



**REGULAR MEETING OF THE
BARTLESVILLE CITY COUNCIL
Tuesday, September 4, 2018
7:00 p.m.**

City Hall, Council Chambers
401 S. Johnstone Avenue
Bartlesville, OK 74003

**Mayor Dale Copeland
918-338-4282**

ADDENDUM TO THE AGENDA

7. Consent Docket

b. Approval and/or Ratification of Appointments and Reappointments to Authorities, Boards, Commissions and Committees

- ii. Approval of the appointment of Pat Wright to a three-year term on the Community Center Trust Authority.
- iii. Approval of reappointment of William (Will) Haskell to an additional three-year term on the Community Center Trust Authority.

c. Approval of Agreements and Contracts

- viii. Approval to accept the grant award and direct the City Manager to sign the required contract for FY 2018 CDBG Small Cities Set-Aside Program and other related documents as identified in the award letter.

The Addendum to the Agenda was received and filed in the Office of the City Clerk and posted in prominent public view at City Hall at 5:00 p.m. on Friday, August 31, 2018.

Jason Muninger

Jason Muninger, Interim City Clerk/Finance Director

/s/ Elaine Banes

by Elaine Banes, Deputy City Clerk

All discussion items are subject to possible action by the City Council. Agenda items requiring a public hearing as required by law will be so noted. The City Council may at their discretion change the order of the business agenda items. City of Bartlesville encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least one working day prior to the scheduled meeting is encouraged to make the necessary accommodations. The City may waive this rule if signing is not the necessary accommodation.

Elaine Banes

From: Dale <dale@copelandappliance.com>
Sent: Thursday, August 30, 2018 5:06 PM
To: Elaine Banes
Cc: Mike L. Bailey; Val Callaghan
Subject: Community Center Trust Authority recommendations
Attachments: dale.vcf

Elaine,

Please place the following on the next appropriate City Council agenda with my recommendation for council consideration and possible approval.

Reappointment of William (Will) Haskell to a second term. His current term expires 9/18 and he is eligible for reappointment.

Appointment of Pat Wright to replace Maria Gus whose second term expires 9/18.

Thanks,
Dale Copeland

Elaine Banes

From: ian@bitbrilliant.com
Sent: Thursday, August 09, 2018 5:35 PM *Read*
To: Elaine Banes
Subject: New submission from Application for City Boards, Commissions, Committees & Trust Authorities
*cc: Val Calaghan
Dale (up) auct*

Please check the ones you wish to serve on:

- Community Center Trust Authority

Name

Pat Wright

Address

1616 Cherokee Hills Dr
Bartlesville, OK 74006-4209
[Map It](#)

Home Phone

(918) 331-9252

Cell Phone

(918) 914-1906

Email

pwright106@yahoo.com

What in your background qualifies you for service on the committees chosen (volunteer work, education, employment)?

I have a degree in Theatre from Texas Christian University and have recently retired from Wesleyan Christian School where I was Fine Arts Director. I have a background in selecting and producing major theatrical productions and understand the costs associated with facility rental, backstage needs, promotion, etc. I have been involved with several programs at the BCC and have enjoyed the facility from both the audience and backstage.

Tell us about your previous community involvement and the duration of your involvement.

I have served on the Board of Directors for Children's Musical Theatre (6 years) and the Bartlesville Public School Foundation--grants committee chair (3 years). I have been a producer for CMT; president of BPS Choral and POM Booster Clubs and Parent Support Groups. I am a sustaining member of Service League and held several offices (7 years). I have also served on Staff Parish and VBS committees for East Cross UMC.

What would you like to see this board, commission, committee or authority accomplish?

I would like to see the continued maintenance and improvement of the facility; increase the attendance of BCC sponsored events and remain a reasonable rental facility for community needs. I would also hope to create sustainable avenues for revenue, a pleasant working environment for employees and a place where our community can gather to experience the arts and develop lasting memories.

Memo

To: Mike Bailey, City Manager
From: Natasha Riley, AICP Assistant City Planner
CC: City Council
Date: August 31, 2018
Re: Contract for FY 2018 CDBG Small Cities Set-Aside Program

On July 12, 2018, at the City Council's direction, staff submitted an application for grant funding to the State of Oklahoma Department of Commerce (ODOC) for the FY 2018 Community Development Block Grant (CDBG) Small Cities Set-Aside Program. This program was set up to provide entitlement grant funding to Oklahoma communities with populations of 15,000 to 50,000. As one of these communities, Bartlesville has received word that the grant funding for FY 2018 has been awarded in the amount of \$67,962 pending acceptance by the City Council.

As approved by the Council on June 4, 2018, our grant application for the use of these funds was for the construction of sidewalks and playground equipment near the entrance of Johnstone Park. The required matching funds for this project will come from the Capital Improvements Sales Tax funds in the amount of \$68,000, approved as part of the FY 2018-2019 CIP Budget.

The Council is requested to accept this grant award at the September 4th, 2018 regular meeting and direct the City Manager to sign the required contract, and other related documents as identified in the award letter.

Following acceptance of this grant and receipt of the executed contract from the ODOC, additional paperwork will be prepared by staff for the release of grant funds, and construction will begin in early spring of 2019.

August 31, 2018

Dale Copeland, Mayor
City of Bartlesville
401 S Johnstone
Bartlesville, OK 74003-6619

Dear Mayor Copeland:

The Oklahoma Department of Commerce/Community Development (ODOC/CD) has completed its review of your FY 2018 Community Development Block Grant (CDBG) application in the Small Cities category. ODOC/CD is pleased to inform you that your project has been approved for funding in the amount of \$67,962.00.

To officially accept this award:

- The **Authorized Official** must log-in to OKGrants (<https://grants.ok.gov>); or click the link above.
- Once signed-in, proceed to “My Tasks “ and click on the contract that says “Contract Signatures Required”; which will take you to the “Application Menu.”
- At “Application Menu,” select “**View, Edit, and Complete Forms.**”
- In the **Award Section** (bottom of page) select “**Contract Part I.**”
- Review the **Contract Part I** and click on the link to **Part II** and print off for your records. When ready to accept, follow the next step.
- Next, **click on the radio-button** to “Certify authorization to sign the document.”
- **Type in Name and Date.**
- Once completed, **click save button (top of page).**
- Next, click on the **Print Version** button and print out the form for your records. You can also do this step once it is executed by ODOC. Should this contract ever be modified, this information will not be retained.
- Once saved, click on the contract title next to “Document Information” (*Contract title will highlight when mouse is moved over it*) located on same page above “Instructions” to take you back to “Application Menu”.
- Once back in “Application Menu”, click the “**Apply Status**” button underneath “Change the Status” and then click the button of “Contract Signatures Submitted” to change the status.
- Once completed, click save button (top of page).
- Once saved, go back to the Application Menu and change status to “Contract Signatures submitted”.

Should this award be accepted, it will be memorialized in **contract number 17281 CDBG 18.**

Important Information Concerning Bank Accounts and Electronic Funds Transfer (EFT):

The award recipient (grantee) requests partial pay advances for the above referenced award through the OKGrants system. The Oklahoma Department of Commerce will then request payment through PeopleSoft, the accounting system utilized by the State of Oklahoma. The Office of Management and Enterprise Services (OMES) maintains all payee information, including banking information. It is the ***grantee's responsibility*** to contact the OMES Vendor Maintenance Division to update any changes to grantee's financial information on file or if a new account needs to be established. Incorrect information will delay your payment. The OMES Vendor Maintenance contact information is as follows:

Vendor Registration

Victoria Baker
405-522-3093
victoria.baker@omes.ok.gov

Vendor File Maintenance

vendor.form@omes.ok.gov

Vendor Remittance Updates

update to remittance contact for vendor payment notification.
remittance@omes.ok.gov

OMES Service Desk

405-521-2444 or toll-free 866-521-2444
servicedesk@omes.ok.gov

We look forward to working with you in the coming months. Should you have any questions, please contact Marshall Vogts at 405-815-5339.

Sincerely,



Vaughn Clark, Director
Community Development

Cc: Natasha Riley nmriley@cityofbartleville.org

FAIN #:
B-18-DC-40
-0001

UEI #:
078665304

FEI #: 73-6005079

CONTRACT
PART I
SUMMARY
AND
SIGNATURE
S

Contracting Agency:	Oklahoma Department of Commerce State of Oklahoma (ODOC)
Contractor:	City of Bartlesville
Contract Title:	ODOC Community Development Block Grant
Contract Number:	17281 CDBG 18
Federal Amount:	\$67,962.00
Match Amount:	\$68,000.00
Contract Amount:	\$67,962.00
Research and Development:	Not R&D Related
Indirect Cost Rate:	46.47
Grant Award Amount - This Action:	\$67,962.00
Total Committed:	\$67,962.00
Total Obligated:	\$67,962.00
Source:	U.S. Department

of Housing
and Urban
Development
(HUD)
Catalog of
Federal
Domestic
Assistance
(CFDA)
Number
14.228

Project
Funding
Period: August 31,
2018 through
August 30,
2020

Federal
Award
Period: August 10,
2018 through
August 9,
2019

Summary of
Project

The
proposed
project is the
construction
OF new
sidewalks
and the
installation of
playground
equipment at
Johnstone
Park.
Johnstone
Park is the
oldest park
in
Bartlesville
and serves
as the
regional
park and
gathering
place for
West

Bartlesville neighborhoods, which includes census tracts 2, 3, and 9. These census tracts have been designated as Low to Moderate Income Areas by HUD. This will be year five of a multi-phase project, which began with the construction of a multi-use pavilion, restrooms, plaza, and parking lot. The first four phases were funded by the City of Bartlesville's CDBG for 2014, 2015, 2016, and 2017. This undertaking will continue the revitalization of Johnstone Park and will ultimately

provide not only an improved recreational area for the majority of Bartlesville's low to moderate income population, but also a park facility that is equivalent to those available to the residents of East Bartlesville.

Budget Summary Funds

Construction	\$67,962.00
-	
Engineering/	\$0
Architect -	
Inspection -	\$0
Other -	\$0
Public	\$0
Facilities	
Admin -	
Direct	\$0
Grantee	
Admin -	
Planning -	\$0
TOTAL	\$67,962.00
CDBG -	
TOTAL	\$68,000.00
LEVERAGE	
-	
TOTAL	\$135,962.00

FUNDS -

Submit Requisitions to: Issue Payment To:
 Community Development City of Bartlesville

Oklahoma Department of Commerce 900 North Stiles	401 S. JOhnstone Bartlesville, OK 74003-6619
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Oklahoma City, OK
73104-3234

AGREEMENT
COMPONENTS:

Part I - Summary and
Signatures

Part II - Terms and
Conditions

SPECIAL CONDITIONS:

SIGNATURES –
EXECUTION OF
CONTRACT

The rights and obligations
of the parties to this
contract are subject to and
governed by Part II –
Terms and Conditions. To
the extent of any
inconsistency between the
general and the specific,
the specific governs.

I certify that I am
authorized to sign this
document, and any
attachments or
addendums thereto, and I
have read and agree to all
parts of the contract.

Executed by:
City of Bartlesvile

Executed by:
Oklahoma Department of
Commerce

Signature of Authorized
Official

Signature of Authorized
ODOC Official

Date

Date



PART II - TERMS AND CONDITIONS

1. AVAILABILITY OF FUNDS

Payments pursuant to this contract are to be made only from monies made available to the Oklahoma Department of Commerce (ODOC) by the U.S. Department of Housing and Urban Development (HUD) for the CDBG Program for non-entitlement areas. Notwithstanding any other provisions, payments to the Contractor by ODOC are subject to the availability of such funds to ODOC as determined by federal and/or State action and/or law. ODOC may take any action necessary in accord with such determination.

2. MODIFICATION AMENDMENT

- A. This contract is subject to such modification as may be required by federal or State law or regulations. Any such modification may be done unilaterally by ODOC.
- B. Except as otherwise provided in this contract, the work and services to be performed and the total contract amount may be modified only upon following the process required by ODOC in accessing the OKGrants system.
- C. Revisions to the contract and the approved budget, which is a part of this contract, must follow the process required by ODOC in accessing the OKGrants system.
- D. A waiver by ODOC of any provision of this contract must follow the process required by ODOC in accessing the OKGrants system.

3. ODOC

- A. ODOC will provide funding for the project up to the total amount listed in Part I: Total Project Funding.
- B. ODOC shall perform monitoring to assess the Contractor's financial and program compliance and progress but said monitoring and evaluation shall not relieve the Contractor of any obligation or duty under this contract.

4. CONTRACTOR

- A. The Contractor agrees to perform those duties, obligations and representations contained in its application and to be bound by the provisions of its application, all amendments thereto and all correspondence relating thereto, which were submitted to and accepted by ODOC in contemplation of this contract, said application being incorporated herein and made a part hereof by reference. Any conflict between said application, amendments and correspondence and the provisions of this contract shall be controlled by this contract.
- B. None of the work and services covered by this contract may be subcontracted without prior written approval of ODOC. All compensated administrative consultants engaged by the Contractor must be ODOC Certified CDBG Administrators. However, said determination by ODOC shall not relieve the Contractor of its



independent obligation to ensure that such persons are fully qualified, and able to perform the duties they have contracted to perform.

- C. In no event will any subcontract or subcontractor incur obligation on the part of ODOC.
 - D. The Contractor shall comply with all requirements of the ODOC CDBG Project Management Guide. The Guide is hereby annexed and incorporated and made a part of this contract. The Guide may be amended during the current contract year by ODOC. All amendments shall be based on changes in federal and State laws or regulations and shall be mailed to the Contractor at the address indicated in Part I of the contract.
 - E. The Contractor shall commence actual construction or otherwise begin implementation of the funded project within two hundred seventy (270) days from the start date of the contract.
 - F. Based upon a Risk Assessment the ODOC may schedule mandatory Technical Assistance meetings. The Contractor shall ensure the attendance of any person performing services under this contract whose presence is requested.
5. 2 CFR 200.331

Pursuant to 2 CFR 200.331 - All pass-through entities must:

- a. Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:
 - (1) Federal Award Identification.
 - (a) Subrecipient name (which must match the name associated with its unique entity identifier);
 - (b) Subrecipient's unique entity identifier;
 - (c) Federal Award Identification Number (FAIN);
 - (d) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;
 - (e) Subaward Period of Performance Start and End Date;
 - (f) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;
 - (g) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the



current obligation;

- (h) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;
- (i) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
- (j) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;
- (k) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;
- (l) The rest of Section 200.331 is herein incorporated by reference.

6. EMPLOYEE BENEFITS

The Contractor has full responsibility for payment of Workers' Compensation insurance, unemployment insurance, social security, State and federal income tax and any other deductions required by law for its employees.

7. CERTIFICATIONS BY CONTRACTOR

- A. The Contractor expressly agrees to be solely responsible to ensure that the use of monies received under this contract complies with all federal, State and local statutes, regulations and other legal authority, all as modified from time to time, that affect the use of said monies.
- B. The Contractor specifically certifies and assures that it will comply with applicable terms of the following statutes, regulations and executive orders and any amendments thereto:
 - (1) Equal Opportunity
 - (a) Title VI of the Civil Rights Act of 1964 (42 USC §§2000d, *et seq.*), which prohibits discrimination on the basis of race, color or national origin under any program receiving federal funds. HUD regulations are at 24 CFR, Part 1;
 - (b) Title VIII of the Civil Rights Act of 1968 (42 USC §§3600-3620, 1988), popularly known as the Fair Housing Act;
 - (c) Executive Order 11063 (1962) as amended by Executive Order 12259, which requires equal opportunity in housing. HUD regulations are at 24 CFR, Part 107;
 - (d) Section 109 of the Housing and Community



Development Act of 1974, which prohibits discrimination on the basis of race, color, national origin or sex in connection with funds made available pursuant to the Act. Section 109 also prohibits discrimination on the basis of age and disability as provided in:

- (i) Age Discrimination Act of 1975 (42 USC §§6101, et seq., State Program, Final Rule);
- (ii) Section 504 of Rehabilitation Act of 1973 (29 USC 794);

Regulations are at 24 CFR, Part 570.601;

- (e) Section 3 of the Housing and Urban Development Act of 1968 (12 USC §1701u), which requires that, to the greatest extent feasible, opportunities for training and employment be provided to lower-income persons in the project area and that contracts for work in connection with the project be awarded to businesses in or owned in substantial part by residents of the project area. Regulations are at 24 CFR, Part 135;
- (f) Executive Order 11246 (1965), which prohibits discrimination on the basis of race, color, religion, sex or national origin and requires affirmative action in connection with federally assisted construction contracts. Regulations are at 24 CFR, Part 130 and 41 CFR, Part 60-1;
- (g) Section 504 of the Rehabilitation Act of 1973, as amended, which establishes policies, goals and procedures for assuring no otherwise qualified individual with disabilities is, solely on the basis of the disability, denied benefits, subjected to discrimination or excluded from participation in any program or activity receiving federal assistance.

(2) Labor Standards

- (a) Davis-Bacon Act (40 USC §276a-276a-5), which requires payment of the prevailing wage for the locality to workers on construction contracts over \$2,000. Housing rehabilitation projects of fewer than eight units are exempt. Regulations are at 29 CFR, Part 5. The Contractor further certifies that it shall include in its bidders' packages the U. S. Department of Labor Wage Determination List and a statement that the Contractor and any subcontractors must comply with these wage rates in performance of the work required;
- (b) Copeland (Anti-Kickback) Act (18 USC §874, 40 USC §176c), which applies to all contracts covered by Davis-Bacon and provides that workers must be paid weekly, with only permissible deductions allowed. Regulations are at 29 CFR, Part 3;
- (c) Contract Work Hours and Safety Standards Act (40 USC



§§327, et seq.), which requires overtime compensation. Regulations are at 29 CFR, Part 5;

(3) Environment

- (a) National Environmental Policy Act of 1969 (42 USC §§4231, et seq.) (NEPA), and other provisions of law that further the purposes of the Act as specified in HUD Environmental Review Regulations at 24 CFR, Part 58;
- (b) The Contractor's chief executive officer hereby assumes the status of a responsible federal official under NEPA and accepts jurisdiction of the State and federal courts for the purpose of enforcement responsibilities as such an official;
- (c) Finding of Exemption: With regard to the environmental requirements of NEPA and the environmental requirements of related federal authorities, it is the finding of the Contractor that the activities of Administration and Engineering located in 24 CFR 58.34(a) are exempt activities. Upon execution of this contract the activities of Administration and Engineering require no further environmental review.
- (d) Finding of Categorical Exclusion/Not Subject to 24 CFR 58.5: With regard to the environmental requirements of NEPA and the environmental requirements of related federal authorities, it is the finding of the Contractor that the activity of Purchase of Equipment located in 24 CFR 58.35(b) is a Categorically Excluded activity not subject to 24 CFR 58.5. Upon execution of this contract this activity requires no further environmental review.

(4) Acquisition and Relocation

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (P.L. 91-646, P.L. 100-17). Section 305 of Title III and Section 210 of Title II require State and local recipients to comply with real property acquisition and relocation requirements set forth in said Act. Regulations are at 49 CFR, Part 24;

(5) Lead-Based Paint

Title IV of the Lead-Based Paint Poisoning Prevention Act (42 USC §§4821, et seq.), which prohibits the use of lead-based paint in residences for which federal assistance is provided. Regulations are at 24 CFR, Part 35;

(6) Debarment and Suspension

The Contractor certifies it will require certification from subcontractors that neither the subcontractor nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any proposal submitted as required by 24 CFR, Part 570.489;



- (7) The Contractor certifies that it is in compliance with 25 O.S. §1313(B).
- (8) The patent rights to any discovery or invention developed as part of the specific activity funded by Community Development Block Grant funds shall belong to the United States Department of Housing and Urban Development.

8. HOLD HARMLESS CLAUSE

- A. The Contractor shall, within limitations placed on such entities by State law, save harmless the State of Oklahoma, its agents, officers and employees from all claims and actions and all expenses defending same that are brought as a result of any injury or damage sustained by any person or property in consequence of any act or omission by the Contractor. The Contractor shall, within limitations placed on such entities by State law, save harmless the State of Oklahoma, its agents, officers and employees from any claim or amount recovered as a result of infringement of patent, trademark or copyright or from any claim or amounts arising or recovered under Workers' Compensation Law or any other law. In any agreement with any subcontractor or any agent for the Contractor, the Contractor will specify that such subcontractors or agents shall hold harmless the State of Oklahoma, its agents, officers and employees for all the hereinbefore-described expenses, claims, actions or amounts recovered.
- B. In the event the Contractor chooses to use volunteer labor to assist in the project activities, the Contractor shall bear any and all liability for any injury or harm caused by the volunteer labor or any harm or injury to the volunteer labor.

9. POLITICAL ACTIVITY

- A. All employees of the Contractor shall observe the limitations on political activities to which they may be subject under the Hatch Act (5 USC §§1501, et seq., 18 USC §595 and any amendments thereto).
- B. No portion of the contract funds may be used for any political activity or to further the election or defeat of any candidate for public office.
- C. No portion of the contract funds may be used for lobbying activities.

10. NO-CONFLICT COVENANT

The Contractor covenants that no officers or employees of any governing board of the Contractor have any interest, direct or indirect, and that none shall acquire any such interest during their tenure or for one year thereafter that would conflict with the full and complete execution of this contract. The Contractor further covenants that in the performance of this contract no person having any such interest will be employed. The Contractor covenants that no employee of ODOC has any interest, direct or indirect, nor has any employee of ODOC received anything of value in connection with this contract.

11. PUBLICATIONS AND OTHER MATERIALS

- A. No material produced in whole or in part under this contract shall be



subject to copyright in the United States or any other country. ODOC shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this contract.

- B. Any publication or other material produced as a result of this contract shall include in a prominent location near the beginning the following statement:

This (type of material) was financed in whole or in part by funds from the U.S. Department of Housing and Urban Development as administered by the Oklahoma Department of Commerce.

12. CONTRACT ADMINISTRATION

The Contractor shall comply with 2 CFR, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards except as directed otherwise in writing by ODOC, as they relate to the application, acceptance and use of federal funds and with the Oklahoma Department of Commerce requirements pursuant thereto, which are published in the ODOC CDBG Project Management Guide.

13. COMPENSATION TO CONTRACTOR

- A. Funds made available pursuant to this contract shall be used only for expenses incurred during the period funded as specified in Part I for the purposes and activities approved and agreed to by ODOC. No ODOC funds may be used for expenses incurred prior to the contract start date. No ODOC funds may be used for expenses incurred after the contract end date.
- B. ODOC shall disburse funds to the Contractor upon receipt and approval by ODOC of timely, properly executed Requests for Payment of Contract Funds. The Contractor may submit a Request for Payment of Contract Funds as often as necessary to meet its financial obligations. All funds received shall be expended within fifteen (15) days of receipt. No funds shall be disbursed by ODOC when any of the following conditions are present:
- (1) The latest Monthly Expenditure Report due has not been received and accepted by ODOC. The Contractor is required to submit a Monthly Expenditure Report by the tenth (10th) of the month following the receipt and/or expenditure of funds;
 - (2) Funds are requested for activities not listed on the contract budget or are in excess of the current budget amount for a particular activity.
- C. All requests for funds should be submitted to ODOC during the period funded. A final claim may be submitted no later than sixty (60) days after the final date of the period funded. Said claim will be allowed only for reimbursement of actual expenditures. Any claim submitted after the sixty (60) days may be disallowed by ODOC.
- D. If ODOC determines that payment based on estimated expenditures is resulting in accumulation of excessive balances of cash on hand, ODOC may modify the basis for compensation to the Contractor to



effect proper cash management.

- E. Payments by Contractor for administrative services will be made in conformance with the following schedule:

<u>Maximum Fee (Cumulative)</u>	<u>Activity</u>
20%	Release of Funds achieved within 120 days
5%	Release of Funds achieved greater than 120 days
20%	Construction started within 270 days
5%	Construction started greater than 270 days
40%	Construction as project funds are expended (Pro rata)
20%	Submission and acceptance of Final Closeout documents

- F. If a question arises as to the validity of any claim made under this contract and the parties are unable to resolve such question by negotiation, then the Contractor may request a resolution of the question pursuant to the terms of this contract and the administrative procedures available through ODOC rules promulgated pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. §§250, et seq.

14. AUTHORITY TO USE GRANT FUNDS (RELEASE OF FUNDS)

- A. No costs, with the exception of administration and engineering, shall be incurred until after the Contractor has received written notice from ODOC that the Contractor has satisfied the specific requirements listed herein for release of funds. The Contractor may submit a request for Authority to Use Grant Funds for this activity prior to the release of other funded activities.
- B. The Contractor shall meet required Authority to Use Grant Funds (Release of Funds) requirements within one hundred twenty (120) days after the beginning of the contract period. In accordance with the CDBG Project Management Guide and other policies as noted below, the Contractor shall submit to ODOC "Request for Authority to Use Grant Funds (Release of Funds)" and required supporting documentation as follows:
 - (1) Environmental Review: The Contractor shall complete an Environmental Review for each contract activity with the exception of exempt activities and categorically excluded activities not subject to 24 CFR 58.5, i.e., administration, engineering and purchase of equipment;
 - (2) Leverage Commitment: The Contractor shall submit Certification of Leverage, certifying that leverage funds are available and identifying the source and amount in accordance with approved application.
 - (3) Insurance and Bonding: The Contractor shall submit evidence of:



- (a) General liability insurance covering the funded activities; and
- (b) Bonding of all officials who are responsible for financial transactions relating to this contract;
- (4) Anti-Displacement Plan: The Contractor must adopt and submit an Anti-Displacement Plan in accordance with ODOC CDBG Project Management Guide;
- (5) Other: Special conditions in accordance with this contract and ODOC CDBG Project Management Guide as follows:
 - (a) Contractor has met any special conditions specified in Section II of this contract;
 - (b) Contractor's audit has been accepted and approved by ODOC;
 - (c) Contractor has attended a CDBG training session.

15. PROCUREMENT

- A. Procurement, management and disposition of property acquired with contract funds shall be governed by federal and State law, and as directed by ODOC in the CDBG Project Management Guide. Applicable State laws include the Public Competitive Bidding Act of 1974, 61 O.S. §§101, et seq.
- B. Materials acquired for construction purposes shall be deemed real property once they have become part of the improvement.

16. RECORDS, REPORTS, DOCUMENTATION

- A. The Contractor shall maintain records and accounts, including property, personnel and financial records that properly document and account for all project funds. Specific types and forms of record are required in the ODOC CDBG Project Management Guide.
- B. The Contractor shall retain all books, documents, papers, records and other materials involving all activities and transactions related to this contract for at least three (3) years from the date of submission of the Final Expenditure Report or until all audit findings have been resolved, whichever is later. All records and accounts shall be made available on demand to the Oklahoma State Auditor and Inspector, HUD, the Comptroller General and ODOC, its agents and designees for inspection and use in carrying out its responsibilities for administration of funds.
- C. The Contractor will submit to ODOC documentation of local leverage funds used for the project in such form and at such times as required by ODOC.
- D. The Contractor has not paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in the procuring of this contract.



17. CLOSING OUT OF CONTRACT

- A. The Contractor shall promptly return to ODOC any funds received under this contract that are not obligated as of the final date of the period funded. Funds shall be considered obligated only if goods and services have been received as of the final date of the period funded.
- B. ODOC may unilaterally modify this contract to subtract the total amount of funds not obligated by the Contractor as of the final date of the period funded.
- C. The Contractor cannot close out the contract until the project is completed and all monitoring issues have been resolved and approved by ODOC.
- D. The Contractor shall submit closeout documents in accordance with ODOC Project Management Guide no later than sixty (60) days after the final date of the period funded or upon completion of the project, whichever comes first.

18. AUDIT, DISALLOWED COSTS

- A. The Contractor shall comply with ODOC's Audit Policies and Audit Procedures, which are incorporated herein and made a part hereof.
- B. The Contractor shall provide ODOC with timely copies of reports on any audits that include funds received from ODOC.
- C. In the event an audit results in the determination that the Contractor has expended contract funds on unallowable costs, the Contractor shall reimburse ODOC in full for all such costs.

19. PROGRAM INCOME

The Contractor shall account to ODOC for all Program Income resulting from this agreement, as provided in 24 CFR 570.489(e) and any amendments thereto. Disposition of Program Income will be determined by ODOC.

20. INTERPRETATION, REMEDIES

- A. In the event the terms or provisions of this contract are breached by either party or in the event a dispute shall arise between the parties regarding the meaning, requirements or interpretation of the terms and provisions of this contract, then such breach or dispute shall be resolved pursuant to the terms of this contract and the administrative procedures available through ODOC rules promulgated pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. §§250, et seq.
- B. Neither forbearance nor payment by ODOC shall be construed to constitute waiver of any remedies for any default or breach by the Contractor that exists then or occurs later.
- C. This contract shall be construed and interpreted pursuant to Oklahoma law.



21. TERMINATION OR SUSPENSION

- A. This contract may be terminated or suspended in whole or in part at any time by written agreement of the parties.
- B. This contract may be terminated or suspended by ODOC, in whole or in part, for cause, after notice and an opportunity for Contractor to present reasons why such action should not be taken. Procedures for such a process shall be in accordance with the General Rules of Practice and Procedure of the Department. Grounds constituting cause include but are not limited to:
- (1) The Contractor fails to meet the requirements for Authority to Use Grant Funds within one hundred twenty (120) days after the beginning of the contract period;
 - (2) The Contractor fails to commence actual construction or otherwise begin implementation of the funded project within two hundred seventy (270) days from the start date of the contract;
 - (3) The Contractor fails to comply with provisions of this contract or with any applicable laws, regulations, guidelines or procedures, including ODOC policies and issuances, or is unduly dilatory in executing its commitments under this contract;
 - (4) Purposes for the funds have not been or will not be fulfilled or would be illegal to carry out;
 - (5) The Contractor has submitted incorrect or incomplete documentation pertaining to this contract;
 - (6) The Contractor is unduly dilatory in executing its commitments under a prior contract with ODOC, including, but not limited to submission of any audits due, resolution of audit findings and monitoring results.
- C. In the event of termination or suspension, the Contractor shall be entitled to payment for otherwise valid and allowable obligations incurred in good faith prior to notice of such action and to reimbursement for reasonable and necessary expenses. The Contractor shall reduce to the minimum possible obligations, prepaid expenses and other costs.
- D. The Contractor shall not be relieved of liability to ODOC for damages sustained by ODOC by virtue of any breach of this agreement by the Contractor. ODOC may withhold payments due under this agreement pending resolution of the damages.
- E. ODOC reserves the right to cancel, suspend or terminate this contract without notice, in the event the Contractor has outstanding issues relating to another contract with ODOC. These issues include but are not limited to:
- (1) Failure to timely submit any required reports;



- (2) Failure to respond to any communication from ODOC; and
- (3) Failure to abide by any programmatic or ODOC requirements.

22. SEVERABILITY CLAUSE

If any provision under this contract or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this contract or its application that can be given effect without the invalid provision or application.