REGULAR MEETING OF THE BARTLESVILLE CITY COUNCIL

Monday, November 2, 2026
5:30 p.m.

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

James S. Curd, Jr., Mayor
918-338-4282

ADDENDUM TO THE AGENDA

7. Consent Docket

c. Approval and Ratification of Agreements, Change Orders, Contracts, Engagement Letters, Grant Applications and Agreements, Leases, Memorandum of Understanding (MOU), Proposals, Quit Claim Deeds, and Statement of Work.

x. Approval of a professional services contract with Guy Engineering Services, Inc. for design services on the Tuxedo Bridges over the Caney River and overflow (Bridges 6 and 9) Rehabilitation and Repair project, in the amount of $39,177.00.

The Addendum to the Agenda was received and filed in the Office of the City Clerk at 11:00 a.m. and posted in prominent public view at City Hall at 11:30 p.m. on Friday, October 30, 2026.

Jason Muninger — Jason Muninger, City Clerk/CFO

/s/ Elaine Banes — by Elaine Banes, Deputy City Clerk

City of Bartlesville Website: https://www.cityofbartlesville.org/city-government/city-council/meeting-agendas/
Live Streaming: https://www.cityofbartlesville.org/city-government/city-council/public-meeting-calendar/
Cable Viewing on Sparklight: Channel 56

Open Meetings Act Compliance (25 O.S. Sec. 301 et seq.): all discussion items are subject to possible action by the City Council. Official action can only be taken on items which appear on the agenda. The City Council may adopt, approve, ratify, deny, defer, recommend, amend, strike, or continue any agenda item. When more information is needed to act on an item, the City Council may refer the matter to the City Manager, Staff or City Attorney, or back to a committee or other recommending body. Under certain circumstance, items are deferred to a specific later date or stricken from the agenda entirely. 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.

city of bartlesville
CONNECTED / CREATIVE / VIBRANT

Agenda Item 7.c.x.
October 26, 2026
Prepared by Steve Roper
Engineering Department

I. SUBJECT, ATTACHMENTS, AND BACKGROUND

Approval of a professional service contract with Guy Engineering Services, Inc. for design services on the Tuxedo Bridges over the Caney River and overflow (Bridges 6 and 9) Rehabilitation and Repair project. This contract modifies previous design work to allow bridges 6 and 9 to be a standalone project.

Attachments: Guy Engineering Services Design Contract

II. STAFF COMMENTS AND ANALYSIS

One of the priority projects included on the voter approved 2020 General Obligation Bond is the deck repairs for the eastbound Tuxedo bridges over the Caney River and overflow. These bridges were initially included in a design contract with Guy Engineering, but were pulled from the original contract due to insufficient budget.

This contract compensates Guy Engineering Services, Inc. for modification of existing plans to create a standalone project for the rehabilitation of the Tuxedo boulevard bridges over the Caney River (eastbound only, bridge 6) and overflow (bridge 9). This contract will include all required changes to the existing bridge plans to create a separate bridge project addressing only bridges 6 and 9. Plan modifications include revisions to typical sections, pay item tables and notes, Title Sheet, and traffic control, among other items. This contract will also include 404 permitting and accompanying documentation.

III. BUDGET IMPACT

The proposed contract includes completing final plans and specifications to meet the recommendations of the inspection report. The proposed contract price for the work is $39,177.

While the original funds for the project were utilized to complete re-deck of westbound Tuxedo over the Caney River, funds available for Preventative Maintenance Streets projects have been budgeted in the ½ Cent Sales Tax Fund. There is currently $1,850,000 available for Preventive Maintenance Street projects in that fund. Street & Traffic Committee input has been received and they are in agreement that this would be a good use of the funds, therefore staff proposes using a portion of those funds for this project. The estimated total cost for the project, including construction, is $1,100,000.

IV. RECOMMENDED ACTION

Staff recommends awarding the design contract for the Tuxedo Bridges over the Caney River and overflow (Bridges 6 and 9) Rehabilitation and Repair project to Guy Engineering Services, Inc. in the amount of $39,177.00.

GUY ENGINEERING

September 21 2026

Micah Siemers
Director of Engineering
City of Bartlesville
401 S. Johnstone Ave.
Bartlesville, OK 74003

Re: City of Bartlesville Local Bridges 6 & 9 on Tuxedo Blvd over the Caney River and Overflow

Dear Mr. Siemers:

Thank you for this opportunity to provide the City of Bartlesville with a scope and fee proposal for the professional services needed for the above project. This proposal is to provide pre-construction services to rehabilitate the two listed bridges as noted in the Bridge Rehabilitation & Repair Field Assessment Reports dated October 31, 2019 prepared by NEO Design, LLC.:

We propose to perform the following preconstruction project services:

Design – Roadway & Project Management	$ 20,834	
Design – Structural (NEO)	5,824	
Environmental (Stantec)	12,519	
	$39,177	Lump Sum

Upon execution of the contract by all parties, Guy Engineering will proceed with the services described herein and will coordinate with the Client as necessary to initiate the work.

We look forward to working with you on this project. If you have any questions, please feel free to contact me at brad@GUYengr.com or (539) 424-5033.

Sincerely,

Brad Folks

Brad Folks, PE
Project Manager

Encl

EXHIBIT B

City of Bartlesville
Bridges 6 & 9 on Tuxedo Blvd over the Caney River and Overflow
9/21/2026

Project Description

The purpose of the project is to rehabilitate two bridges on Tuxedo Ave that span the Caney River and Caney River Overflow. The two bridges and approaches are:

- NBI 21121, Circle Number 6, Bridge Location No. 74E0180N39500S8
- NBI 21083, Circle Number 9, Bridge Location No. 74E0180N3950008

The rehabilitation designs will follow the recommendations detailed in the Bridge Rehabilitation & Repair Field Assessment Reports dated October 31, 2019, prepared by NEO Design, LLC. That document is attached for reference.

The project involves combining City of Bartlesville project No. 2022061 into new plan set that includes rehabilitation of Bridge 6 and Bridge 9.

General Scope

The general scope of work includes meetings, on-site reviews, and additional services required for the preparation of studies, reports, traffic control, roadway design, and permitting assistance. The CONSULTANT will prepare plans for the rehabilitation of the bridges and associated approach roadways, surfacing, and drainage improvements, culminating in the delivery of 90% Final Plans, Specifications, and Estimates (PS&E). Plans will be prepared in accordance with current ODOT specifications.

The CONSULTANT will:

- Prepare 90% plans and cost estimate
- Attend virtual 90% plan field review meeting
- Prepare updated cost estimates
- Finalize plans, quantities and cost estimates
- Perform quality assurance/quality control review

No public meetings are anticipated and are not included in this scope of work.

SECTION 1 - Bridge Design

1.1. The CONSULTANT will prepare structural design calculations plans for the rehabilitation of the two bridges.

1.2. Prepare bridge construction plans, which may include but not be limited to:

- 1.2.1. General Notes and Summary of Pay Quantities (Bridge)
- 1.2.2. General Plan and Elevation Sheet(s)
- 1.2.3. Abutment Repair Detail Sheet(s)

1.2.4. Pier Repair Detail Sheet(s)
1.2.5. Superstructure Repair Detail Sheet(s)
1.2.6. Beam Repair Detail Sheet(s)
1.2.7. Bearing Assembly Detail Sheet(s)
1.2.8. Miscellaneous Detail Sheet(s)

1.3. Perform quality assurance/quality control reviews, make necessary corrections, and submit final plans.

SECTION 2 - Roadway Design

2.1. Prepare construction plans for roadway approaches. The roadway will be designed to match the bridge deck elevations. The estimated roadway length is 100 ft west of Bridge 6 and 100 ft east and west of Bridge 9. The 2019 ODOT Construction Specifications will be used.

2.2. Incorporate environmental mitigation notes and measures as required in environmental clearance documents.

2.3. 404 permitting application and accompanying documentation.

2.4. Perform quality assurance/quality control review.

2.5. Roadway plans may include, but not be limited to:
2.5.1. Title Sheet
2.5.2. Typical Sections
2.5.3. General Construction Notes
2.5.4. Summary of Pay Quantities and Notes (Roadway)
2.5.5. Summary Sheets
2.5.6. Stormwater Management Plan
2.5.7. Erosion Control Plan
2.5.8. Plan and Profile Sheets
2.5.9. Cross Sections

2.6. Lighting is not included in this scope of work.

2.7. No sidewalks or additional trails are included in this scope of work.

2.8. No landscape design is included in this scope of work.

SECTION 3 - Traffic Studies

3.1. No traffic studies or turning analyses are included in this scope of work.

SECTION 4 - Traffic Engineering Design

4.1. The roadway is expected to be open to through traffic. Traffic control will utilize closing one lane at a time on Bridge 9 and will close Bridge 6 for any repairs utilizing Bridge 5 to alternate traffic keeping one lane open in each direction.

4.2. A signing and striping plan will be included.

4.3. Traffic control pay items will be itemized.

4.4. A traffic signal design is not included in this scope of work.

4.5. Traffic plans may include, but not be limited to:
- 4.5.1. Suggested Sequence of Construction
- 4.5.2. Construction Traffic Control Layout with Temporary Signal Plans
- 4.5.3. Permanent Signing and Striping
- 4.5.4. Summary of Pay Quantities and Notes (Traffic)

SECTION 5 - Geotechnical Investigation

5.1. Geotechnical investigation and testing are not included in this scope of work.

SECTION 6 - Environmental

6.1. 404 Permit coordination.
- 6.1.1. See attached sub-consultant scope for more detailed tasks (Stantec).

SECTION 7 - Survey

7.1. Survey is not included in this scope of work.

SECTION 8 - Subsurface Utility Engineering (SUE)

8.1. Subsurface Utility Engineering (SUE) is not included in this scope of work.

SECTION 9 - Right-of-Way

9.1. Right-of-way documents are not included in the scope of work.

9.2. Right-of-way acquisition is not included in the scope of work.

9.3. Right-of-way staking is not included in the scope of work.

SECTION 10 - Utility Relocation Coordination

10.1. Utility relocation coordination is not included in this scope of work.

SECTION 11 - City Responsibilities

11.1. Advertisement and letting of the construction contract.

11.2. Construction management services.

11.3. Construction inspection services.

11.4. Providing any necessary documentation to facilitate the environmental and 404 application process.

11.5. Obtaining any necessary temporary construction easements.

Fee Summary

Design – Roadway & Project Management	$20,834	
Design – Structural (NEO)	5,824	
Environmental (Stantec)	12,519	
Proposed Contract Total	**$39,177**	**Lump Sum**

GUY ENGINEERING

Task Name	Milestone
Plan Development	
Submit 90% Final Plans for Review	45 working days from Notice to Proceed
Submit Approved Final Design Package	30 working days from Final Plan review response and environmental clearance

GUY Project No.: _____

SERVICES AGREEMENT

THIS SERVICES AGREEMENT (this ***"Services Agreement"*** or ***"Agreement"***) is entered into effective as of the _____ day of _____, 20____ (the ***"Effective Date"***) by and between GUY ENGINEERING SERVICES, INC., an Oklahoma corporation (***"Consultant"***) and CITY OF BARTLESVILLE (***"Client"***).

W I T N E S S E T H:

WHEREAS, Client requires the services of qualified personnel to develop and perform Services, as hereinafter defined;

WHEREAS, Consultant has experience in the business of furnishing professional services for a variety of projects;

WHEREAS, Client and Consultant desire to enter into an agreement for Consultant to perform certain services pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the covenants, conditions and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Client and Consultant agree as follows:

SECTION 1
SERVICES TO BE PERFORMED

1.1 The Services. The services to be performed by Consultant under this Agreement (the "***Services***") are outlined in Exhibit B. Any proposed changes to the Services must be approved in writing by Consultant and Client before taking effect.

1.2 The Project and the Site. The Services are related to Bridges 6 and 9 on Tuxedo Avenue over the Caney River and Caney River Overflow (the "***Project***") which is, or is contemplated to be, situated at or near the City of Bartlesville (the "***Site***").

SECTION 2
SCHEDULE FOR SERVICES

Consultant shall use commercially reasonable efforts to perform the Services in accordance with the schedule included in Exhibit B (the "***Schedule***").

SECTION 3
COMPENSATION FOR SERVICES

3.1 Fee. Client shall pay Consultant, and Consultant agrees to receive as payment for the Services, a lump sum fee in the amount of $39,177 (the "***Compensation***"), to be invoiced monthly and paid within 30 days. Any proposed change in the Compensation must be approved in writing by Client and Consultant before taking effect.

SECTION 4
CONTRACT DOCUMENTS

4.1 Contract Documents. Consultant and Client agree that the contract documents (the "***Contract Documents***") for the Project shall consist of, and the parties shall be bound by:

(a) This Agreement and all attachments and exhibits hereto, including, without limitation, the General Terms and Conditions set forth on **Exhibit A** hereto and all attachments and exhibits thereto (the ***"General Terms and Conditions"***); and

(b) All drawings, specifications and all other technical and special terms and conditions and all other documents listed, or referred to, in the foregoing documents, if any (the "***Technical Documents***".

4.2 Definitions; Interpretation. All terms capitalized but not otherwise defined herein shall have the meanings set forth herein and in the General Terms and Conditions. The Contract Documents shall be interpreted together and in harmony with one another. In the event of any inconsistency or conflict between the Contract Documents, such conflict or inconsistency shall be resolved by reference to the Contract Documents in the following order of priority: *first*, the terms of the Agreement (including the General Terms and Conditions attached thereto as **Exhibit A**); and *second,* the Technical Documents.

SECTION 5
STANDARDS

5.1 Standard of Care; Warranties. Consultant warrants that the Services performed under this Agreement will (a) conform in all material respects to the requirements and specifications set forth in the Contract Documents, and (b) be performed in accordance with applicable Laws and Good Industry Standards. For purposes hereof, ***"Good Industry Standards"*** means generally accepted practices and standards of care and diligence normally practiced or approved by persons engaged in performing work similar to the Services. Consultant further agrees that if Client notifies Consultant in writing at any time up to the expiration of 12 months after the date of Consultant's completion of the Services that such Services do not conform in material respects to the foregoing warranties and standards of care, and specifies the nature of the nonconformance, and if the Services do not, in fact, so conform, Consultant will diligently re-perform, at its sole expense, the Services to the extent necessary to make them conform. **Notwithstanding the foregoing, Consultant does not warrant or guarantee that any design, engineering, specifications, equipment and/or materials supplied by entities other than Consultant or its subcontractors will produce any intended result or achieve any intended purpose. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS AGREEMENT, CONSULTANT DISCLAIMS ALL OTHER WARRANTIES WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FINANCABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING AND/OR USAGE OF TRADE. THE RE-PERFORMANCE OBLIGATIONS STATED IN THIS SECTION SHALL BE CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ALL LIABILITY OF CONSULTANT ARISING FROM OR RELATED TO NON-CONFORMING OR DEFECTIVE WORK.**

5.2 Compliance with Laws. Consultant agrees that the Services, and its performance thereof, shall conform with all applicable Laws.

SECTION 6
PERSONNEL

Consultant agrees that it shall provide and assign experienced personnel, as applicable, in sufficient numbers to support and adequately staff and perform the Services and fulfill Consultant's obligations under the Contract Documents. Consultant shall promptly designate in writing to Client an individual to act as a representative authorized to act on behalf of Consultant with respect to the Project (the ***"Consultant's Representative"***). Consultant may change its Consultant's Representative at any time upon giving written notice of such change to Client.

SECTION 7
INSURANCE

7.1 Required Insurance Coverages. During the performance of the Services under this Agreement, the Consultant shall keep and carry in force policies of insurance in the minimum amount as set forth herein or as required by the laws of the State of Oklahoma, whichever is greater.

- General Liability Insurance with bodily injury limits of not less than $1,000,000 for each occurrence and not less than $1,000,000 in the aggregate, and with property damage limits of not less than $100,000 for each occurrence and not less than $100,000 in the aggregate.

- Automobile Liability Insurance with bodily injury limits of not less than $1,000,000 for each person and not less than $1,000,000 for each accident and with property damage limits of not less than $100,000 for each accident.

- Worker's Compensation Insurance in accordance with statutory requirements and Employer's Liability Insurance with limits of not less than $100,000 for each occurrence.

- Professional Liability Insurance with limits of not less than $500,000 with prior acts endorsement for the insurance to remain in effect for a minimum of two years after acceptance of the Project by the Client.

7.2 Additional Insurance Provisions. All insurance maintained by Consultant or any subcontractor in accordance with the terms hereof shall comply with the following:

- Deductible levels for all required insurance will be commercially reasonable. Consultant shall be solely responsible for the payment of all deductibles (including, without limitation, deductibles for builder's risk policies carried by Consultant or Client) and all self-insured retention amounts retained by Consultant.

- To the extent of Consultant's indemnification obligations pursuant to Article 7 of **Exhibit A** to the Agreement, all required insurance policies shall be endorsed to provide that they are primary without right of contribution from Client or any insurance otherwise maintained by Client, and not in excess of any insurance issued to Client.

- The policies required by the Contract Documents (except worker's compensation and professional liability insurance policies) shall list the following as additional insureds to the extent of Consultant's indemnification obligations pursuant to Article 7 of **Exhibit A** to the Agreement:

  (a) Client and "all Client affiliated companies"; and

  (b) All Indemnitees as defined in **Exhibit A** to the Agreement.

- Except where prohibited by Law and only to the extent of Consultant's indemnification obligations pursuant to Article 7 of **Exhibit A** to the Agreement, Consultant waives all rights of subrogation, and Consultant shall cause each insurer, to waive their rights of subrogation as to Client and its respective contractors, consultants, agents and employees.

- Without limiting the foregoing, Consultant's insurance obligations hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

- Unless otherwise agreed in writing by the parties hereto, should any of the work under the Contract Documents be subcontracted, Consultant shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Consultant may insure subcontractors under its own policies.

- Upon Client's request, Consultant shall provide certificates of insurance certifying that all coverages and terms required herein have been obtained. Said certificates shall further provide that said insurance will not be cancelled by the insurer without the insurer first giving the Client 30 days' written notice of cancellation.

- Consultant shall provide Client at least 30 days' prior written notice of any cancellation of, non-renewal, or material change as may adversely affect any insurance policy or coverage in force.

- All coverages shall be issued by insurance companies selected by Consultant and authorized to do business in the state in which the Services are to be performed, of recognized good standing and hold a current policy holder's alphabetic and financial size category rating of not less than A-VII,

according to the current Best's Key Rating Guide or a company of financial stability that is otherwise approved by Client.

SECTION 8
NOTICES

All notices, Claims, demands, and other communications of similar import to be given by any party to this Agreement or to any other party hereto shall be in writing, and shall be given by personal delivery, electronic mail (but only if the intended recipient confirms in writing receipt of such electronic mail), receipted delivery service or by registered or certified mail, first class postage prepaid, return receipt requested, and shall be delivered or addressed as follows:

To Client at:

City of Bartlesville
Attn: Micah Siemers
401 S. Johnstone Ave.
Bartlesville, OK 74003
Phone: (918) 338-4256
Email: wmsiemers@cityofbartlesville.org

To Consultant at:

Guy Engineering Services, Inc.
Attn: Rebecca Alvarez
6910 East 14th Street
Tulsa, Oklahoma 74112
Phone: (918) 437-0282
Email: rebecca@guyengr.com

The above addresses may be changed by giving written notice of such change to the other party. All notices or communications shall be deemed given when actually received or refused at the intended address.

SECTION 9
CONFLICTS OF INTEREST

Neither party will pay any commission, fee or rebate to an employee of the other party, or favor an employee of the other party with any gift or entertainment of significant value in connection with the Contract Documents.

SECTION 10
REPRESENTATIONS AND WARRANTIES

10.1 Consultant Representations and Warranties. Consultant represents and warrants to Client that:

(a) Consultant has the full right, power and authority to enter into this Agreement, to grant the rights granted herein, and to perform fully all of its obligations in this Agreement;

(b) Consultant's execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate or other entity action; and

(c) Consultant entering into this Agreement with Client and its performance of the Services does not and will not conflict with or result in any breach or default under any other agreement to which Consultant is subject.

10.2 Client Representations and Warranties. Client hereby represents and warrants to Consultant that:

(a) Client has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder;

(b) Client's execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate or other entity action; and

(c) Client entering into this Agreement with Consultant and its performance of the Services does not and will not conflict with or result in any breach or default under any other agreement to which Client is subject.

WHEREFORE the parties have entered into this Services Agreement as of the Effective Date.

CLIENT:	**CONSULTANT:**
CITY OF BARTLESVILLE	**GUY ENGINEERING SERVICES, INC.**
By: _____	By: 
Title: _____	Title: President
Name: _____ (Print)	Name: Rebecca Alvarez (Print)
Date: _____	Date: 9/22/2026

Revision Date: _____

EXHIBIT A
TO
SERVICES AGREEMENT

General Terms and Conditions

1. DEFINITIONS AND CONSULTANT SERVICES.

1.1 Definitions. The capitalized terms set forth below shall have the following meanings in this **Exhibit A** and in the Services Agreement to which this **Exhibit A** is attached:

"Affiliate" means, with respect to a party, any entity that is a direct or indirect parent or subsidiary of such party or that directly or indirectly (i) owns or controls such party, (ii) is owned or controlled by such party, or (iii) is under common ownership or control with such party. For purposes of this definition, "control" shall mean the power to direct the management or policies of such entity, whether through the ownership of voting securities, by contract, or otherwise. Control of fifty percent (50%) or more of the voting securities of a corporation, either directly or indirectly, shall constitute control of such corporation, but the foregoing shall not preclude a finding that a party may control another corporation through ownership of less than fifty percent (50%) of such voting securities.

"***Agreement***" or "***Services Agreement***" means that certain Services Agreement between Client and Consultant to which these General Terms and Conditions are attached and of which they are a part.

"Claims" means any and all claims, demands, suits, causes of action, legal or administrative proceedings, liabilities, losses, costs or expenses (including, without limitation, court costs, experts' fees and attorneys' fees).

"Client" means the entity identified as Client in the preamble to the Agreement.

"Client's Representative" means the person designated by Client and authorized to act on behalf of Client with respect to the Services, subject to the limitations in Section 2.2 of these General Terms and Conditions, and with whom Consultant may consult at all reasonable times during Consultant's performance of the Services.

"Compensation" has the meaning set forth in Section 3 ("Compensation for Services") of the Agreement.

"Confidential Information" has the meaning set forth in Section 15 of these General Terms and Conditions.

"Consultant" means the entity identified as Consultant in the preamble to the Agreement.

"Consultant's Representative" has the meaning set forth in Section 6 ("Personnel") of the Agreement.

"Contract Documents" has the meaning set forth in Section 4 ("Contract Documents") of the Agreement.

"***Deliverables***" has the meaning set forth in Section 13 of these General Terms and Conditions.

"Effective Date" has the meaning set forth in the preamble to the Agreement.

Revision Date: _____

"Force Majeure" means any of the following causes to the extent such cause was neither foreseen nor reasonably foreseeable and is beyond the reasonable control of the party affected thereby: acts of war or the public enemy, whether war be declared or not, including terrorism; public disorder, epidemics, insurrection, rebellion, sabotage, riots or violent demonstrations; earthquakes, hurricanes, tornadoes, hail storms, torrents, floods, unusually severe weather or other natural calamities, disasters or acts of God; fire or explosion; strikes, lockouts or other industrial action by workers or employees of Client or of third parties not under the contractual control and supervision of Consultant; acts of the government of the United States, the individual states, county or local governments and regulatory agencies, or acts of any foreign country.

"General Terms and Conditions" means the terms and conditions of this **Exhibit A** to the Agreement.

"Governmental Authorizations" means all permits, consents, decisions, qualifications, licenses, privileges, approvals, certificates, certifications, confirmations or exemptions from, and all filings with, and notice to, any Governmental Authority.

"Governmental Authority" means any federal, state, county, municipal or foreign government in any jurisdiction having authority over Client, Consultant, the Services, the Project, or the Project site, or any ministry, department, court, commission, board, agency, institution, or similar entity under the direct control thereof.

"Indemnitee" or ***"Indemnitees"*** means, with respect to an indemnified party under Section 7.1 of these General Terms and Conditions, any Affiliate of such indemnified party, including without limitation, the directors, officers, managers, members, limited or general partners, shareholders or employees of such indemnified party.

"Law" in the singular, and ***"Laws"*** in the plural, means any of the following to the extent applicable to the Contract Documents or the Services: (a) any statute, law, rule, regulation, code, ordinance, judgment, decree, writ, order, concession, grant, franchise, license, agreement, directive, guideline, policy, requirement, or other governmental restriction or any binding interpretation or administration of any of the foregoing by any Government Authority whether now or hereafter in effect, or (b) any requirements or conditions on or with respect to the issuance, maintenance or renewal of any Government Authorization or applications therefor, whether now or hereafter in effect.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Project" means the project defined and identified in Section 1 ("Services to be Performed") of the Agreement.

"Reimbursable Expenditures" has the meaning set forth in Section 3 ("Compensation for Services") of the Agreement.

"Schedule" has the meaning set forth in Section 2 ("Schedule for Services") of the Agreement.

"Services" has the meaning set forth in Section 1 ("Services to be Performed") of the Agreement.

"Site" has the meaning set forth in Section 1 ("Services to be Performed") of the Agreement.

"***Technical Documents***" has the meaning set forth in Section 4 ("Contract Documents") of the Agreement.

1.2 Terminology; Interpretations.

(a) Unless the context otherwise expressly requires, the word "law," whether capitalized or not, has the meaning set forth in Section 1.1 above, the words "consultant," "contractor" and "subcontractor"

mean any consultant, contractor, subcontractor, supplier, vendor or other person of any tier, as applicable, providing or performing any portion of the Services by, through or under Consultant; the words "herein," "hereto," "hereunder," and other words of similar import refer to the Contract Documents as a whole and not to a particular article or portion thereof; and the word "including" means "including, but not limited to"; the defined phrase "Client" includes any authorized representative of Client; and words which have well-known technical or industry meanings are used in the Contract Documents in accordance with such recognized meanings. References herein to "days" are calendar days unless otherwise stated.

(b) Whenever the context may require, any pronoun used shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. A reference to legislation or to a provision of legislation includes a modification or reenactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it. Client and Consultant have participated jointly in the negotiation and drafting of the Contract Documents. In the event an ambiguity or question of intent or interpretation arises, the Contract Documents shall be construed as if drafted jointly by Client and Consultant and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of the Contract Documents.

2. THE CLIENT'S RESPONSIBILITIES.

With respect to any Services under this Agreement:

2.1 Client shall furnish, without expense to Consultant and on a timely basis, the data and information reasonably required by Consultant to provide the Services. In performing the Services, Consultant shall be entitled to rely upon the sufficiency, accuracy, and completeness of such data and information furnished by or on behalf of Client and Consultant assumes no responsibility as to the sufficiency, accuracy, and completeness of such data and information.

2.2 Client shall promptly designate in writing to Consultant a representative authorized to act on Client's behalf with respect to the Services (the ***"Client's Representative"***), with whom Consultant may consult with at all reasonable times, and whose instructions, approvals, requests and decisions shall be binding upon Client as to all matters pertaining to the Contract Documents and the performance of Client under the Contract Documents (unless Client notifies Consultant, in writing, that the authority of Client's Representative is limited in any manner). Client may change Client's Representative at any time by written notice to Consultant.

2.3 Client shall provide prompt written notice to Consultant if Client becomes aware of any fault or defect in the Consultant's provision of the Services.

2.4 Client shall furnish information or services to the extent that any such information or service is reasonably required by Consultant or necessary for Consultant to perform the Services.

3. MODIFICATION.

3.1 Supplementals. Services not expressly set forth in the Contract Documents are excluded from the scope of the Services. If any new or different requirement, condition, change or anything beyond Consultant's control alters the scope of the Services or otherwise affects the Consultant's costs or schedule to perform the Services, and is the result of (i) any act or omission by Client, (ii) a change in the Services requested by Client, (iii) any change of Law that requires re-performance of Services already completed or becomes applicable to the Services after the parties' execution of the Contract Documents, or (iv) a Force Majeure Event; then Consultant shall be entitled to additional time and compensation in order to complete the Services as mutually agreed upon by the parties in a written change order. Promptly after Consultant becomes aware of facts or circumstances which it believes will cause or constitute a change in the Services, Consultant shall send Client a written notice describing why it believes a change in the Services is necessary and proposing additional time and compensation for such change. If Client and Consultant are unable to reach agreement with respect to whether a change in the Services has occurred or is needed, or as to additional time or compensation needed to complete the Services after a change, within 15 days after the date of Consultant's notice to Client, then Consultant shall not proceed with the change until the matter is resolved as provided

in Section 10 below; provided however, if Client directs Consultant to begin performing the changed Services during the 15-day period, Consultant shall be entitled to reasonable compensation for changed Services performed during said period.

3.2 Differing Site Conditions. Consultant shall be entitled to an equitable adjustment to the Schedule and Consultant's Compensation for conditions that vary from information provided to Consultant in connection with the development of Consultant's pricing or the scope of Services. Such varying conditions may include without limitation, subsurface and latent physical conditions at the site, archeological finds of historical or cultural significance, protected or endangered species of plants and animals, or other conditions that may preclude Consultant from proceeding with the Services for reasons of health, safety, or legal restriction. Without waiving its rights hereunder, Consultant agrees to notify Client of such conditions within a reasonable time after discovery, whereupon Client will promptly investigate the same and issue appropriate orders or instructions to Consultant.

4. COMPENSATION AND PAYMENT.

4.1 Compensation. Client shall pay the Compensation to Consultant.

4.2 Payment. Consultant shall send an invoice(s) to Client with documentation reasonably satisfactory to Client setting forth hours worked (unless this is a fixed fee Agreement) and/or Reimbursable Expenditures incurred during the applicable period and any other supporting documentation reasonably requested by Client. Unless otherwise required by Law, all undisputed invoices, less any amounts properly withheld by Client under the Contract Documents, shall be due and payable to Consultant within 30 days after the date Client receives the invoice. If Client fails to pay undisputed invoiced amounts within said 30-day period, Consultant may, in addition to any other rights available under this Agreement, by law or in equity, require the payment of interest at the lower of 12% per annum or the maximum rate allowed by law, on all such unpaid amounts. All payments shall be made in US Dollars.

5. SCHEDULE.

5.1 Time for Performance. Consultant shall perform the Services diligently and shall make commercially reasonable efforts to perform the Services in accordance with the Schedule and in such manner so as to not delay the progress of the Project.

5.2 Force Majeure. Neither Client nor Consultant shall be liable for any delay or failure in the keeping or performance of its obligations under the Contract Documents during the time and to the extent that any such failure arises by reason of Force Majeure. Upon the occurrence of an event of Force Majeure the party affected thereby shall promptly give written notice (setting forth full particulars) to the other party and shall resume the keeping and performance of the respective obligation after the cause of Force Majeure has come to an end. If an event of Force Majeure occurs and continues for a period of 15 days from the date of occurrence of such Force Majeure event, the parties shall meet and make reasonable efforts to resolve the problem. During the existence of a Force Majeure event each party shall bear its own costs resulting therefrom.

6. CONSULTANT PERSONNEL AND SUBCONTRACTORS.

Consultant may utilize subcontractors in connection with its performance of the Services in its discretion. Consultant shall be liable for the performance of Services rendered hereunder by any subcontractors utilized by Consultant.

7. INDEMNIFICATION; LIMITATIONS OF LIABILITY.

7.1 Indemnity. Consultant agrees to indemnify, defend, and hold harmless Client and its Indemnitees from and against any and all Claims based upon, in connection with, relating to or arising out of negligent actions or inactions or willful misconduct in connection with performance of the Services by Consultant or its employees, agents or subcontractors. Client agrees to indemnify, defend, and hold harmless Consultant and its Indemnitees from and against any and all Claims based upon, in connection with, relating to or arising out of negligent actions or inactions or willful misconduct in connection with the Services or the Project by Client or its employees, agents or subcontractors (other than Consultant).

7.2 General. The obligations for indemnification herein required are severable. The unenforceability of any portion of the obligation for indemnification hereunder due to the effect of any Law, court decision, or any other reason, shall not nullify, reduce or limit other obligations set forth herein, and all other obligations arising under this Section shall remain in full force and effect.

7.3 Notice. The indemnified party shall promptly notify the indemnifying party in writing of any Claims for which the indemnifying party may be responsible under Section 7.1.

7.4 Defense of Claims. The indemnifying party under Section 7.1, as applicable, shall provide competent counsel reasonably acceptable to the indemnified party, to defend the indemnified party pursuant to the obligations of the indemnifying party described in Section 7.1 within two weeks of notice by the indemnified party; provided, however, that the indemnified party, on behalf of itself and its Indemnitees, shall have the right to be represented in the defense of any suit or proceeding covered by this Section 7 (including investigation and resolution) by counsel of its own choice at the indemnified party's expense, in addition to counsel provided by the indemnifying party.

7.5 Waiver of Consequential Damages. TO THE FULLEST EXTENT PERMITTED BY LAW AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER PARTY NOR ITS RESPECTIVE SHAREHOLDERS, DIRECTORS, OFFICERS, MEMBERS, MANAGERS, PARTNERS, AFFILIATES, EMPLOYEES, AGENTS OR SUBCONTRACTORS OF ANY TIER SHALL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES OR INDEMNITEES, AND EACH PARTY WAIVES ALL CLAIMS, PAST, PRESENT, AND FUTURE, AGAINST THE SAME, FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, WHETHER OR NOT FORESEEABLE, IN ANY WAY ARISING OUT OF OR IN CONNECTION WITH THE SERVICES OR THE CONTRACT DOCUMENTS, WHETHER BASED ON BREACH OF CONTRACT OR WARRANTY, THE FAILURE OF ANY REMEDY HEREUNDER FOR WANT OF ITS ESSENTIAL PURPOSE, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHER BASIS OF LIABILITY. SUCH DAMAGES INCLUDE BUT ARE NOT LIMITED TO LOSS OF PROFITS, REVENUE, INTEREST, OPPORTUNITY, GOODWILL, COST OF CAPITAL, OR DIMINUTION OF VALUE, FINANCING COSTS OR CLAIMS OF CUSTOMERS.

7.6 Limitation of Liability. THE TOTAL CUMULATIVE, AGGREGATE LIABILITY OF CONSULTANT, ITS SUBSIDIARIES, AFFILIATES, SHAREHOLDERS, DIRECTORS, PARTNERS, OFFICERS, EMPLOYEES AND AGENTS, SUBCONTRACTORS AND VENDORS OF ANY TIER TO CLIENT FOR ALL CLAIMS, LOSSES, LIABILITIES, DAMAGES, COSTS AND EXPENSES ARISING OUT OR RELATING IN ANY WAY TO THE SERVICES PERFORMED UNDER THE AGREEMENT SHALL NOT BE GREATER THAN THE COMPENSATION RECEIVED BY CONSULTANT FROM CLIENT FOR WORK PERFORMED UNDER THE AGREEMENT; PROVIDED, THAT WITH RESPECT TO CLAIMS PERTAINING TO PERSONAL INJURY, DEATH OR PROPERTY DAMAGE FOR WHICH CONSULTANT IS REQUIRED TO INDEMNIFY CLIENT OR ITS INDEMNITEES UNDER SECTION 7.1 ABOVE AND TO THE EXTENT ANY INSURANCE COVERAGE OF CONSULTANT PROVIDES COVERAGE PAYABLE TO CLIENT OR ITS INDEMNITEES AS AN ADDITIONAL INSURED UNDER THE POLICIES REQUIRED TO BE OBTAINED AND MAINTAINED BY CONSULTANT PURSUANT TO THIS AGREEMENT, THE ABOVE CAP ON LIABILITY SHALL BE DEEMED INCREASED TO THE AMOUNT OF SAID COVERAGE WITH RESPECT TO THE COVERED CLAIMS OR LIABILITIES.

8. LIENS.

Consultant agrees not to allow liens to be placed on the Project or Client property for Claims of nonpayment by Consultant or its subcontractors to the extent Consultant has received timely payment from Client as required by the Contract Documents. Provided Consultant has received timely payment from Client as required by the Contract Documents, Consultant shall pay promptly all amounts due for all materials, labor, service and equipment used in or in connection with the performance of the Services, including those of its subcontractors, when bills or Claims become due. Consultant shall within 10 days after discovery or notification from Client or any other party, discharge or bond around any lien filed or Claim asserted against the Project, materials, facility or property of Client by any of Consultant's subcontractors, suppliers or vendors hired in conjunction with the Services to the extent Consultant has received timely payment from Client as required by the Contract Documents. If Consultant fails to discharge or bond

around any such lien or Claim within 10 days after such discovery or notification, then Client may discharge such lien or claim and withhold all costs incurred by Client to discharge such lien or Claim from any amounts owed by Client to Consultant. If Client cannot withhold the amount owed, Client shall invoice Consultant therefor and Consultant shall pay the same to Client within 10 days after the receipt of such invoice.

9. TERMINATION.

9.1 Insolvency; Default. A party may terminate the Agreement effective immediately upon giving written notice of termination to the other party, (i) if any proceeding is instituted against such other party seeking to adjudicate such other party as a bankrupt or insolvent and such proceeding is not dismissed within 30 days of filing, or (ii) if such other party makes a general assignment for the benefit of its creditors, or (iii) if a receiver is appointed on account of the insolvency of such other party, or (iv) if such other party files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition or readjustment of debts, or (v) if, in the reasonable judgment of one party, such other party is unable to pay its debts when due or as they mature. Furthermore, if a party (the ***"Breaching Party"***) fails to observe or perform any of its covenants or agreements contained in the Contract Documents and then fails to correct such condition within 15 days of receiving written notice from the other party (the ***"Non-breaching Party"***), the Non-breaching Party may pursue any or all available rights and remedies available under the Contract Documents or Law and may, without prejudice to any other right or remedy, terminate the Agreement effective immediately upon giving written notice of such termination to the Breaching Party.

9.2 Suspension. Client may, by written notice to Consultant, suspend the Services. Consultant shall, upon receipt of such written notice from Client, suspend the Services or any part thereof and place no further order or subcontracts relating thereto for such time and in such manner as Client may require. If the Services are suspended by Client for reasons other than Consultant's breach or non-performance, Client shall pay Consultant for all Services in progress or performed to the date of termination or suspension, and for all third party suspension or cancellation fees payable by Consultant, if any, plus any of Consultant's demobilization costs and stand-by costs, within 30 days after its receipt of Consultant's invoice therefor. When Services are resumed, Client shall reasonably adjust the Schedule and reasonably compensate Consultant for the cost of remobilization, including increased costs to perform the Services. If a suspension (or the aggregate length of multiple suspensions) exceeds 60 days in the aggregate, Consultant will be entitled to treat such suspension as a termination for Client's convenience and proceed accordingly under Section 9.4 below.

9.3 Force Majeure. If a Force Majeure event continues for a period in excess of 30 days from the date of occurrence of such event, either party may terminate the Agreement effective immediately upon giving written notice.

9.4 Termination for Convenience. Client may for its convenience, with or without cause, including Force Majeure, terminate the Agreement at any time by 10 days' prior written notice to Consultant. Upon receipt of such notice, Consultant shall, unless the notice otherwise directs:

(a) stop all work and place no further orders or subcontracts for the Services; and

(b) terminate work orders, purchase orders and subcontracts outstanding.

Upon any such termination for convenience by Client, Client shall pay Consultant for all Services in progress or performed to the effective date of termination or suspension, and third party suspension or cancellation fees payable by Consultant, if any, plus Consultant's demobilization costs and stand-by costs and any other costs incurred as a result of such termination for convenience, within 30 days after its receipt of Consultant's invoice therefor which shall include supporting documentation.

9.5 Effect of Termination. Any termination of the Agreement shall not affect or impair the right of a party to commence legal proceedings for a breach of the Agreement related to actions or inactions occurring prior to or in connection with such termination.

10. RESOLUTION BY PARTIES.

10.1 First Attempt. If a dispute arises under the Contract Documents between the parties, the parties shall attempt in good faith to settle such dispute by mutual discussions within 30 days after the date that a party gives written notice of the dispute to the other party in sufficient detail for the recipient to understand the provider's position; provided, however, that if the dispute involves the amount of an invoice and after 10 days of mutual discussion either party believes in good faith that further discussion will fail to resolve the dispute to its satisfaction, such party may immediately refer the matter to the executive officers of the parties for consideration pursuant to Section 10.2.

10.2 Executive Officers. If the dispute is not resolved in accordance with Section 10.1, either party may refer the dispute to executive officers of the respective parties for further consideration. If such individuals are unable to reach agreement within 15 days, or such longer period as they may agree, then either party may pursue such further action as it deems necessary, subject to the provisions of Section 17.2 below.

10.3 Confidentiality. All discussions conducted pursuant to this Section 10 are confidential and shall be treated as compromise and settlement negotiations under the United States Federal Rules of Evidence and applicable state rules of evidence.

11. TAXES.

Unless otherwise required by Law, Client is responsible for and shall pay all sales, use, excise, and other taxes, charges, or contributions with respect to or imposed on any Services performed by Consultant under the Contract Documents, excluding taxes or contributions imposed on the wages, salaries or other payments to persons employed by Consultant in the performance of the Services and taxes on Consultant's net income. Consultant will not charge or collect applicable sales and use taxes as part of the Compensation payable under the Agreement or otherwise if Client and the sale of any Services pursuant to the Agreement are exempt; provided that Client shall provide Consultant with an exemption certificate for the applicable jurisdiction.

12. REQUISITE LICENSURE AND QUALIFICATIONS.

Consultant and all of the subcontractors, entities and individuals acting on Consultant's behalf in connection with the Services shall, prior to commencing Services and at all times during the term of the Agreement, obtain, possess and maintain in good standing, all Governmental Authorizations or other credentials as required by any Governmental Authority and in accordance with all Laws to perform the Services. In the event the results of the Services performed by Consultant in connection therewith is required to be inspected by any Governmental Authority or by Law, Consultant shall (i) give Client timely written notice of the date fixed for such inspection, and (ii) secure all required certificates of inspection and provide copies to Client.

13. OWNERSHIP AND USE OF WORK PRODUCT.

Consultant and Client agree that the Services and deliverables resulting from such Services to be produced by Consultant and its personnel and employees and delivered to Client pursuant to the Contract Documents (the ***"Deliverables"***) shall be considered a work made for hire and shall be owned by Client upon Consultant's receipt of full payment therefor. Consultant further hereby acknowledges that it will inform its employees, agents and representatives that any Deliverables produced by them pursuant to this Agreement shall be considered a work made for hire and will be owned exclusively by Client upon Consultant's receipt of full payment therefor. Consultant may retain copies of work product for its records, but may not in any way use, show or distribute Client's designs, sketches, working drawings or other information to others without written consent from Client. Notwithstanding the preceding portions of this Section, nothing contained in this Section shall be construed as limiting or depriving Consultant of its right to use its basic knowledge and skill to design or carry out other projects or work for itself or others, whether or not such projects are similar to the work to be performed under this Agreement and Client shall not acquire any rights to any of Consultant's or any subcontractors' proprietary computer software or preexisting intellectual property that may be used in connection with the Services or included in the Deliverables. The Deliverables are not intended or represented to be suitable for reuse by Client or others or for additions, modifications, or renovations on the Project or for any other projects. Any such reuse of the Deliverables without written verification by Consultant for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to Consultant. If software is

intended or expected to be developed under this Agreement, Consultant may require that a software license agreement acceptable to Consultant be executed. All proprietary information, software and processes of Consultant shall remain property of the Consultant. All proprietary information, software and processes of Consultant and any intellectual property of Consultant in existence prior to the parties' execution of the Agreement or developed by Consultant wholly independent of any Services performed pursuant to the Agreement shall be and remain Consultant's sole property.

Client agrees to waive any Claim against Consultant and shall indemnify, defend, and hold harmless Consultant and its Indemnitees from all Claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the use by Client or any third party by or under the direction of or with the permission of Client of the Deliverables delivered by Consultant to Client pursuant to the Contract Documents other than for the purposes of the Project or as otherwise specifically authorized in writing by Consultant, whether arising in contract, tort (including the negligence of Consultant) or otherwise.

Client shall not, and Client shall not permit Client's other contractors to, change or modify any data or drawings supplied by Consultant to Client in electronic format. Client shall defend, indemnify and hold Consultant and its officers, directors and employees harmless from any loss, expense, Claim, liability, or cause of action arising out of the change to or modification of Consultant's engineering data or drawings. If Consultant for any reason is not allowed to complete the Services, Consultant shall not be held responsible for the accuracy, completeness, or constructability of the Services performed by Consultant or of the Project to the extent it relies on the Consultant's Services.

14. BOOKS AND RECORDS; AUDIT RIGHTS.

Consultant shall keep accurate books and records for all Services performed including, without limitation, invoices, receipts, cost information and other supporting documentation as shall readily disclose the basis for and substantiate any charges or credits billed to Client by Consultant or due from Client to Consultant for Services performed on a time and materials, hourly and/or reimbursable basis. Consultant shall make such books and records available for examination, audit, and reproduction by Client for purposes of determining compliance with the terms of the Contract Documents upon Client's request. Such books and records shall be maintained by Consultant and made available to Client for such examination, audit and reproduction at all reasonable times and upon at least 72 hours prior written notice during regular business hours for 12 months after completion or termination of the Services. Any examination or audit shall be performed by Client or on behalf of Client by an Affiliate of Client or a certified public accountant selected by Client.

15. CONFIDENTIALITY.

As used below in this Section, ***"Disclosing Party"*** means the party furnishing or disclosing Confidential Information to the other party or whose Confidential Information is obtained by the other party as described in clauses (i) and (ii) below, and ***"Receiving Party"*** is the party receiving or obtaining the Disclosing Party's Confidential Information as described below. The Receiving Party agrees that it will keep confidential the terms of the Contract Documents and any information regarding the Disclosing Party's or its Affiliates' operations, facilities, business, business plans, and assets, including but not limited to, plans, designs, drawings, specifications, estimates, field notes, studies, reports, tests, lab results, processes, customer, prospective customer and vendor lists or databases, proposals, data or other confidential or proprietary information (collectively referred to herein as ***"Confidential Information"***) which is either: (i) furnished to the Receiving Party by the Disclosing Party or (ii) is obtained by the Receiving Party as a result of the Contract Documents or the Receiving Party's access to the Disclosing Party's facilities. All Confidential Information shall be and remain the property of the Disclosing Party. The Receiving Party agrees not to disclose such Confidential Information to any third parties, and the Receiving Party agrees to use such items and information only in the performance of the Contract Documents for the benefit of the Disclosing Party or, in Client's case, in connection with its receipt, inspection and/or use of the Services and not otherwise without the Disclosing Party's prior written consent (provided, however, that with respect to Client, Client's obligations under this Section shall not apply to any information which is or becomes Client's property pursuant to the terms of Section 13 above in this **Exhibit A** or limit or affect the rights of Client granted therein). The Receiving Party may disclose Confidential Information to any of its directors, officers, employees, agents, distributors, subcontractors, consultants or advisors (collectively, ***"Representatives"***) who are acting on Receiving Party's behalf in connection with the performance of the Contract Documents on a need to know basis. The Receiving Party shall, prior to any such disclosure, inform its

Representatives of the terms of this Section, including the confidential nature of the Confidential Information and legally require them to comply herewith. The Receiving Party shall be responsible for any breach of this Section by any of its Representatives, which shall be considered a breach by the Receiving Party. Upon completion or termination of the Agreement, or sooner if requested by the Disclosing Party, the Receiving Party shall return all such Confidential Information to the Disclosing Party or make such other disposition thereof as directed or approved by the Disclosing Party (again, however, subject to Client's rights under Section 13 above). This provision shall be inoperative as to such portions of the information that: (a) at the time of disclosure to the Receiving Party is or thereafter becomes generally available to the public other than as a result of a disclosure by Receiving Party or any of its Representatives or any third party acting in concert with any of them; (b) becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party, provided that such source is not bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from transmitting the information to the Receiving Party by a contractual, legal or fiduciary obligation; (c) were known to the Receiving Party on a non-confidential basis prior to their disclosure to the Receiving Party by the Disclosing Party as shown by the Receiving Party's prior written records; or (d) is required to be disclosed by law or competent authority of any Governmental Authority in the opinion of the Receiving Party's legal counsel (in which case the Receiving Party shall give notice to Disclosing Party and cooperate with the Disclosing Party's efforts to prevent such disclosure and the Receiving Party shall disclose only that portion of the affected Confidential Information which is required to be disclosed in the opinion of its legal counsel).

16. ACCEPTANCE OF SERVICES.

When all Services to be performed pursuant to the Agreement are completed, Consultant shall so notify Client and Client shall have the right to a final review of the Services. Following such review, Client shall either notify Consultant of its acceptance of the Services or issue to Consultant a listing of additional items it believes are required in order for the Services to conform to the terms, conditions and specifications of the Contract Documents. If Client does not so notify Consultant or issue such listing within 7 days after Consultant's notice that the Services have been completed, it shall be deemed to have accepted the Services.

17. MISCELLANEOUS PROVISIONS.

17.1 Entire Agreement. The Contract Documents (including the attachments and documents referenced therein) constitute the entire agreement and understanding between the parties hereto with respect to the Services performed pursuant to the Agreement and supersede and/or merge all prior agreements, understandings, representations, or conditions between Client and Consultant regarding the subject matter hereof, whether written, oral, or implied. The parties agree that the terms and conditions of the Contract Documents shall prevail, notwithstanding any contrary or additional terms in any of the parties' preprinted documents.

17.2 Governing Law, Jurisdiction. The validity, interpretation, and performance of the Contract Documents, including any breach thereof, shall be governed by and construed under the Laws of the State of Oklahoma, without regard to the conflicts or choice of law principles thereof. Unless otherwise required by Law, (a) Consultant and Client hereby consent to the personal jurisdiction of the state and federal courts located in Tulsa, Oklahoma for any dispute involving the Contract Documents, and (b) subject to the provisions of Section 10 above, any action arising out of the Contract Documents shall be commenced and maintained exclusively in the state or federal courts located in Tulsa, Oklahoma, and Consultant and Client waive any objection to the forum on the grounds of venue, forum non-conveniens, or any similar ground. THE PARTIES HEREBY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR RELATING TO THE CONTRACT DOCUMENTS.

17.3 Assignment. The Contract Documents shall inure to the benefit of and shall be binding upon Client and Consultant and their respective successors and permitted assigns. Neither party shall assign the Agreement, or any of its rights or obligations hereunder or thereunder, without the prior written consent of the other party in each instance, which consent shall not be unreasonably withheld. Any purported assignment in violation of this Section shall be null and void.

17.4 Waiver. Either party hereto may, by written notice delivered in the manner provided in the Contract Documents, but shall be under no obligation to, waive any of its rights or conditions to its rights hereunder, or any

duty, obligation, or covenant of the other party hereto. Such waiver must be in a writing signed by the waiving party and shall not affect or alter the other provisions of the Contract Documents.

17.5 Third Party Agreement. Nothing contained in the Contract Documents shall create a contractual relationship with or a cause of action in favor of a third party against either Client or Consultant subject to the indemnification rights of an Indemnitee. Furthermore, the Contract Documents are not intended and shall not be construed to create any rights in any parties other than Client, Consultant and Indemnitees and no other person shall have any rights as a third party beneficiary hereunder.

17.6 Independent Contractor. Consultant agrees that it is an independent contractor in the performance of any Services under the Contract Documents and that neither it nor its employees shall be considered employees of Client. Client shall not be responsible for the direct payment of any withholding taxes, social security payments, payments under workmen's compensation or other insurance premiums, or other charges of any kind, except as specifically stated herein. Consultant hereby warrants that it will deduct and pay over to the proper Governmental Authority any withholding taxes or similar assessment which an employer is required to deduct and pay over and Consultant accepts exclusive liability for any payroll taxes or contributions imposed by any federal, state or other Governmental Authority, covering its agents or employees.

17.7 Modifications. No change, amendment or modification of any Contract Document shall be valid or binding upon the parties unless such change, amendment or modification shall be in writing and duly executed by both parties, with specific reference to the Contract Document being modified.

17.8 Cooperation. Consultant and Client agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary and reasonably requested by the other party that are not inconsistent with the provisions of the Contract Documents and that do not involve the assumption of obligations other than those provided for in Contract Documents, in order to give full effect to the Contract Documents and to carry out the intent of the Contract Documents.

17.9 Attorneys' Fees. In the event of legal action between the parties associated with the Contract Documents, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and costs incurred therein from the non-prevailing party.

17.10 Severability of Provisions. The invalidity, illegality and unenforceability of any provision(s) of the Contract Documents shall in no way affect or impair the validity, legality and enforceability of the remaining provisions thereof.

17.11 Counterparts. Any Contract Document may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document. In the event that any signature of any Contract Document is delivered by facsimile transmission or by e-mail as an attached, scanned document, such signature shall create a valid and binding obligation of the party executing the same with the same force and effect as if such e-mailed or facsimile signature page were an original thereof.

END OF GENERAL TERMS AND CONDITIONS