Safety Service Association certified Traffic Control Supervisor or sealed by a licensed Professional Engineer in the State of Oklahoma.

Each individual closure shall be updated/revised weekly through City Engineering. Email Notification or written notification is required to be submitted by 12:00PM on Wednesdays to Michael Stephenson at mstephenson@stillwater.org. New closures can be requested but a status update of all previously approved closed areas must also be provided. For traffic control on or adjacent to Oklahoma Department of Transportation (ODOT) facilities, Contractor shall contact/coordinate and notify both ODOT and Owner 1) as required by any site specific utility permit provisions and 2) whenever ODOT facilities are involved.

For traffic control on or adjacent to Payne County facilities, Contractor shall contact/coordinate/notify both Payne County and Owner 1) as required by any site specific utility permit provisions and 2) whenever Payne County facilities are involved.

Full closure of one or both directions of traffic on arterials is not permitted. Multi-lane arterials may support multiple lane closures that maintain two-way traffic as a part of an approved TCP.

School Zones require special coordination between Owner and Contractor.

Traffic Control devices shall be kept in acceptable condition per Manual of Uniform Traffic Control Devices (MUTCD) guidelines. Devices in marginal condition shall be cleaned or replaced within the same business day.

Section 5. Work Area Access, Driveway Access and Pedestrian Safety.

The Contractor shall provide and maintain reasonable access to all businesses and residences to include driveways, sidewalks and entrances during the construction period.

All affected sidewalks, crosswalks and pedestrian way closures/restrictions/signage shall be in accordance with the MUTCD and maintained until final pavement is replaced.

At the end of each day, all trenches crossing driveways/sidewalks/unpaved pedestrian ways and street crossings shall be backfilled with aggregate (including gravel driveways). Aggregate shall be maintained within the trench and not allowed to migrate into open travel ways or other paved areas.

At all times, Contractor shall provide all-weather access to emergency vehicles for accessing Project facilities and for passing through Project sites and areas for local emergency response.

Reasonable access to driveways shall be maintained at all times. The contractor shall contact and coordinate with property owners/tenants/businesses to schedule work of driveway construction requiring the temporary closure of driveways. Contractor shall provide at least five (5) days advance notice of the work to the property owners and Owner. The five (5) day advance notice must be followed up with a twenty-four (24) hour notice given by the Contractor to the property owner/tenant and Owner prior to actual driveway closure.

Section 6. Pavement Restoration

The length of time that street, driveways, off street parking areas, and sidewalks are closed/restricted in use shall be minimized by the prompt placement of permanent paving.

The maximum length of pavement requiring restoration at any given time shall not exceed 800 linear feet measured along the trench line, including sidewalks, driveways, off street parking areas or other paved areas.

Additional closures and pavement removal *may not* be approved until adequate progress is made restoring permanent paving.

Section 7. Special Event Coordination.

OSU Home Games. This section primarily applies to football games although not exclusive to football. Throughout the City, starting at 5:00 PM on the day prior to a weekend home game or 4 hours prior to the start time of a scheduled game or event occurring on a weekday, no construction activities will be permitted without prior approval from Owner. All excavations shall be backfilled. Open excavations that may not be backfilled due to specific site conditions must be approved by Owner on a case by case basis with special conditions conducted by Contractor as requested by Owner to accommodate safe vehicular and pedestrian traffic.

Thanksgiving, Christmas and New Year's Day. Water service interruptions or treatment plant down-time will not be allowed during the week of Thanksgiving or during December 21 through January 1 of any year.

Special Events. Contractor shall mitigate/reschedule any conflicts (street driveway restrictions/closures, scheduling water service interruptions or other construction activities) that could adversely impact special events occurring in or near the City of Stillwater. Contractor shall request additional information from the Owner for events that may conflict with the Contractor's work. Contractor shall work cooperatively to mitigate conflicts with other events not listed. Known events which are recurring in or near the City include the following:

- Remember the Ten Marathon, March or April. <http://remembertheten.com/>
- Stillwater Arts Festival, April.
- Land Run 100, Vendor Expo, Finish Line Party, March or April.
<https://landrun100.com/>
- Stillwater Scorcher Run, June. <https://www.thescorcherrun.com/>
- Boomer Blast, July 4th. (2020: Sept 5)
- Stilly Half Marathon, October.
- Juke Joint Jog, October.
- OSU Graduation/Commencement, May and December.
- OSU Homecoming, October.
- Cowboy Strong Run, October.
- Downtown Halloween Festival, October.

- Krazy Days, July.
- Bike Night & Food Trucks and Tunes: varies, May – November.
- Christmas Parade, Santa Downtown, Carriage Rides: December.
- <https://www.visitstillwater.org/events/>

Section 8. Water Service Interruptions

- All water service interruptions must be requested, approved and scheduled through the Owner and specifically the Water Utilities Distribution staff.
- Ahead of Contractor mobilization, the Contractor shall provide an overall Tie-in / Construction Sequencing Plan to the Owner for review and discussion. At the Owner's discretion, a meeting may occur for detailed discussion and planning purposes.
- At least 10 calendar days written notice is required. Request should indicate the nature/location of the planned work. Request should be submitted on the City's website, Stillwater.org > Government > Departments & Divisions > Water Utilities > Online Water Service Interruption Request Form.
- The Owner may have specific water system operational requirements that may restrict scheduling the work at certain times or in certain areas.
- Contractor shall contact commercial/critical customers in person and solicit input. It may be necessary to schedule work on evenings, early mornings, overnight, or weekends to accommodate customers' needs or special events. (Example: multi-family structures, hair salons, restaurants, laundry facilities, schools and child/senior care facilities, medical facilities, industrial facilities).
- Upon receipt of Contractor's request, Owner will develop a map of the affected area, identify valves that must be closed (by Owner), the location of affected customers, and the location of hydrants which must be marked as out of service during the work.
- Upon approval of the request and date, Owner will provide the contractor with the Map and approved Notice of Water Service Interruption form.
- Notice of Service Interruption form shall be distributed to affected customers by the Contractor at least 72 hours ahead of the planned interruption. (Complimentary copies available from Owner upon timely request from Contractor.)
- Any consequences resulting from failure to notify any customer clearly shown on the service interruption map shall be the responsibility of the Contractor. Early and clear communications with affected customers during the planning phase is highly encouraged to limit the necessity of rescheduling an event.
- Contractor will hold preparatory field meetings with Owner prior to each tie-in to identify issues early and ensure tie-in success. This meeting shall be held no later than 5 days ahead of the tie-in.
- Prior to work beginning and operation of valves, Contractor shall have all required materials, equipment and skilled labor on site to complete the installation in a timely manner. During the work, contractor shall work diligently to return service to affected customer.
- Perform disinfection in accordance with AWWA C-651 as appropriate and especially as outlined in Section 4.6 Final Connections to Existing Mains and Section 4.7 Disinfection

Procedures When Cutting Into or Repairing Existing Mains. All chemicals shall conform to NSF60.

- m. Contractor shall install a corporation stop on the water lines subject to the tie-in if Owner's operation Staff has no other method of verifying the test kill.
- n. After work is complete, Contractor shall work cooperatively with Owner to flush, and return service to affected areas, including removal of any "Out of Service" devices installed on hydrants.
- o. Contractor shall provide estimate of flushing volume to Owner for each flushing event.

Section 9. Fire Service Line Connections.

- a. All work shall be conducted in strict accordance with the most recent version of the International Fire Code (IFC).
- b. All Fire Service Lines in the Project area may not be identified on the Plans; however, all Fire Service Lines must be connected by the Contractor to the new water main at the bid tab unit price.
- c. Contractor must follow all procedures presented in the Water Service Interruptions Section.
- d. Contractor must coordinate at least 72 hours in advance with the associated Property Owner and Property Occupants for Fire Service interruptions.
- e. Fire Service interruptions will be limited in time to only what is absolutely necessary in order for the Contractor to make the connection to the new line.
- f. With every Fire Line connection, the following must be provided by the Contractor:
 - Replace the existing Watch Valve with a new Gate Valve. Place the new Watch Valve as close as possible to the water main.
 - Full segments of uncut pipe must be used except for the final segment connecting to the existing system.
 - All newly installed Fire Lines must be rated and tested at the maximum of 200 psi or as required by IFC. Exceptions may be granted by the City Engineering Director for cases where the segment of new Fire Line between the new valve and the connection to existing Fire Line has no pipe joints except at each end. Provide a cap for testing the Fire Line beyond the newly installed Watch Valve. Do not test against the Property Owner's existing private system.
 - All Valve Boxes must be lockable and the new keys must be provided to the Property Owner.
 - Traffic-rated valve boxes are required when located in streets, driveways, parking lots or other paved or trafficked areas.
 - To comply with IFC, all Valve Box Lids must be painted red, Fire Lines must be red or be striped red and red locate tape must be used.

Section 10. Use of Site and Site Maintenance.

- a. Contractor may be permitted to use available land and rights-of-way belonging to Owner on or near the work, for construction purposes and for the storage of materials and equipment around the work area. Areas must be fully restored prior to Final Completion.

- b. Contractor shall immediately move stored material or equipment if any occasion arises, as determined by Owner, requiring access to the storage area. Materials or equipment shall not be placed on the property of Owner until Owner has agreed to the location to be used for storage.
- c. Off-site storage arrangements shall be acceptable to Owner for all materials and equipment required but not incorporated into the Work. Such off-site storage arrangements shall be presented in writing, and shall afford adequate and satisfactory security and protection (including insurance coverage). Off-site storage facilities shall be accessible to Owner/Engineer.
- d. Owner shall not be responsible for the protection of items and equipment stored on or off-site including, but not limited to, the damage inflicted by natural causes, theft, vandalism, collisions, etc.
- e. Any areas used by Contractor, whether public or private, shall be kept mown and adequately edged (weed-eater) during construction so as to maintain a neat and tidy appearance.
- f. Contractor shall keep the premises free at all times from accumulations of waste materials and rubbish. Contractor shall provide adequate trash receptacles about the site(s), and shall promptly empty the containers when filled.
- g. Construction materials such as pipe fittings, etc. shall be neatly stacked and organized by Contractor so as to be easily accessible for inspection.
- h. Contractor shall protect surfaces and promptly remove splattered concrete, asphalt, oil, paint, corrosive liquids, etc. from surfaces to prevent marring or other damage.
- i. Volatile wastes shall be properly stored in covered metal containers and removed daily.
- j. Wastes shall not be buried or burned on the site or disposed of into storm drains, sanitary sewers, streams, or waterways. All wastes shall be removed from the site and disposed of in a manner complying with local ordinances and State and Federal antipollution laws.
- k. See also all provisions in Section 2106 – Restoration in the most recent version of the City of Stillwater Construction Standards
- l. Adequate cleanup of both the Work and Contractor's storage site will be a condition for recommendation of progress payment applications.

Section 11. Erosion and Sedimentation Control.

- a. Contractor shall prepare and maintain throughout the Project the Storm Water Pollution Prevention Plan (SWPPP), attached hereto as Exhibit 1. The SWPPP shall be submitted for review by the City and Engineer ahead of Contractor mobilization.
- b. Contractor shall prevent erosion of soil on the site and to adjacent property resulting from project activities. Effective measures shall be initiated prior to the commencement of clearing, grading, excavation or other operation that will disturb the natural cover.
- c. Work shall be scheduled to expose areas subject to erosion for the shortest possible time, and natural vegetation shall be preserved to the greatest extent practical.
- d. Erosion Control devices and best management practices will be necessary and shall be provided by the Contractor. All devices and practices must be regularly inspected, maintained and replaced or corrected as needed to ensure effectiveness.

- e. No spoils shall be placed within paved streets or apparent paved or unpaved drainage ways. Contractor must sweep the street and scrape up any soil or aggregate tracked onto the road at the end of each day.
- f. By the end of the next work day after a precipitation event, the Contractor shall clean up soil or aggregate washed off-site and correct the cause of any sediment transport.
- g. Contractor shall provide a contained area for Concrete Truck washout.
- h. Contractor shall minimize dust from saw cutting activities by wet cutting or waiting for appropriate conditions that allow for minimal drift.
- i. Contractor shall complete and document inspections of Erosion Control devices by a competent person every 14 days and on the next business day following ½-inch precipitation events. Documentation must be kept on site and shall be made available for review by the Owner and the Engineer.
- j. See also all provisions in the most recent version of the City of Stillwater Construction Standards.

Section 12. Water Meters in Paved Areas

Contractor shall attempt to set and/or relocate meters, line valves and customer valves in unpaved locations and in areas not otherwise used for parking and travel. Where these features are not able to be relocated to nearby unpaved areas and out of drive paths, then the boxes used will be traffic rated.

Section 13. Curb Lines and ADA Ramps.

Where a Contractor excavation removes more than 50% of a sidewalk ramp, the entire ramp shall be replaced by the Contractor with an ADA-compliant ramp per the City Standards. This work will be considered incidental to construction.

Valves or hydrants shall not be placed in sidewalks or ramps. Contractor shall coordinate with Owner in advance for any areas where this requirement may need further design.

Section 14. Contractor Performance Evaluation

At project completion and post-warranty phase, the Owner will complete an evaluation of the Contractor's performance. The Contractor will have an opportunity to submit comments regarding the evaluation results. The form used for this evaluation is attached hereto as Exhibit 2.

Section 15. Subletting of Work

Contractor must self-perform a minimum of 30% of the overall project, by cost. Contractor must provide a superintendent for each geographically-separated work area of the Project.

Contractor's Subcontractors/Suppliers

- a. Contractor shall provide Owner with a list of all selected subcontractor(s) who will be performing work prior to being issued a Notice to Proceed. Owner may at its discretion refuse to approve any subcontractor(s) or request removal of a subcontractor(s) for any reason. Owner's refusal or removal of subcontractor(s) shall not be considered as justifiable reason for either affecting the Contract Amount and/or Schedule of Work. Contractor's decision to subcontract work shall not relieve Contractor from any liability or obligation under this Agreement.

- b. Contractor shall be held solely responsible for its subcontractors. Contractor shall be liable to Owner for the acts and omissions of Contractor's subcontractors and the employees and agents of these subcontractors.
- c. Nothing contained in this Agreement (or any other contract documents), shall create any contractual relationship between Owner and any of Contractor's subcontractors or suppliers. Contractor shall protect, indemnify, and hold harmless Owner, their officers, agents, and employees from damages, lawsuits, expenses, demands, claims, and causes arising against Owner, their officers, agents, and employees, and their other subcontractors, their officers, agents, and employees, or other persons, firms, or corporations whatsoever, arising out of the payment or non-payment of any funds to any subcontractor or supplier.
- d. Contractor shall require each of its subcontractors, to the extent of the Work to be performed by each subcontractor, to comply with the terms of this Agreement and any and all applicable contract documents.

Contractor's Authorized Representative required to be on site at all times.

- a. Contractor shall designate and assign to the Work a person or persons employed directly by the Contractor who shall be Contractor's authorized representative. Contractor's authorized representative shall be in full charge of the Work. All instructions, orders, or directions given by Owner's authorized representative to Contractor's authorized representative shall be binding upon Contractor. Contractor's authorized representative shall be experienced in performing at the Superintendent level or higher, and should have performed such on similar construction projects. Contractor's authorized representative assigned to the Work shall not be changed without written notice to, and consent of, Owner.
- b. Contractor's authorized representative shall be on the Site at all times when Contractor's workforce is performing any Work under this Agreement until written final acceptance of the Work has been obtained from Owner. This includes any and all work being performed by Contractor's subcontractors.

Contractor responsible for Subcontractors compliance with safety precautions and procedures.

- a. Contractor shall be held responsible for its subcontractors' compliance with the safety precautions and procedures, and all applicable rules, Laws, Regulations and policies, and this Agreement. Owner may request and Contractor agrees to the removal from the Project of any Contractor's or its subcontractor's personnel, management, supervision, equipment, tools, or craft for noncompliance with safety precautions and procedures or non-correction of hazards. Owner shall not be liable for any damages experienced by Contractor due to removal of Contractor's or its subcontractor's personnel, management, supervision, equipment, tools, or craft from the Site.

Section 16. Restoration and Performance Requirements.

Complete restoration as indicated on the Drawings and in accordance with the City of Stillwater Design and Construction Standards (latest edition), Section 2106, Restoration. For water and sewer line work, within 21 days of trench backfilling and compaction, full restoration to original or better conditions, including fences, must be completed.

Contractor is responsible for disposal of all items/materials removed during construction (i.e. fencing, culverts, trees, etc.) unless specifically noted to be provided to the Owner.

Section 17. Order of Precedence

The following documents are essential to the contract and a requirement occurring in one is binding as though occurring in all. They are complementary and provide and describe the complete contract. If there is a discrepancy, the governing ranking is:

1. Executed Change Orders (later dated, higher governance)
2. Field Orders / Contract Modification Requests (later date, higher governance)
3. Notice to Proceed
4. Signed Agreement
5. Addenda (later date, higher governance)
6. Supplementary Conditions
7. General Conditions
8. Special Provisions
9. Plan Details
10. Plan Drawings and Notes
11. Technical Specifications
12. Measurement and Payment
13. Bid Form
14. Instructions to Bidders
15. Stillwater Construction Standards and Details
16. Environmental, Geotechnical and other Investigational Reports
17. Performance Bonds
18. Payment Bonds
19. Maintenance Bonds

The Contractor may not take advantage of any apparent contract error or omission. The Contractor shall notify the Owner promptly of any errors or omissions so that necessary corrections and interpretations can be made.

Section 18. Permits and Pre-Construction Submittals

Contractor shall acquire all necessary City of Stillwater permits for Fire Alarms, Fire Sprinklers, Fire Suppression, Earth Change, Grading & Floodplain Development, Electrical, Plumbing, and HVAC/Mechanical. City of Stillwater permits will be provided at no cost to the Contractor.

Within 10 days of the date of Contract execution by the City, the following Contractor submittals are due to the Owner:

1. Submittals Registry
2. Schedule of Values
3. Critical Path Schedule

4. SWPPP for >1 acre sites
5. Water Line Tie-In Plan(s) / Construction Sequencing
6. Sewer Line Bypass Plan(s) / Construction Sequencing
7. Traffic Control Plan(s)
8. Pre-Construction Video &/or photos

Section 19. Submittals

1. Maximum Number of Submittals.
 - a. A resubmittal is considered to be a submittal.
 - b. With the exception of submittals that have a dependency on an earlier submittal (i.e., Submittal 2 is dependent on the Engineer's response to Submittal 1), Contractor is encouraged to combine submittals for a single specification section to create a single submittal group.
2. Coordinate Submittals with Construction Activities.
 - a. Contractor shall coordinate preparation and processing of submittals with performance of construction activities.
 - b. Contractor shall coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals, and related activities that require sequential activity.
 - c. Contractor shall coordinate transmittal of different types of submittals for related parts of the Work so processing will not be delayed because of need to review submittals concurrently for coordination.
 - d. Engineer and/or Owner reserve the right to withhold action on a submittal requiring coordination with other submittals until the related submittals are received.
3. Submittal Processing Time.
 - a. Allow time for submittal review, including time for resubmittals, as follows:
 - i. Initial Review. Allow 21 days for initial review of each submittal. Allow additional time if coordination with subsequent submittal(s) is required. Engineer will advise Contractor when a submittal being processed must be delayed for coordination.
 - ii. Resubmittal Review: Allow 21 days for review of each resubmittal.
 - b. Time for review shall commence on Engineer's or Owner's receipt of submittal. No extension of the Contract Time will be authorized because of failure to transmit submittals enough in advance of the Work to permit processing, including resubmittals.
4. The Contractor's need for more than one resubmittal or any other delay of obtaining Engineer's review of submittals will not entitle the Contractor to an extension of Contract Time.

Section 20. Change Management

For Contract Modification Requests and/or Change Orders, the Contractor shall use the template presented as Exhibit 3. As indicated in the template, all required support documentation must be provided in order to receive Owner approval of Contractor's proposed pricing.

Section 21. Conditions for Contractor Payments

In addition to requirements set out in the General Conditions and other Contract Documents, payments to the Contractor by Owner shall be contingent on the following:

1. Before first application for payment is processed, the following must be approved by Owner:
 - Construction Progress Schedule
 - Submittal Register
 - Schedule of Values
 - Procurement Schedule (as required)
 - Proposed erosion and sediment control measures and SWPPP provisions
 - Pre-construction video and photos
2. Applications for Payment should be submitted to the City of Stillwater monthly. With each Pay Claim, the following are conditions for payment:
 - Pay item quantities must be verified by Inspector.
 - Up-to-date Record Drawings must be verified by Inspector.
 - SWPPP is updated by Contractor and reviewed by Inspector, as applicable, and site conditions are compliant with all local, county and state codes and regulations.
 - Adequate cleanup of both the Work area and Contractor's staging site is provided.
 - Construction schedule and construction progress reports are up to date.
 - Flushing volume estimates have been provided to Owner.
 - Compliant traffic control measures are installed and in good working order.
 - Non-Collusion Affidavit for invoices greater than \$25,000 is provided.

Section 22. Record Drawings

Contractor must keep an accurate record of any modifications to the original drawings including elevation, alignment, materials, etc. These records must be reflected on a mark-up set of drawings maintained on site during construction. Surveyed elevations by laser, GPS or other Owner-approved method prior to burying shall be obtained for top of pipe at least every 100 feet and for all bends (horizontal and vertical), tees, crosses, and valves shall be indicated on the mark-up set of plans.

List of Exhibits

1. Contractor Performance Evaluation
2. Change Order Request Template

Section 23. Payment for Raw Waterline Repair No. 1 and Raw Waterline No. 2

Payment for Raw Waterline Repair No. 1 will be based on the bid items for Leak Repair Type 'A' and payment for Raw Waterline Repair No. 2 will be based on the bid items for Leak Repair Type 'B'.

Section 24. On-Call Raw Waterline Repair Services

Owner may issue work orders to Contractor for leak repairs at locations identified along the raw water pipeline as Leak Repair Type 'A' or Leak Repair Type 'B'. If Contractor accepts work order the Contractor shall mobilize within 5 calendar days to begin the waterline repair.

For each work order, Contractor shall:

- Visit site with Owner and agree upon work area, traffic control needs, and other provisions required for successful completion of the waterline repair.
- Complete all Work in accordance with the Contract Documents
- Notify Owner a minimum of twenty-four (24) hours prior to beginning work, the Wednesday the week before scheduled work is preferred.
- Maintain access to properties within and adjacent to work areas.
- Warrant all Work for materials and workmanship for a period of 1 year following readiness for Final Payment



**SPECIAL PROVISIONS
EXHIBIT 1
CONTRACTOR EVALUATION
Raw Waterline Repair
23WT06**

Department of City Engineering
723 S. Lewis St./P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.742.8325
Web: stillwater.org

To be completed by City Engineering staff, led by the Project Manager, on each Contractor upon final payment/project closeout.

PERFORMANCE LEVELS DEFINED AND RATED		
1. Displays unacceptable performance levels. 2. Displays marginal performance levels. 3. Consistently meets performance levels. 4. Consistently exceeds performance levels. 5. Displays outstanding performance levels.	<u>All ratings except "3 - Meets" require a comment.</u>	
EVALUATION CRITERIA	RATING	COMMENTS
A. Complied with all applicable federal, state, and local laws and regulations, including SWPPP.	1 2 3 4 5	
B. Provided quality workmanship and a finished product meeting specifications and standards.	1 2 3 4 5	
C. Provided competent superintendent and qualified personnel.	1 2 3 4 5	
D. Provided and protected materials and equipment as specified by the supplier.	1 2 3 4 5	
E. Obtained and paid for all applicable permits prior to start of work.	1 2 3 4 5	
F. Maintained up-to-date and annotated Record Documents throughout the project.	1 2 3 4 5	
G. Maintained environment suitable for owner inspection of work.	1 2 3 4 5	
H. Kept work site and other areas free from accumulations of waste, rubbish, and other debris.	1 2 3 4 5	
I. Submitted clear and complete Applications for Payment not more often than once per month.	1 2 3 4 5	
J. Complied with street closing and lane restriction requirements.	1 2 3 4 5	
K. Provided clear, complete, and timely Submittal Register and subsequent Submittals.	1 2 3 4 5	
L. Coordinated water service interruptions in accordance with SOP.	1 2 3 4 5	
M. Adhered to project schedule and submitted changes in accordance with the contract.	1 2 3 4 5	
N. Maintained proper access and use of property during construction.	1 2 3 4 5	
Summation of Ratings Total ➔	xx	

COMMENTS AND GOALS	
City of Stillwater Comments: <comments by PM, director, inspector, field services, transportation, etc.>	
Contractor's Comments: 	
EVALUATION SUMMARY	
<i>Any exceptions to the overall scoring brackets should be noted below in the Exceptions Section.</i>	
Overall Score: XX 42 to 70 36 to 49 0 to 35 ☐ would recommend Contractor for future work with COS (no rating of 1 or 2 accepted in this category) ☐ would recommend Contractor for future work with COS under certain conditions (as specified below) 1 2 ☐ would not recommend Contractor for future work with COS	
Exceptions: 	
GENERAL PROJECT INFORMATION	
Project Description: Brief description of project	
Amount (per final CO): \$xx,xxx.00	Time: XX calendar days
Contract Substantial Completion: xx/xx/xxxx	Contract Final Completion: xx/xx/xxxx
Actual Substantial Completion: <date>	Actual Final Complete: <date>

City of Stillwater

_____ Date _____

Peter Armans

, Project Manager

_____ Date _____

David Barth, Deputy Director, City Engineering

<Company Name>

_____ Date _____

<Name>

, Project Superintendent

_____ Date _____

<Name>

, Project Manager

OPTIONAL: Post-Warranty Phase
City of Stillwater Comments: <comments by PM, director, inspector, field services, transportation, etc.>
Contractor's Comments:

City of Stillwater

<Company Name>

_____ Date _____
<Name>, Project Manager

_____ Date _____
<Name>, Project Superintendent

_____ Date _____
David Barth, Deputy Director, City Engineering

_____ Date _____
<Name>, Project Manager

EXHIBIT 2- CHANGE ORDER FORM SPECIAL PROVISIONS

Cost Itemization Summary for Change Order _____, CMR _____

Description of Work: _____

Allowed costs, per General Conditions Article 11.01.A, include payroll costs, material costs, equipment costs, subcontract costs, special consultants and supplemental costs.
Disallowed costs, per General Conditions Article 11.01.B, include administrative costs (salaries of officers, principals, clerks, etc.), office sites other than onsite, capital expenses and costs due to negligence.

Labor			
Job Title	Hourly Rate ^(a)	Hours	Amount
A	\$50.00	8.0	\$400.00
B	\$50.00	8.0	\$400.00
C	\$50.00	8.0	\$400.00
D	\$50.00	8.0	\$400.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
Total			\$1,600.00

Equipment			
Item	Hourly Cost	Hours	Amount
A	\$20.00	1.0	\$20.00
B	\$30.00	1.5	\$45.00
C	\$40.00	2.0	\$80.00
D	\$50.00	2.5	\$125.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
Total			\$270.00

Materials				
Items	Unit	Quantity	Cost / Unit	Amount
A	LF	20	\$10.00	\$200.00
B	EA	20	\$10.00	\$200.00
C	LS	1	\$10.00	\$10.00
D	GAL	20	\$10.00	\$200.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
Total				\$610.00

Subcontracts ^(b) Attach additional Cost Itemization Summary for each company.		
Company	Attachment	Amount
A	1.1	\$10,000.00
B	1.2	\$10,000.00
C	1.3	\$10,000.00
D	1.4	\$10,000.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
Total		\$40,000.00

Supplemental Costs & Special Consultants ^(d) Attach receipts/invoices/documentation.				
Items	Unit	Quantity	Cost / Unit	Amount
A	LF	20	\$10.00	\$200.00
B	EA	20	\$10.00	\$200.00
C	LS	1	\$10.00	\$10.00
D	GAL	20	\$10.00	\$200.00
Bonds and Insurance	LS	1	\$500.00	\$500.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
Total				\$1,110.00

Cost Itemization Summary ^(e)			
Category	Cost	Markup ^(c)	Amount
Labor	\$1,600.00	15%	\$1,840.00
Materials	\$610.00	15%	\$701.50
Equipment	\$270.00	15%	\$310.50
Subcontractors	\$40,000.00	5%	\$42,000.00
Supplemental & Special	\$1,110.00	0%	\$1,110.00
		0%	\$0.00
		0%	\$0.00
		0%	\$0.00
		0%	\$0.00
		0%	\$0.00
Total			\$45,962.00

Time Extension Requested for Work

_____ Calendar Days

Notes:

- a) Hourly rates shall include salary, health insurance, vacation, sick leave, retirement, holidays, social security, unemployment/workers comp, etc.
- b) Subcontractor fees shall be determined in the same manner as Contractor fees. Contractor shall attach additional summary sheets for each Subcontractor item.
- c) Markup is per General Conditions, Article 12.01. This markup accounts for the fee allowed.
- d) Allowed Supplemental Costs (11.01.A.5) include only the directly related and proportional increases due to the Work, supported by receipts, invoices or other Owner-approved documentation.
- e) The reimbursement costs to Contractor/Subcontractor will be only those additional or incremental costs required because of the change in the Work. Such costs shall be in amounts no higher than those prevailing in the locality of the Project.

SECTION F

SCOPE OF WORK

LEAK REPAIR TYPE 'A'

Project Background: The City of Stillwater owns a 36-inch diameter steel raw waterline that extends from the Stillwater Water Treatment Plant to the Kaw Pump Station just south of the Kaw Reservoir. The depth of the pipeline and location of existing utilities in the area are unknown.

Scope of Work: The Contractor shall provide all services necessary to complete the following scope of Work:

1. Locate and repair the leak in the raw water steel pipeline at the above location.
 - a. The repair area on the waterline exterior must be recoated using Coal Tar Epoxy or approved equal.
 - b. The Contractor must include the proposed method of leak repair with the bid price.
 - c. If rock is removed during excavation the rock shall be hauled away from the site and the area filled with soil free of rocks at the Contractor's expense.

Work Conditions:

1. The raw waterline can be taken out of service for up to **4 hours maximum**. If during the repair it appears that additional time may be available (i.e. due to low demand), the City will consider an extension of this requirement.
2. WTP staff will operate the blow off valves for dewatering and pressure relief but an empty pipeline is not guaranteed.
3. If the leak area is adjacent to the Oklahoma Department of Transportation (ODOT) right-of-way access to the work area will be from ODOT right-of-way. The City has a 50 foot wide easement centered over the pipeline.
4. The contractor will need to contact Brandt Bolay (BBolay@odot.org and (580) 370-0913) with ODOT prior to any work within the ODOT right-of-way.
5. All equipment and materials must be stored within the City's waterline easement.
6. The contractor must notify the WTP at least three (3) days prior to any depressurization/dewatering of the raw waterline.

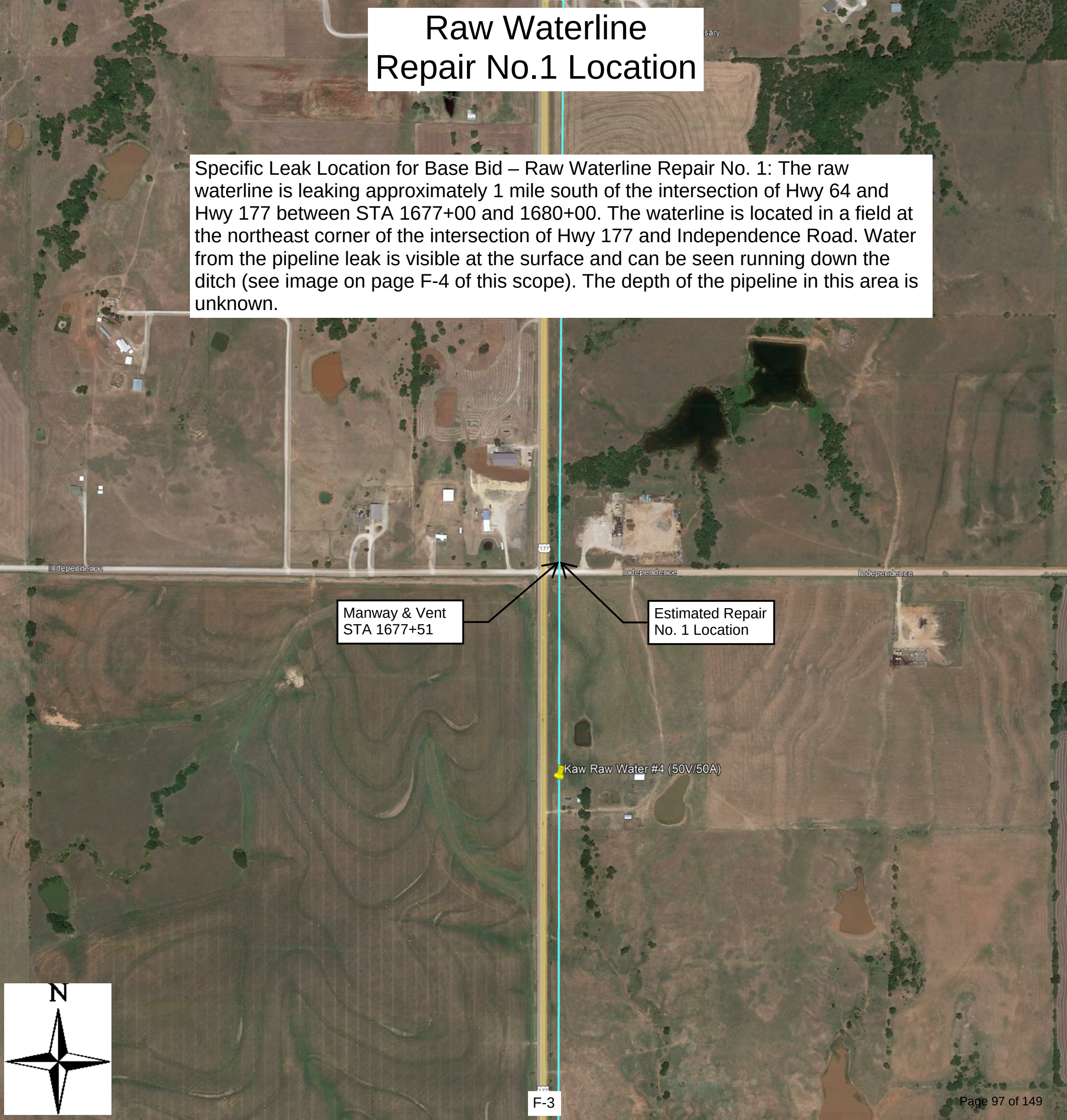
General Notes

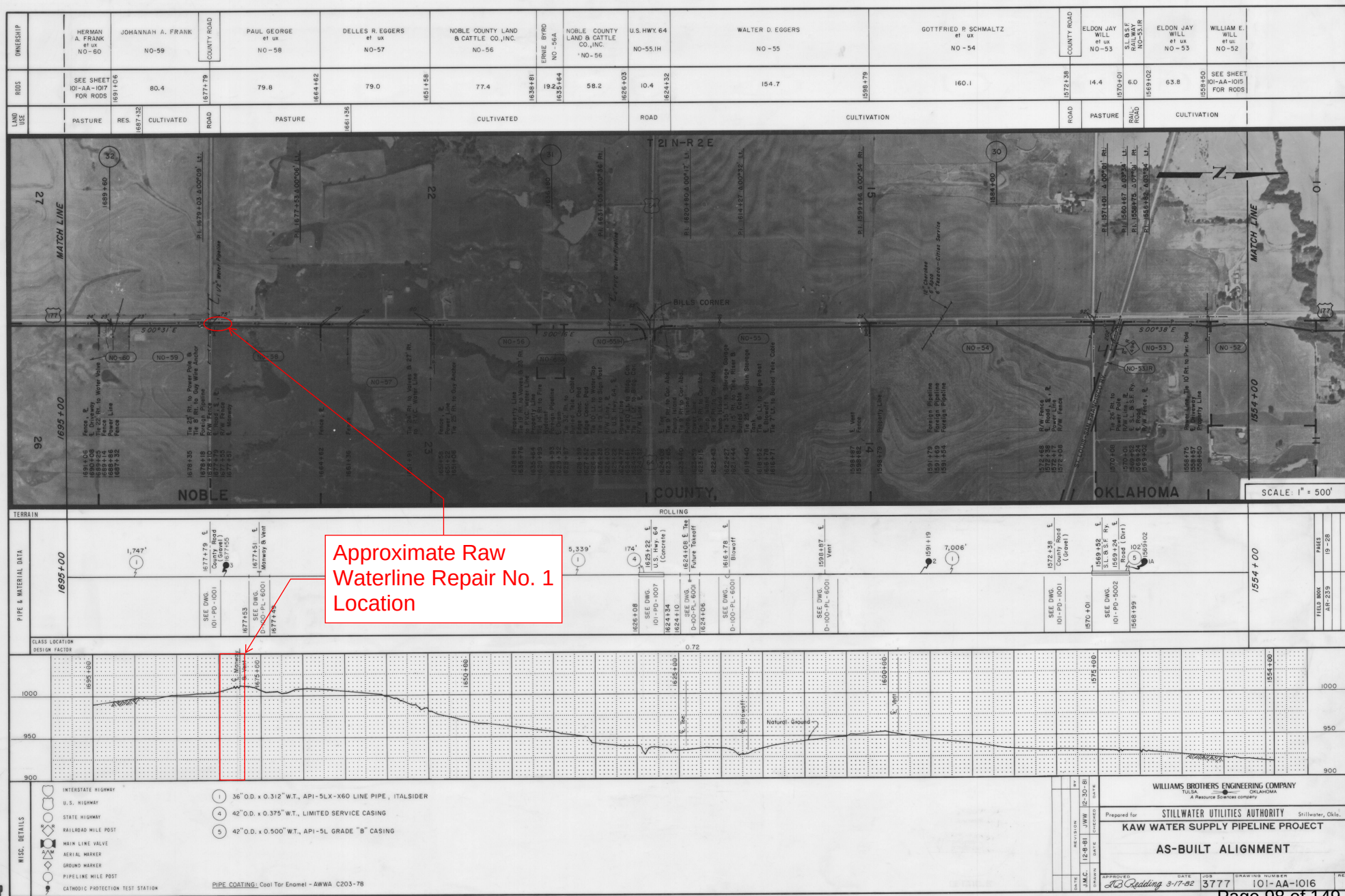
1. Contractor shall give the Oklahoma One-Call System, Inc. notice of any excavation no sooner than 48 hours or later than 10 days, excluding Saturdays, Sundays, and legal holidays prior to commencement of work. Call 800-522-6543 or 811.

2. Maintain reasonable access to properties at all time. Do not restrict driveway access without Owner's approval. Restore driveway access by the end of each day. Provide temporary measures such as gravel to maintain driveway access.
3. Protect all open excavations in accordance with OSHA requirements, 29 CFR, Part 1926.
4. The contractor shall use appropriate measures to prevent silt and construction debris from flowing onto adjacent properties or leaving the site. Sediment and erosion control shall be required and subject to all federal, state and local requirements.
5. Contractor shall maintain a dry and stable trench at all times.
6. All necessary dewatering techniques are the contractor's responsibility.
7. Contractor shall repair all damaged property, including irrigation systems, fencing, and any other surface features affected by the work.
8. Compact all backfill to minimum 95% standard proctor density.
9. Contractor shall be responsible for the proper disposal of any excess materials resulting from the work.
10. Safety shall be the sole responsibility of the Contractor. The Engineer or Owner shall not be responsible for safety, means, or methods of the Contractor.
11. It shall be the Contractor's responsibility to provide traffic control and signage for the duration of project as required by the National Manual on Uniform Traffic Control Devices- Part VI, and/or all other applicable guidelines of ODOT, County, City or any other authorities having jurisdiction over the project areas.
12. Approximate locations of overhead power lines and buried utilities may or may not be shown on plans. Contractor shall be solely responsible for verifying all locations in the field and plan work in these areas accordingly.
13. Any pavement damaged during construction shall be repaired to equal or better condition at the Contractors expense.
14. Any disturbed areas shall be restored to equal or better condition and shall be graded to drain as approved by the Engineer.

Raw Waterline Repair No.1 Location

Specific Leak Location for Base Bid – Raw Waterline Repair No. 1: The raw waterline is leaking approximately 1 mile south of the intersection of Hwy 64 and Hwy 177 between STA 1677+00 and 1680+00. The waterline is located in a field at the northeast corner of the intersection of Hwy 177 and Independence Road. Water from the pipeline leak is visible at the surface and can be seen running down the ditch (see image on page F-4 of this scope). The depth of the pipeline in this area is unknown.





Raw Waterline Repair No. 1
Location facing North



Raw Waterline Repair No. 1
facing northwest

Water surfacing and
running north in the
ditch

LEAK REPAIR TYPE 'B' – ENCASED

Project Background: The City of Stillwater owns a 36-inch diameter steel raw waterline that extends from the Stillwater Water Treatment Plant to the Kaw Pump Station just south of the Kaw Reservoir.

Scope of Work: The Contractor shall provide all services necessary to complete the following scope of Work:

1. Locate and repair the leak in the raw water steel pipeline.
 - a. Before any work begins, the Contractor must provide leak detection service and determine the approximate location of the leak.
 - b. The repair area on the waterline exterior must be recoated using Coal Tar Epoxy or approved equal.
 - c. The leak appears to be within a steel casing. It is unknown how far into the casing the leak is located.
 - d. Any portion of the casing removed during the repair must be replaced. The City will consider alternative methods to restore the casing
 - e. The Contractor must include the proposed method of leak repair with the bid price.
 - f. If Rock is encountered, rock removed during excavation shall be hauled away from the site and the area filled with soil free of rocks at the Contractor's expense.

Work Conditions:

1. The raw waterline can be taken out of service for up to **4 hours maximum**. If during the repair it appears that additional time may be available (i.e. due to low demand), the City will consider an extension of this requirement.
2. WTP staff will operate the blow off valves for dewatering and pressure relief but an empty pipeline is not guaranteed.
3. The work area will be accessed from the Oklahoma Department of Transportation (ODOT) right-of-way. The City has a 50 foot wide easement centered over the pipeline.
4. Closure of US Hwy. 177 is not anticipated to be necessary. All equipment and materials must be stored within the City's waterline easement.

5. The contractor will need to contact Brandt Bolay (BBolay@odot.org and (580) 370-0913) with ODOT prior to any work within the ODOT right-of-way.
6. The contractor must notify the WTP at least three (3) days prior to any depressurization/dewatering of the raw waterline.

General Notes

1. Contractor shall give the Oklahoma One-Call System, Inc. notice of any excavation no sooner than 48 hours or later than 10 days, excluding Saturdays, Sundays, and legal holidays prior to commencement of work. Call 800-522-6543 or 811.
2. Maintain reasonable access to properties at all time. Do not restrict driveway access without Owner's approval. Restore driveway access by the end of each day. Provide temporary measures such as gravel to maintain driveway access.
3. Protect all open excavations in accordance with OSHA requirements, 29 CFR, Part 1926.
4. The contractor shall use appropriate measures to prevent silt and construction debris from flowing onto adjacent properties or leaving the site. Sediment and erosion control shall be required and subject to all federal, state and local requirements.
5. Contractor shall maintain a dry and stable trench at all times.
6. All necessary dewatering techniques are the contractor's responsibility.
7. Contractor shall repair all damaged property, including irrigation systems, fencing, and any other surface features affected by the work.
8. Compact all backfill to minimum 95% standard proctor density.
9. Contractor shall be responsible for the proper disposal of any excess materials resulting from the work.
10. Safety shall be the sole responsibility of the Contractor. The Engineer or Owner shall not be responsible for safety, means, or methods of the Contractor.
11. It shall be the Contractor's responsibility to provide traffic control and signage for the duration of project as required by the National Manual on Uniform Traffic Control Devices- Part VI, and/or all other applicable guidelines of ODOT, County, City or any other authorities having jurisdiction over the project areas.
12. Approximate locations of overhead power lines and buried utilities may or may not be shown on plans. Contractor shall be solely responsible for verifying all locations in the field and plan work in these areas accordingly.
13. Any pavement damaged during construction shall be repaired to equal or better condition at the Contractors expense.
14. Any disturbed areas shall be restored to equal or better condition and shall be graded to drain as approved by the Engineer.

Raw Waterline Repair No. 2 Location

Estimated Raw
Water Repair No.
2 Location

Specific Leak Location for Base Bid – Raw Waterline Repair No. 2: The raw waterline is leaking approximately 1.1 miles north of the intersection of Hwy. 64 and Hwy 177, underneath the railroad tracks between STA 1568+99 and 1570+01. The waterline is located in a field, crossing the railroad tracks on the east side of Hwy. 177. Water from the pipeline leak is visible at the surface (see image on page F-5 and F-6 of this scope). The depth of the pipeline in this area is unknown.

Coordination with the BNSF Railroad will be necessary if the leak is found to be within 25 feet of the nearest track rail. The Contractor shall make contact with BNSF representative Josh Teets at 1-620-388-1583 before beginning any work within 25 feet of the nearest rail track. If the leak is found to be within 4 feet of the nearest rail track, BNSF will have to provide a flagman to communicate with train traffic and the Contractor will be expected to stop work and relocate at least 25 feet from the nearest rail track while any train is on the tracks in the vicinity of the leak area.





Raw Waterline Repair
No. 2 facing south



Raw Waterline Repair No. 2
facing southeast



INSTRUCTIONS TO BIDDERS

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Article 3 - QUALIFICATIONS OF BIDDERS.....	2
Article 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE.....	2
Article 5 - PRE-BID CONFERENCE	4
Article 6 - SITE AND OTHER AREAS	4
Article 7 - INTERPRETATIONS AND ADDENDA.....	4
Article 8 - BID SECURITY	4
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Article 21 - SIGNING OF AGREEMENT	8
Article 22 - SALES AND USE TAXES.....	8
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Article 24 - SIGNATURE REQUIREMENTS.....	8

ARTICLE 1 - DEFINED TERMS

1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

A. Issuing Office: The bidding documents are available through the Owner's online portal at www.stillwater.org/rfp or stillwater.ionwave.net. The bidding procedures are to be administered at City Hall.

B. Invitation To Bid: Notice To Bidders.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

2.01 Complete sets of the Bidding Documents in the number and for the sum, if any, stated in the Advertisement or Invitation to Bid may be obtained from www.stillwater.org/rfp or stillwater.ionwave.net. ~~upon signing the Bidding Document Receipt List for the project.~~

2.02 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.03 Owner and Engineer, in providing electronic copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

3.01 The City may make such investigation as deemed necessary to determine the ability of the Bidder to complete the project and provide any warranty repairs that might be needed. The Bidder shall furnish all such information and data for this purpose as the City may request. The City reserves the right to reject any bid if the evidence submitted by or the investigation of, such a bidder fails to satisfy the City that the Bidder's properly qualified and able to carry out the obligations of the contract and to complete the project contemplated therein.

ARTICLE 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE

4.01 Subsurface and Physical Conditions

A. The General Conditions identify:

1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Bidding Documents.

2. Those drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in Paragraph 4.01.A. will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in Paragraph 4.02 of the General Conditions has been identified. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions or information contained in such reports or shown or indicated in such drawings.

4.02 Underground Facilities

A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities, including Owner, or others.

4.03 Hazardous Environmental Condition

A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that Engineer has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in Paragraph 4.03 will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in Paragraph 4.06 of the General Conditions has been identified and established in Paragraph 4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

4.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated conditions appear in Paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work appear in Paragraph 4.06 of the General Conditions.

4.05 On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.

4.06 Reference is made to Article 7 of the General Conditions for the identification of the general nature of other work that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) that relates to the Work contemplated by these Bidding Documents. On request, Owner will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such other work.

4.07 It is the responsibility of each Bidder before submitting a Bid to:

A. examine and carefully study the Bidding Documents, the other related data identified in the Bidding Documents, and any Addenda;

B. visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;

C. become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work;

D. carefully study all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions, and (2) reports and drawings of Hazardous Environmental Conditions at the Site which have been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions;

E. obtain and carefully study (or accept consequences of not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;

F. agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents;

G. become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;

H. correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;

I. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and

J. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

4.08 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 5 - PRE-BID CONFERENCE

5.01 A pre-Bid conference will be held at the time and place stated in the Notice to Bidders. Representatives of Owner and Engineer will be present to discuss the Project. Bidders MAY BE REQUIRED to attend and participate in the conference; see Notice to Bidders for attendance requirements. Engineer will transmit to all prospective Bidders of record such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

ARTICLE 6 - SITE AND OTHER AREAS

6.01 The Site is identified in the Bidding Documents. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor.

ARTICLE 7 - INTERPRETATIONS AND ADDENDA

7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than ten days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or Engineer.

7.03 Addenda will be issued no later than 3 working days prior to the date set for the bid opening.

7.04 Addenda will be mailed by first class mail, faxed, and/or delivered only to those bidders who have signed the sign-in sheet at the Pre-Bid Conference.

ARTICLE 8 - BID SECURITY

8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of 5 percent of Bidder's maximum Bid price (or highest combination of the base bid plus one any combination of alternate bids) and in the form of a certified check or bank money order or a Bid bond issued by a surety meeting the requirements of Paragraphs 5.01 and 5.02 of the General Conditions.

8.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within the time described in the Notice to Bidders, Owner may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.

8.03 Bid security of other Bidders whom Owner believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

ARTICLE 9 - CONTRACT TIMES

9.01 The number of days within which, or the dates by which, milestones are to be achieved and the Work is to be substantially completed and ready for final payment are set forth in the Agreement.

ARTICLE 10 - ARTICLE 10 - LIQUIDATED DAMAGES

10.01 Provisions for liquidated damages, if any, are set forth in the Agreement.

ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS

11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or those substitute or "or-equal" materials and equipment approved by Owner and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function and quality to be met by any proposed substitute or "or-equal" item. No item of material or equipment will be considered by Owner as a substitute or "or-equal" unless written request for approval has been submitted by Bidder and has been received by Owner at least 15 days prior to the date for receipt of Bids. Each such request shall conform to the requirements of Paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. Owner's decision of approval or disapproval of a proposed item will be final. If Owner approves any proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS, AND OTHERS

12.01 If the Contract Documents require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by Owner. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, in which case apparent Successful Bidder shall submit an acceptable substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.

12.02 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06 of the General Conditions.

12.03 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.

12.04 When prequalification of certain subcontractors is required, the process for prequalification shall be set forth in the Notice to Bidders and Article 3 of this Instructions to Bidders. Nothing in this Article 12 shall be construed as an exception to a prequalification requirement for certain subcontractors.

ARTICLE 13 - PREPARATION OF BID

13.01 The Bid Form is included with the Bidding Documents.

13.02 All blanks on the Bid Form shall be completed by typewriter or electronic text-entry and the Bid signed in ink. Font-style and size shall be clear and discernable. A Bid unit price shall be indicated for each Bid item listed therein, unless otherwise indicated on the Bid Form.

13.03 The Bid Form and all documents to be attached shall be signed in accordance with Article 24 - below.

13.04 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.

13.05 The address and telephone number for communications regarding the Bid shall be shown.

13.06 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the Contract. Bidder's state contractor license number, if any, shall also be shown on the Bid Form.

ARTICLE 14 - BASIS OF BID; COMPARISON OF BIDS

14.01 Lump Sum

- A. Bidders shall submit a Bid on a lump sum basis as set forth in the Bid Form.

14.02 Unit Price

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid Form.
- B. The total of all estimated prices will be the sum of the products of the estimated quantity of each item and the corresponding unit price. The final quantities and Contract Price will be determined in accordance with Paragraph 11.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

14.03 Alternates (Unit Price or Lump Sum)

- A. If not otherwise described on the Bid Form:
1. The price for each alternate will be the amount added to the base Bid, if Owner selects the alternate.
 2. Alternates may be awarded in any combination and number, at the discretion of the Owner.

14.04 The Bid price shall include such amounts as the Bidder deems proper for overhead and profit on account of cash allowances, if any, named in the Contract Documents as provided in Paragraph 11.02 of the General Conditions.

ARTICLE 15 - SUBMITTAL OF BID

15.01 For paper copies, ONE original and TWO copies shall be submitted of only the Bid Form and the documents listed in the Bid Form as attachments to the bid. Electronic submittals through the Owner's online portal shall be via Stillwater.ionwave.net.

15.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement or Invitation to Bid. Paper submittals shall be enclosed in an opaque sealed envelope plainly marked with the Project Title, the Project Number and Bid Number, the Date of the Bid Opening, the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in an outer envelope or box plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid shall be addressed to:

City of Stillwater Office of the City Clerk		
723 S. Lewis Street Stillwater, OK 74074	OR	PO Box 1449 Stillwater, OK 74076

15.03 The name of the individual, limited liability company, partnership, corporation or joint venture submitting the Bid must be typed or legibly printed in the space provided. The Bidding Documents must be signed in ink in accordance with the requirements of Article 24 - below. The name and title of each person who signed the Bidding Documents must be typed or legibly printed on the line below the signature line.

15.04 All blank spaces in the Bidding Documents, which require the provision of any information or any statement from the Bidder must be filled in.

15.05 All Affidavits must be signed and notarized. The notary must legibly: enter the date; enter the name of the person(s) sworn; sign as Notary Public; provide the date of commission expiration; and may impress his/her notary seal or stamp.

15.06 For paper submittal, the Bid Bond must be submitted in the sealed envelope with the Bid. For online portal submittals, the Bid Bond must be scanned and uploaded.

15.07 The Bidder is responsible for reviewing the list of required documents, above, and any requirements contained within the Project Manual and assuring that each and every required document is properly completed, signed, and submitted with the Bid. Forms and Affidavits should be completed and submitted in accordance with Article 24 -Article 24 - below

15.08 Failure to submit a required document may be cause for rejection of the Bid.

15.09 Forms Not in Packet: If an item is listed as being part of the Bidding Documents, and the form is not included in this packet, it is the Bidder's responsibility to obtain the form from the City of Stillwater or such other office noted in the Notice to Bidders.

15.10 Forms to be Used. Bidder shall use the forms in this Bid Package or shall photocopy the forms and complete them. No alterations can be made to the forms except to add additional signature lines as required. Bids submitted with any other alteration or amendment of these forms may be considered non-responsive.

ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID

16.01 No sealed bid shall be altered, changed executed or otherwise revised in any manner by any bidder after it has been tendered to the City Clerk; nor may bids once submitted to the City Clerk, be withdrawn.

16.02 If within 24 hours after Bids are opened, any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that City may allow the Bidder to withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work.

ARTICLE 17 - OPENING OF BIDS

17.01 Bids will be opened at the time and place indicated in the Advertisement or Invitation to Bid and, unless obviously non-responsive, read aloud publicly. A tabulation of the bid information will be made available to Bidders within a reasonable time after the opening of Bids.

ARTICLE 18 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 19 - EVALUATION OF BIDS AND AWARD OF CONTRACT

19.01 Owner reserves the right to reject any or all Bids, or portions thereof, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. Owner may also reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.

19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

19.03 In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

19.04 At the discretion of the Owner, the successful bidder and Contract Award will be determined on the basis of either the Base Bid or the Total Bid including one or more alternate bids.

19.05 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions. Bids will also be evaluated based upon the criteria set forth in the City of Stillwater Purchasing Manual.

19.06 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities to perform the Work in accordance with the Contract Documents.

19.07 If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interests of the Project. The best interests of the project include, but are not limited to cost, disruption of services, and long term operation and maintenance.

19.08 The award shall be made within 30 days after the opening of bids unless the Owner, by formal recorded action and for good cause shown, provides for a reasonable extension of that period not to exceed 15 days where state and local funds are involved or not to exceed 90 days where federal funds are involved.

ARTICLE 20 - CONTRACT SECURITY AND INSURANCE

20.01 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance, maintenance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it shall be accompanied by such bonds and certificates.

ARTICLE 21 - SIGNING OF AGREEMENT

21.01 When Owner gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within the number of days described in the Notice to Bidders thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner. Within ten days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

ARTICLE 22 - SALES AND USE TAXES

22.01 Title 68 Oklahoma Statutes (1991) Section 1365 exempts sales to municipalities and their contractors from sales tax. All bids shall be assumed to have been made based on such exemption.

ARTICLE 23 - RETAINAGE

23.01 Provisions concerning Contractor's rights to deposit securities in lieu of retainage are set forth in the City of Stillwater Purchasing Manual.

ARTICLE 24 - SIGNATURE REQUIREMENTS

24.01 Signature requirements are set forth in the section of the agreement titled "Signature and Submission Requirements for Bidding Documents."

LIST OF DOCUMENTS REQUIRED FOR THIS BID

Project Numbers: 23WT06, Bid No. 51 - 2023

Description: Raw Water Line Repair

The Bidder is responsible for reviewing this list of required documents and any requirements contained within the Project Manual and assuring that each and every required document is properly completed, signed, and submitted with the Bid. Forms and Affidavits should be completed and submitted in accordance with provisions of the "Signature Requirements for Bidding Documents."

DOCUMENTS REQUIRED FOR THIS BID

Submit one original and TWO copies of ONLY the following documents:

- Detailed Bid Form
- Bid Bond (Bid Security)
- Business Relationship Affidavit
- Non-Collusion Affidavit
- Certificate of Non Discrimination
- Qualifications Statement

For the purpose of determining that a Bid is properly submitted, Bidder should submit the properly completed and executed documents listed on this page. Failure to submit a required document may be cause for rejection of the Bid.

Forms Not in Packet. If an item is listed on this page and the form is not included in this packet, it is the Bidder's responsibility to obtain the form from the City of Stillwater or such other office noted in the Notice to Bidders.

Forms to be Used. Bidder shall use the forms in this Bid Package or shall photocopy the forms and complete them. No alterations can be made to the forms except to add additional signature lines as required. Bids submitted with any other alteration or amendment of these forms may be considered non-responsive.

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SIGNATURE AND SUBMISSION REQUIREMENTS FOR BIDDING DOCUMENTS

All Bid Documents and Contract Documents must be signed in ink by a person having the legal authority to bind the Bidder/Contractor and be completed in accordance with the rules listed below.

PART I. A. INSTRUCTIONS FOR SUBMISSION OF THE BID DOCUMENTS

- (1) All documents shown on the "List of Documents Required for this Bid" or in the Standard Specifications, Special Provisions or Special Provisions - Technical must be completed and submitted as provided herein.
- (2) The name of the individual, limited liability company, partnership, corporation or joint venture submitting the Bid must be typed or legibly printed in the space provided. The Bidding Documents must be signed in ink in accordance with the requirements of Part I.B. herein. The name and title of each person who signed the Bidding Documents must be typed or legibly printed on the line below the signature line.
- (3) All blank spaces in the Bidding Documents, which require the provision of any information or any statement from the Bidder must be filled in.
- (4) **All Affidavits must be signed and notarized.** The notary must legibly: enter the date; enter the name of the person(s) sworn; sign as Notary Public; provide the date of commission expiration; and may impress his/her notary seal or stamp.
- (5) The Bid Bond must be submitted in the sealed envelope with the Bid.
- (6) The Bid Form, Affidavits and Bid Security, and any other required documents, must be enclosed in a sealed envelope. Place the name of the Bidder and the words "**SEALED BID FOR PROJECT 23WT06 – RAW WATER PIPELINE REPAIR BID NUMBER: 51-2023 and BID DATE: JULY 19TH, 2023**" on the envelope.

PART I. B. AUTHORIZED SIGNATURE AND MINIMUM REQUIREMENTS FOR BIDDING DOCUMENTS

- (1) Bids submitted by a Corporation: Bidding Documents must have the original ink signature of the President or Vice President of the corporation, or comply with Part I.B.(6).
- (2) Bids submitted by a Sole Proprietorship or Individual: Bidding Documents must have the original ink signature of the owner or individual, or comply with Part I.B.(6).
- (3) Bids submitted by a Partnership: Bidding Documents must have the original ink signature of a General Partner, or comply with Part I.B.(6).
- (4) Bids submitted as a Joint Venture: If two or more parties submit a joint Bid, the Bid Documents must have the original ink signatures of the appropriate representatives of each/all parties. Such Bidders should alter all Documents, but only to provide signature lines (name of Bidder, signature line, and name and title line) to meet this requirement, or comply with Part I.B.(6). Where notarization is required on the forms, each signature must be properly notarized.

- (5) Bids Submitted by a Limited Liability Company: Bidding Documents must have the original ink signature of an authorized agent having authority to bind the limited liability company, or comply with Part II.B.(6). Such Bids must be accompanied by the documentation required in Part II.B. (5) below.
- (6) Signature Requirements for Bidder's Authorized Agent: Some businesses may delegate the authority to sign the Bidding Documents to an authorized agent. In such cases, all documents requiring signature must have the original ink signature of the "authorized" agent. Attached to the Bidding Documents must be the documentation required in Part II.B. (6) below.
- (7) Additional Documentation: Additional documentation of signature and authority may be required on any authority issue or Contract issue.

PART II. A. INSTRUCTIONS FOR SUBMISSION OF THE CONTRACT DOCUMENTS

- (1) All documents listed on the "List of Contract Documents" must be submitted within the time frame as stated in the instructions to bidders and the bid notice following the City's notification of award of the Contract, unless that time is extended by the City's Project Manager/Engineer (if the Bidder shows delays in returning the contract are beyond the Bidder's control).
- (2) The Contract and other forms must be signed and, if so provided on the form, notarized. Where notarization is required, the notary must legibly: enter the date; enter the name of the person(s) sworn; sign as Notary Public; provide the date of commission expiration; and may impress his/her notary seal or stamp.
- (3) Type or legibly print the name of the individual, Limited Liability Company, partnership, corporation or joint venture awarded the Contract on the line provided for this information. The name and title of each person who signed the Contract Documents must be typed or legibly printed on the line below the signature line.

PART II. B. MINIMUM SIGNATURE REQUIREMENTS FOR SUBMISSION OF THE CONTRACT AND BONDS

- (1) Contracts submitted by a Corporation: Contract Documents must have the original ink signature of the President or Vice President of the corporation. That signature must be witnessed by the Corporate Secretary or Assistant Corporate Secretary, and the firm's corporate seal, if any, must be affixed in accordance with 18 O.S. (1991) §1016. Should the corporation not have a seal or should the seal not be available, then the person signing must demonstrate authority to bind the corporation, as set forth in paragraph II.B.(6) below. The name and title of each person who signed the Contract or bond must be typed or legibly printed on the line below the signature line.
- (2) Contracts submitted by a Sole Proprietorship or Individual: Contract Documents must have the original ink signature of the owner or individual, respectively, on the signature line, or comply with Part II.B. (6). The name and title of each person who signed the Contract or bond must be typed or legibly printed on the line below the signature line.

- (3) Contracts submitted by a Partnership: Contract Documents must have the original ink signature of a General Partner on the signature line, or comply with Part II.B. (6). The name and title of each person who signed the Contract or bond must be typed or legibly printed on the line below the signature line.
- (4) Contracts submitted by a Joint Venture: If two or more parties submit a joint Bid, the Contract Documents must be signed in ink by the appropriate representatives of each/all parties. Any of the parties which are corporations must have the appropriate signature(s) and attestation(s) as provided above, or comply with Part II.B.(6). The Contract Documents should be altered, but only to add the signature lines (name of Contractor, signature line, name and title line, and attestation line) to meet this requirement. The name and title of each person who signed the Contract or bond must be typed or legibly printed on the line below the signature line.
- (5) Contracts Submitted by a Limited Liability Company: Contract Documents must have the original ink signature of an authorized agent having authority to sign contracts and bonds and to bind the limited liability company. Attached to the Contract Documents, signed by the authorized agent, must be a properly executed copy of the articles of organization; the operating agreement; and any bylaws, resolution or other document of the authorizing entity, specifically providing the authorized agent with the authority to execute the Contract Documents on behalf of and binding the authorizing entity. All documents designating and authorizing the agent to bind the limited liability company must be notarized by a Notary Public who will complete the required information and may affix his/her seal or stamp. The name and title of each person who signed the Contract Documents must be typed or legibly printed on the line below the signature line. Additional pages may be added, but each signature must be properly notarized.
- (6) Signature Requirements for Bidder's Authorized Agent: Some businesses may delegate the authority to sign the Contract Documents to an authorized agent. In such cases, all Contract Documents requiring signature must have the original ink signature of the "authorized" agent. Attached to the Contract Documents, signed by the authorized agent, must be a properly executed power of attorney or other document of the authorizing entity, specifically providing the "authorized" agent with the authority to execute the Contract Documents on behalf of and binding the authorizing entity. Each signature on the authorizing documents must be notarized by a Notary Public who will complete the required information and may affix his/her seal or stamp. The name and title of each person who signed the Contract, bond, or any authorizing document must be typed or printed on the line below the signature line. Additional pages may be added, but all signatures must be properly notarized.
- (7) Additional Documentation: Additional documentation may be required.

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BID FORM – SUBMIT ONE ORIGINAL & TWO COPIES

Date: _____

Bidder: _____

Bidder's State Contractor License Number: _____

Project: 23WT06 – Raw Water Pipeline Repair

Bid Summary:

Total Base Bid

\$ _____
in figures

ARTICLE 1 - BID RECIPIENT

1.01 This bid is submitted to:

Office of the City Clerk, or	Office of the City Clerk
City of Stillwater	City of Stillwater
PO Box 1449	723 S. Lewis Street
Stillwater, OK 74074	Stillwater, OK 74076

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with City in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 - BIDDER ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Notice to Bidders or Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. The Bid will remain subject to acceptance for 45 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all which is hereby acknowledged.

Addendum Number

Addendum Date

3.02 Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.

3.03 Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.

3.04 Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and (2) reports and drawings of a Hazardous Environmental Condition, if any, which has been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions.

3.05 Bidder has obtained and carefully studied all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.

3.06 Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.

3.07 Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.

3.08 Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.

3.09 Bidder has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Owner is acceptable to Bidder.

3.10 The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

ARTICLE 4 - FURTHER REPRESENTATIONS

4.01 Bidder further represents that:

A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation.

B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.

C. Bidder has not solicited or induced any individual or entity to refrain from bidding.

D. Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

ARTICLE 5 - BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

Base Bid Items

Line No.	Quantity	Unit	Bid Item	Unit Price	Line Price
1	15	EA	Leak Location Detection	\$	\$
2	10	EA	Leak Repair Type A, top of pipe is 5 feet or less from ground surface, leak is above spring line of pipe, and average diameter of leak hole is 0.5 inches or less.	\$	\$
3	5	EA	Leak Repair Type B, encased in steel, price for this item includes cutting/repair of casing. Top of pipe is 5 feet or less from ground surface, leak is above spring line of pipe, and average diameter of leak hole is 0.5 inches or less.	\$	\$
4	75	LF	Each additional foot of excavation beyond 5 feet from ground surface	\$	\$
5	8	EA	Leak hole is below spring line	\$	\$
6	4	EA	Average leak hole diameter of greater than 0.5 inches to 1 inch.	\$	\$
7	2	EA	Average leak hole diameter greater than 1 inch	\$	\$
8	250	SY	Clearing and grubbing of trees greater than 3 inches in diameter at breast height	\$	\$

9	225	LF	Remove and replace barbed wire fence	\$	\$
---	-----	----	--------------------------------------	----	----

Total Base Bid: Sum of all Base Bid Items

\$ _____
in figures

\$ _____
in words

Unit price and line extension amounts are to be shown in type-written figures of a font and size that is clear and discernable. Discrepancies in bid form prices will be resolved as indicated in Article 14 of the Instruction to Bidders. [The Owner reserves the right to reject any Bid due to a discrepancy in a listed unit price and its associated extension price.](#)

The above unit prices shall include all labor, materials, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

Unit Prices have been computed in accordance with paragraph 11.03.B of the General Conditions.

Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.

ARTICLE 6 - TIME OF COMPLETION

6.01 Bidder agrees that the Work will be completed in accordance with the Contract Documents.

6.02 Bidder agrees to pay Liquidated Damages as provided for in the Contract Documents.

ARTICLE 7 - ATTACHMENTS TO THIS BID

7.01 Refer to Section H of the contract documents for a list of documents required for this bid.

ARTICLE 8 - DEFINED TERMS

8.01 The terms used in this Bid with initial capital letters have the meanings indicated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 - BID SUBMITTAL

9.01 This Bid is submitted by:

☐ An Individual

Name (typed or printed): _____

By: _____
(SEAL) (Individual's Signature)

doing business as _____

Business address _____

Telephone number _____ FAX number _____

SS# or FED I.D.# _____

☐ A Partnership

Partnership Name (typed or printed): _____

By _____
(Signature of General Partner- attach evidence of authority to sign)

Business address _____

Telephone number _____ FAX number _____

SS# or FED I.D.# _____

☐ A Corporation

By _____
(SEAL)(Corporate Name)

(State of incorporation)

Type: _____
(General Business, Professional, Service, Limited Liability)

By _____
(SEAL)(Signature - attach evidence of authority to sign)

(Corporate seal)(Title of person authorized to sign)

Attest _____
(Secretary)

Business address _____

Telephone number _____ FAX _____

FED I.D.# _____

☐ A Joint Venture

By _____
(SEAL)(Name)

(Address)

By _____
(SEAL)(Name)

(Address)

SS# or FED I.D.# _____

(Each joint venturer must sign. The manner of signing for each individual, partnership and corporation that is a party to the joint venture should be in the manner indicated above.)

All Bidders:

Address and telephone number for receipt of official communications:

Contact Person: _____

Address: _____

Telephone: _____

Email: _____

FAX: _____

BID BOND

Any singular reference to Bidder, Surety, Owner, or other party shall be considered plural where applicable.

BIDDER (Name and Address): _____

SURETY (Name and Address of Principal Place of Business): _____

OWNER (Name and Address): City of Stillwater, Oklahoma/Stillwater Utilities Authority
PO Box 1449
Stillwater, OK 74076

BID

Bid Due Date: _____

Project (Brief Description Including Location): _____

BOND

Bond Number: _____

Date (Not later than Bid due date): _____

Penal sum _____

(Words)

(Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER

SURETY

(Seal
)

(Seal)

Bidder's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____
Signature and Title

By: _____
Signature and Title
(Attach Power of Attorney)

Attest: _____
Signature and Title

Attest: _____
Signature and Title

Note: Above addresses are to be used for giving required notice.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Surety's liability.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2. All Bids are rejected by Owner, or
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

**CITY OF STILLWATER, OKLAHOMA
BUSINESS RELATIONSHIPS AFFIDAVIT**

STATE OF _____

COUNTY OF _____

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

(if none, so state)

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

(if none, so state)

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

(if none, so state)

Authorized Agent

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

(Notary Public)

My Commission Expires: _____

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City of Stillwater, Oklahoma

Non-Collusion Affidavit

State of _____

County of _____

_____, of lawful age, being first duly sworn, on oath says that (s)he is the agent authorized by the bidder to submit the attached bid. Affiant further states that the bidder has not been a party to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding; or with any city official or employee as to quantity, quality, or price in the prospective contract, or any other terms of said prospective contract; or in any discussion between bidders and any city official concerning exchange of money or other thing of value for special consideration in the letting of a contract.

Authorized Agent

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

Notary Public

My commission expires: _____

My commission number: _____

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CERTIFICATE OF NON-DISCRIMINATION

In connection with the performance of work under this Contract, the Contractor agrees as follows:

A. The Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, or ancestry. The Contractor shall take affirmative action to insure that employees are treated without regard to their race, creed, color, national origin, sex, or ancestry. Such actions shall include, but not be limited to the following: Employment, upgrading, demotion or transfer, recruiting or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor and subcontractor shall agree to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the Owner setting forth provisions of this section.

B. In the event of the Contractor's non-compliance with this non-discrimination clause, the Contract may be canceled or terminated by the Owner. The Owner may declare the Contractor ineligible for further contracts with the said agency until satisfactory proof of intent to comply shall be made by the Contractor.

C. The Contractor agrees to include this non-discrimination clause in any subcontracts connected with the performance of this Agreement.

I have read the above stated clause and agree to abide by its requirements.

(company name)

(seal)

_____, PRESIDENT

Secretary

STATE OF _____)
COUNTY OF _____) §

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared _____, to me known to be the identical person who signed the name of the maker thereof to the within and foregoing instrument as its _____ and acknowledged to me that _____ executed the same as _____ free and voluntary act and deed, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

Notary Public

My Commission Expires: _____

My Commission No.: _____

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**CONTRACTOR'S ~~or SUBCONTRACTOR'S~~ STATEMENT OF QUALIFICATIONS
(CONTRACTOR: THIS FORM IS ALSO REQUIRED FOR EACH SUBCONTRACTOR
WITH 10% OR MORE OF THE CONTRACT WORK BY PRICE.)**

1. Submitting Firm

Official Name of Firm:	
Address:	
City, State, Zip:	
Primary Contact Person:	
Title:	
Phone:	
Email:	
Date of Firm's Establishment:	

2. List all past names under which the firm has previously operated

3. Proposed Subcontractor(s) with 10% or more of the fee

Company Name:		
Contact Person:		
Title:		
Phone:		
Email:		
Type of Work:		

Include additional Subcontractors, if any, as an Attachment. ~~Each Subcontractor must complete this form.~~
Contractor must include all Subcontractor Statement of Qualifications in the Bid Package.

4. Licensing

Jurisdiction:	
Type of License:	
License Number:	
Jurisdiction:	
Type of License:	
License Number:	

Has firm listed in Section 1 ever been fined or suspended by a Contractor's licensing board?

☐

YES

☐

NO

If YES, attach details including where and why.

5. Bonding Information

Bonding Company:			
Address:			
City, State, Zip:			
Bonding Agent:			
Address:			
City, State, Zip:			
Contact Name:			
Phone:			
Aggregate Bonding Capacity:			
Available Bonding Capacity as of date of this submittal:			
Largest Project Completed to date:			
Owner Name, City, State:			
Construction Fee:			
Contact Person for Reference:			

6. Project Qualifications and History

Has this firm, or any officer or partner of this firm, ever failed to complete a construction contract operating as this firm or any other firm?

☐ YES ☐ NO

If yes, identify who and when, and give details:

Are there any judgments, claims, arbitration proceedings, or lawsuits pending, outstanding, or threatened to which this firm, or an officer or partner in this firm, has been a party?

☐ YES ☐ NO

If yes, describe:

Has this firm, or an officer or partner of this firm, filed any lawsuits, or requested arbitration proceedings with regard to any work performed in the last five years?

☐ YES ☐ NO

If yes, describe:

Does the firm's Project Manager and construction crew, or subcontractors, have the required experience and qualifications to perform the work of the project?

☐ YES ☐ NO

If requested by the owner, can the firm provide references for a minimum of five (5) projects that support the firm's or subcontractor's ability to competently perform each individual work component included in the contract?

☐ YES ☐ NO

List the projects (including the owner name, city, and state) for which the firm has had late starts or late completions per the contracted schedule in the last five (5) years:

Does the contractor have previous experience with projects contracted with a municipality?

☐ YES ☐ NO

7. Construction Experience

Project Manager (PM) for this project:			
PM's Three (3) Current or Most Recent Projects:			
Project Name, City, State:		Cost:	
Reference Name:		Phone Number:	
Project Name, City, State:		Cost:	
Reference Name:		Phone Number:	
Project Name, City, State:		Cost:	
Reference Name:		Phone Number:	

Project Superintendent (PS) for this project:			
PS's Three (3) Current or Most Recent Projects:			
Project Name, City, State:		Cost:	
Reference Name:		Phone Number:	
Project Name, City, State:		Cost:	
Reference Name:		Phone Number:	
Project Name, City, State:		Cost:	
Reference Name:		Phone Number:	

Current Experience:

List on **Schedule A** all projects currently under contract (if Joint Venture, list each participant's projects separately). Note which projects are a direct contract with a municipality.

Previous Experience:

List on **Schedule B** all projects completed within the last 5 Years (if Joint Venture, list each participant's projects separately). Note which projects are a direct contract with a municipality.

Has firm listed in Section 1 ever failed to complete a construction contract awarded to it?

☐ YES ☐ NO If yes, attach details including Project Owner's contact information.

Has any Corporate Officer, Partner, Joint Venture participant or Proprietor ever failed to complete a construction contract awarded to them in their name or when acting as a principal of another entity?

☐ YES ☐ NO If yes, attach details including Project Owner's contact information.

Are there any judgments, claims, disputes or litigation pending or outstanding involving the firm listed in Section 1 or any of its officers (or any of its partners if a partnership or any of the individual entities if a joint venture)?

☐ YES ☐ NO If yes, attach details including Project Owner's contact information.

Has firm listed in Section 1 ever been subject to Liquidated Damages with the City of Stillwater?

☐ YES

☐ NO

If yes, attach details including project name and number.

Has firm listed in Section 1 ever been subject to Liquidated Damages with other municipality/owner?

☐ YES

☐ NO

If yes, attach details including Project Owner's contact information.

8. Safety Program

Name of Contractor's Safety Officer:	
Describe firm's safety program:	
List all safety incidents in the past 5 years (Attach additional details if necessary):	

9. Major Equipment

List on **Schedule C** all pieces of major equipment available for use on Owner's Project.

10. Subcontractor Qualification Statement (Subcontractors performing less than 10% ~~or more of~~ Work)

List on **Schedule D** all projects currently under contract (if Joint Venture, list each participant's projects separately). Note which projects are a direct contract with a municipality.

I HEREBY CERTIFY THAT THE INFORMATION SUBMITTED HERewith, INCLUDING ANY ATTACHMENTS, IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NAME OF FIRM:

FIRM'S AUTHORIZED SIGNATORY:

TITLE:

SIGNATURE:

DATE:

NOTARY ATTEST:

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 20____

NOTARY PUBLIC - STATE OF _____

MY COMMISSION EXPIRES: _____

REQUIRED ATTACHMENTS

1. Schedule A (Current Experience).
2. Schedule B (Previous Experience).
3. Schedule C (Major Equipment).
4. Schedule D (Subcontractor Qualification Statement)
5. Evidence of authority for individuals listed in Section 1 to bind organization to an agreement.
6. Resumes of officers and key individuals (including Safety Officer) of firm named in Section 1.

This space intentionally blank.

SCHEDULE A -CURRENT EXPERIENCE

Project Name: PM/PS:	Contract Date:	Type of Work:	Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		
Project Name: PM/PS:	Contract Date:	Type of Work:	Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		
Project Name: PM/PS:	Contract Date:	Type of Work:	Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		
Project Name: PM/PS:	Contract Date:	Type of Work:	Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		
Project Name: PM/PS:	Contract Date:	Type of Work:	Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		
Project Name: PM/PS:	Contract Date:	Type of Work:	Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		

Note: Copy form and attach if additional space is needed.

SCHEDULE B -PREVIOUS EXPERIENCE

(Include ALL Projects Completed within the last 5 years)

Project Name: PM/PS:	Contract Date:	Type of Work:	Original Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		Total Change Orders:
Project Name: PM/PS:	Contract Date:	Type of Work:	Original Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		Total Change Orders:
Project Name: PM/PS:	Contract Date:	Type of Work:	Original Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		Total Change Orders:
Project Name: PM/PS:	Contract Date:	Type of Work:	Original Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		Total Change Orders:
Project Name: PM/PS:	Contract Date:	Type of Work:	Original Contract Cost:
Owner's Name: Address: Telephone:	Design Engineer Name: Company: Telephone:		Total Change Orders:

Note: Copy form and attach if additional space is needed.

SCHEDULE C - LIST OF MAJOR EQUIPMENT AVAILABLE

ITEM	PURCHASEDATE	CONDITION

This space intentionally blank.

SCHEDULE D - SUBCONTRACTOR QUALIFICATIONS STATEMENT

Project Name: _
Project Numbers: _

We (_____), propose to utilize the following subcontractor to perform a portion of the work under this contract. The selected Subcontractor must be qualified and shall have sufficient experience and successful history in performing to assigned tasks.

A. Subcontractor Name:

B. Subcontractor Qualifications and Experiences (attached Supporting Documents as Needed):

1. _
2. _
3. _
4. _
5. _
6. _
7. _
8. _
9. _
10. _

C. Subcontractor References (attached Supporting Documents as Needed):

1. -
2. -
3. -
4. -
5. -
6. -
7. -
8. -
9. -
10. -

END OF CONTRACTORS QUALIFICATION STATEMENT

NOTICE OF NO BID

This sheet is provided for the convenience of vendors submitting a no bid response to solicitations. Request for bid (RFB) number and company name must be indicated by vendor.

REASON FOR NO BID:

- ☐ 1. Cannot comply with specifications
☐ 2. Cannot meet delivery requirements
☐ 3. Cannot identify the item(s)
☐ 4. Do not regularly manufacture or sell the type of item(s) involved
☐ 5. Other (Specify) _____
☐ We do ☐ We do not desire to be retained on the bidder list for future procurements of the type of item(s) involved.

Name and Address of firm (include zip code)

Signature

Title

FOLD/STAMP/MAIL

Notice of No Bid for Project 23WT06 (Bid No. 51-2023)
Bids Open July 19th, 2023

FOLD/STAMP/MAIL

PLEASE
AFFIX
STAMP

CITY CLERK
CITY OF STILLWATER
P.O. BOX 1449
STILLWATER, OK 74076

Budget Amendment Request

For Budget Year 2024

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org



SUA-23-49

Date: 08/10/2023

Department: Water Resources

Requested by: Candy Staring

Explanation:

Expenditure:
Appropriate funds for Raw Waterline Repairs.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Raw Waterline Repairs	9129216 - 54009	23WT06912	\$ 0	\$ 1,547,606	\$ 1,547,606
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 1,547,606

Reviewed by Department Manager: *Candy Staring*

Date: *8/15/2023*

Reviewed by Finance: *Christy Church*

Date: *8-15-2023*

Approved by CMO: _____

Date: _____

Approved by City Council: _____

Date: _____

☐ Yes

☐ No

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

--Print on Yellow Paper--