MUSTANG CITY COUNCIL
MUSTANG MUNICIPAL BUILDING
1501 N. MUSTANG ROAD
MUSTANG, OKLAHOMA 73064

SEPTEMBER 5, 2017
7:00 P.M.

AGENDA

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE/INVOCATION

Jim McNabb, Pastor, The Bridge Assembly of God

C. ROLL CALL

D. INTRODUCTION OF GUESTS/HEARING OF CITIZENS OR DELEGATES

E. NEW BUSINESS, DELETIONS OR CONTINUANCES TO THE AGENDA

F. CONSENT AGENDA

These items are considered on the Consent Agenda so that members of the City Council by unanimous consent can designate routine agenda items to be approved by one motion. If any item proposed on the Consent Agenda does not meet with approval of all Councilmember's that item will be removed and heard in regular order.

1. Approval of **08/15/2017** City Council Minutes.
*2. Claims List for **FY 2017**.
*3. Claims List for **FY 2018**.
*4. Approval to Turn **Past Due Utility Accounts** over to the Collection Agency.
5. Approval to Turn **Past Due Library Accounts** over to the Collection Agency.
6. Approval to Declare Old and Damaged Library Materials as **Surplus** and Authorizing Disposal of those Items.

G. INFORMATION/REPORTS

1. City Manager

2. City Council

   a. Appointment of One (1) Member to the Mustang Board of Adjustment.

   b. City Council Reports

H. DISCUSSION ITEMS

1. **Public Hearing, Discussion, Consideration and Possible Action** regarding Adoption of the Imagine Mustang Comprehensive Plan.

2. **Discussion, Consideration and Possible Action** regarding Approval of **Ordinance No. 1151**, an Ordinance of the City of Mustang, Oklahoma, Amending Chapter 2, Article II, by Amending Section 2-31 to Provide that Regular Meetings of the Mustang City Council shall Occur One Time per Month; Providing an Effective Date; Providing for Repealer; and Providing for Severability.

*3. **Discussion, Consideration and Possible Action** regarding Approval of Contract for Public Safety Software Solution with Zuercher Technologies and authorizing the Mayor and City Staff to execute the contracts and other documents necessary to accomplish the same.

*4. **Discussion, Consideration and Possible Action** regarding Approval of Contract to Purchase Dispatch Consoles for Project labeled Public Safety Software Solution and authorizing the Mayor and City Staff to execute the contracts and other documents necessary to accomplish the same.

5. **Discussion, Consideration and Possible Action** regarding Approval of Contract and Bonds for Project labeled Town Center Expansion and authorizing the Mayor and City Staff to execute the contracts and other documents necessary to accomplish the same.

*6. **Discussion, Consideration and Possible Action** regarding Approval of Contract and Bonds for Project labeled Mustang Road Waterline Relocation and authorizing the Mayor and City Staff to execute the contracts and other documents necessary to accomplish the same.

7. **Discussion, Consideration and Possible Action** regarding Approval of **Resolution No. 18-013**, a Resolution Approving Participation with the State of Oklahoma Department of Transportation for the Installation of Traffic Signals and Intersection Modification at State Highway 4 and Southwest 89th Street.

8. **Discussion, Consideration and Possible Action** regarding Acceptance of Resignation of Ward I Councilmember Kevin Riley effective September 30, 2017.

9. **Discussion, Consideration and Possible Action** regarding Process for Appointment to Fill Ward I Vacancy.

J. CITY ATTORNEY'S REPORT

1. **Discussion, Consideration and Possible Action** regarding Proposed Workers' Compensation Settlement Claim No. 2017-02 and Authorization for City Attorney and Staff to Take Action Necessary to Accomplish Same; and, **Proposed Executive Session as Authorized by 25 O.S., Section 307(B)(4).**

2. **Discussion, Consideration and Possible Action** to approve an Amendment to Purchase and Donation Agreement between the City of Mustang, Oklahoma, as Buyer, and Todd L. Martin and Shari Breit Martin, husband and wife, individually and as Trustees of the Todd Lavell Martin Living Trust, as Sellers, to purchase certain property described therein and to accept a cash donation from Sellers to the City of Mustang; and, **proposed Executive Session as authorized by 25 Okla. Stat. §307(B)(3).**

K. ADJOURNMENT

***Items Considered Concurrently on the MIA Agenda.**

MUSTANG CITY COUNCIL
AUGUST 15, 2017

The Mustang City Council met in regular session on Tuesday, August 15, 2017, at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted on the Bulletin Board outside the Mustang Municipal Building on Friday, August 11, 2017, at 4:00 p.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

Mayor Adams called the meeting to order at **7:00 p.m.**

B. PLEDGE OF ALLEGIANCE/INVOCATION (Rusty Stowe, Senior Adult Pastor, Chisholm Heights Baptist Church).

Pastor Stowe led the assembly in the Pledge and Invocation. He stated the Church would be holding their Second Annual Block Party at the end of the month which will include food trucks, games, etc. as a way to bring everyone back from all the summer activities as well as a way to thank the community. He stated he was excited to be in attendance this evening as the life saving award would be presented to a couple of the Fire Fighters stating it was an honor to serve as the Fire Department Chaplain and serve the City.

C. ROLL CALL

Councilmembers Present:	**Adams**
	Riley
	Leete
	Grider
	Jones
	Hagan
	Schweinberg
Councilmembers Absent:	**None**

D. INTRODUCTION OF GUESTS/HEARING OF CITIZENS OR DELEGATES

Deborah Jansak, 302 S. Owen Dr, addressed the Council regarding her concerns about the Council possibly moving from two regularly scheduled meetings per month to one regularly scheduled meeting per month as well as concerns regarding the Council Work Sessions.

Michelle Fuller, 448 E. Carson Ln, addressed the Council regarding the *Imagine Mustang* Comprehensive Plan and not holding a Public Hearing. **Mayor Adams** stated a Public Hearing would be held at the next City Council meeting. Ms. Fuller stated concerns she had with the plan such as the trees down the center of State Highway 152, gateways, location of walking trails, and possible zoning issues.

E. NEW BUSINESS, DELETIONS OR CONTINUANCES TO THE AGENDA

None.

F. CONSENT AGENDA

1. Approval of **08/01/2017** City Council Minutes.
*2. Claims List for **FY 2017**.
*3. Claims List for **FY 2018**.
4. Approval of **Resolution No. 18-011** making changes in the General Fund Budget by making a Supplemental Appropriation to Increase the 2017-2018 Fiscal Year Budget by $328,434.
5. Approval of Facility User Agreement for City of Mustang Sports Facility.

MOTION was made by **Councilman Schweinberg**, seconded by **Councilman Grider**, to approve Items F-1 through F-5 of the Consent Agenda.

AYE: **Riley, Leete, Grider, Jones, Hagan, Schweinberg, Adams**
NAY: **None**

G. INFORMATION/REPORTS

1. City Manager

Fire Chief Hickman presented the Life Saving Medal awarded to honor Fire Department members that assisted in the successful resuscitation of a human life to Corporal Buddy Corbin and Corporal David Small. The pinning of the medals was performed by the patient, Staff Sergeant Stephen Sharp.

City Manager Rooney stated the Library would be holding a couple of eclipse viewing events on August 21st stating the community was invited.

2. City Council

Mayor Adams asked the Councilmembers if they had anything to report in their respective Wards:

Councilman Schweinberg did not have anything to report at this time.

Councilwoman Hagan did not have anything to report at this time.

Councilman Jones stated he had received a phone call and the *City Manager* was very helpful and able to resolve it.

Councilman Grider did not have anything to report at this time.

Councilman Leete stated he had received some positive phone calls thanking the City for work recently performed. He also stated he was very proud of the City's Fire Fighters and Police Officers and the work they perform.

Mayor Adams did not have anything to report at this time.

Councilman Riley stated he and his wife had an opportunity to build a house and placed their current house for sale. He stated their house sold much quicker than anticipated and they had to move stating this location is outside of Ward I, therefore, he will no longer be able to serve as Ward I Councilmember and was resigning his seat effective September 30, 2017. He stated it had been an honor to serve with this Council and no one cares more for the City of Mustang than this group stating it was a tireless job where everyone works diligently to do what is right, and thanked the Council and his Ward for allowing him this opportunity. He stated he looked forward to watching Mustang continue to grow and improve.

The Councilmembers thanked *Councilman Riley* for his service stating it had also been an honor to serve alongside him on the Council and wished him and his family the best of luck.

City Manager Rooney stated he appreciated that *Councilman Riley* was not afraid to ask questions and he did not shy away from the tough issues. He stated he felt *Councilman Riley* was very supportive of Staff and was very appreciative of that.

H. DISCUSSION ITEMS

1. **Discussion, Consideration and Possible Action** regarding Acceptance of Bids and Awarding Lowest Qualified Bid for Project Labeled Town Center Expansion.

Assistant City Manager Battles stated Request for Proposals (RFPs) were received August 3rd for the expansion of the Town Center stating twelve bids were received. He stated the bids were reviewed and Staff as well as the architect recommend accepting all bids.

Battles stated a letter from the architect was included in the agenda packet recommending award to the lowest bidder, A.C. Owen Construction, for $2,920,000 plus Alternate 1 in the amount of $95,000 and Alternate 2 in the amount of $26,000 stating Staff is very confident with them as they were the contractor who performed the last expansion at Town Center.

MOTION was made by **Councilman Schweinberg,** seconded by **Councilman Jones**, to Accept All Bids for Project Labeled Town Center Expansion.

AYE: **Riley, Leete, Grider, Jones, Hagan, Schweinberg, Adams**
NAY: **None**

MOTION was made by **Mayor Adams,** seconded by **Councilman Leete**, to Award the Bid for Project Labeled Town Center Expansion to A.C. Owen Construction in the Base Amount of $2,920,000 plus Alternate 1 in the amount of $95,000 and Alternate 2 in the amount of $26,000.

AYE: **Riley, Leete, Grider, Jones, Hagan, Schweinberg, Adams**
NAY: **None**

2. **Discussion, Consideration and Possible Action** regarding Acceptance of Bids and Awarding Lowest Qualified Bid for Project Labeled Mustang Road Waterline Relocation.

Assistant City Manager Battles stated Request for Proposals (RFPs) were received August 10th for the relocation of waterline on South Mustang Road stating ten bids were received. He stated there was some concern regarding the low bid since it was quite a bit lower than the others, but after review, Staff and the engineer recommend accepting all bids. **Battles** stated Staff and the engineer recommend awarding the RFP to Southwest Water Works in the amount of $486,898.

Discussion was held concerning the contractor having prior experience working with the City with **Battles** stating not in the last four years, but not sure prior to that. He stated they provided prior work experience with the City of Oklahoma City as well as other surrounding cities.

MOTION was made by **Councilman Schweinberg,** seconded by **Councilman Leete**, to Accept All Bids for Project Labeled Mustang Road Waterline Relocation.

AYE: **Riley, Leete, Grider, Jones, Hagan, Schweinberg, Adams**
NAY: **None**

MOTION was made by **Mayor Adams,** seconded by **Councilman Grider**, to Award the Bid for Project Labeled Mustang Road Waterline Relocation to Southwest Water Works, LLC in the Base Amount of $486,898.

AYE: **Riley, Leete, Grider, Jones, Hagan, Schweinberg, Adams**
NAY: **None**

3. **Presentation** of the City of Mustang Comprehensive Plan "Imagine Mustang".

   Mr. Rick Leisner with Halff & Associates gave a presentation regarding the Imagine Mustang Comprehensive Plan.

   Discussion was held concerning the Comprehensive Plan being a plan and not law, or an ordinance, or change of zoning procedures, but rather a plan to help guide the City in their future planning endeavors and where they would like to see things go.

J. CITY ATTORNEY'S REPORT

1. **Discussion, Consideration and Possible Action** to approve an Addendum to Purchase and Donation Agreement between the City of Mustang, Oklahoma, as Buyer, and Todd L. Martin and Shari Breit Martin, husband and wife, individually and as Trustees of the Todd Lavell Martin Living Trust, as Sellers, to purchase certain property described therein and to accept a cash donation from Sellers to the City of Mustang; **and, proposed Executive Session as authorized by 25 Okla. Stat. §307(B)(3).**

MOTION was made by **Mayor Adams,** seconded by **Councilman Jones** to adjourn to executive session.

AYE: **Riley, Leete, Grider, Jones, Hagan, Schweinberg, Adams**
NAY: **None**

TIME ADJOURNED to Executive Session: **7:57 p.m.**

Mayor Adams called the meeting back in session at **8:02 p.m.**

In reference to Item J-1 –

MOTION was made by **Councilman Riley,** seconded by **Councilman Leete** to Approve an Addendum to Purchase and Donation Agreement between the City of Mustang, Oklahoma, as Buyer, and Todd L. Martin and Shari Breit Martin, husband and wife, individually and as Trustees of the Todd Lavell Martin Living Trust, as Sellers, to purchase certain property described therein and to accept a cash donation from Sellers to the City of Mustang

AYE: **Riley, Leete, Grider, Jones, Hagan, Schweinberg, Adams**
NAY: **None**

K. ADJOURNMENT

MOTION was made by **Councilman Grider**, seconded by **Councilman Jones**, to adjourn.

AYE: **Riley, Leete, Grider, Jones, Hagan, Schweinberg, Adams**
NAY: **None**

The meeting was adjourned at **8:02 p.m.**

_____
Jay Adams, Mayor

Attest:

_____
Lisa Martin, City Clerk

FUND: 01 - GENERAL FUND SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 19		BALL COMPLEX				
17-1416	01-V0050	CELLCO PARTNERSHIP	WIRELESS PHONE FOR CONCES	6/2017	201708295990	312.47
					DEPARTMENT TOTAL:	312.47
DEPARTMENT: 51		FIRE				
17-1828	01-W0020	WALMART COMMUNITY BRC	SUPPLIES & FOOD FOR EVENT	6/2017	201708295919	3,810.32
17-2006	01-W0020	WALMART COMMUNITY BRC	TRAC PHONE FOR REFUSAL	6/2017	201708295920	82.52
					DEPARTMENT TOTAL:	3,892.84
					FUND TOTAL:	4,205.31

FUND: 01 - GENERAL FUND SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 01		MAYOR AND COUNCIL				
18-0079	01-C0245	CRAWFORD & ASSOCIATES, PC	CONSULTING SERVICES	8/2017	10867A	500.00
18-0007	01-H0045	RALPH STEVEN HUDDLESTON	COURT APPEARANCES	9/2017	201708295941	1,600.00
18-0559	01-M0115	MTM RECOGNITION CORPORATION	PLAQUE FOR COUNCILMAN	8/2017	5897445	121.98
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	20.00
18-0178	01-W0001	WHEATLEY, SEGLER, OSBY & MI	CITY PROSECUTOR	8/2017	17765	18.69
					DEPARTMENT TOTAL:	2,260.67
DEPARTMENT: 11		CITY MANAGER				
18-0657	01-A0164	LAURA ANDERSON	PER DIEM FOR OML CONFEREN	8/2017	201708316001	120.00
18-0658	01-B0186	JUSTIN BATTLES	PER DIEM FOR OML CONFEREN	8/2017	201708316000	120.00
18-0163	01-I0015	TYLER TECHNOLOGIES, INC	SOFTWARE SUPPORT	8/2017	025-199160	325.26
18-0207	01-I0104	INVESTIGATIVE CONCEPTS, INC	BACKGROUND PRE-EMPLOYMENT	8/2017	201708295947	39.00
18-0120	01-M0234	MUSTANG TIMES	LEGAL PUBLICATIONS	8/2017	MT603240	28.00
18-0205	01-M0234	MUSTANG TIMES	ADS FOR JOB OPENINGS	8/2017	TT14149	165.00
18-0583	01-P0099	PRINCIPAL LIFE INSURANCE CO	RETIREE INSURANCE	8/2017	201708295926	146.58
18-0621	01-P0099	PRINCIPAL LIFE INSURANCE CO	RETIREE INSURANCE	9/2017	201708295934	146.58
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	60.00
18-0656	01-R0132	TIM ROONEY	PER DIEM FOR OML CONFEREN	8/2017	201708316002	120.00
18-0582	01-U0220	USAVISION, INC	RETIREE INSURANCE	9/2017	201708295944	29.25
18-0622	01-U0220	USAVISION, INC	RETIREE INSURANCE	8/2017	201708295945	29.25
18-0178	01-W0001	WHEATLEY, SEGLER, OSBY & MI	CITY PROSECUTOR	8/2017	17765	636.72
18-0203	01-W0009	WORKERS ASSISTANCE PROGRAM,	EMPLOYEE ASSISTANCE PROGR	8/2017	63424	459.24
					DEPARTMENT TOTAL:	2,424.88
DEPARTMENT: 12		LIBRARY				
18-0302	01-B1023	BTAC ACQUISITION CORP.	NONFICTION BOOKS FOR COLL	8/2017	5014649861	233.51
18-0317	01-B1023	BTAC ACQUISITION CORP.	ADULT FICTION	8/2017	5014649862	216.98
18-0468	01-C0238	USFRSC, INC.	ANNUAL SUBSCRIPTION	8/2017	201708295963	24.95
18-0542	01-C0278	COX COMMUNICATIONS, INC.	MO. MODEM SERVICE CHRG	8/2017	201708295964	4.99
18-0585	01-E0082	ENVISIONWARE, INC.	PC RESERVATION/PRINT MGMT	8/2017	INV-US-32412	678.64
18-0472	01-F0001	FARONICS TECHNOLOGIES	DEEP FREEZE LICENSES	8/2017	INUS0172002	300.00
18-0305	01-J0060	THE JOURNAL RECORD	ONE YEAR SUBSCRIPTION	8/2017	201708295969	189.00
18-0528	01-L1031	LASER SOURCE LLC	REPAIR HP LASER PRINTER	8/2017	47022A	75.00
18-0549	01-L1031	LASER SOURCE LLC	HP REPAIR	8/2017	47022	300.00
18-0300	01-M0263	MIDWEST TAPE, LLC	NONPRINT ITEMS FOR COLLE	8/2017	95280960	920.92
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	10.00
18-0584	01-T0098	TUTTLE TIMES	ONE YEAR SUBSCRIPTION	8/2017	MT603296	22.00
18-0294	01-T0142	THE LIBRARY CORPORATION	LS SOFTWARE SUPPORT	8/2017	2017110082	200.00
					DEPARTMENT TOTAL:	3,175.99

FUND: 01 - GENERAL FUND SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 13		PARKS AND RECREATION				
18-0002	01-A0114	PHIL & HELEN SCHUMINSKY MUS	STORAGE SERVICES	8/2017	201708295933	87.00
18-0234	01-B1019	BEN E. KEITH COMPANY	SNACKS FOR CAMP	8/2017	63619203	436.13
18-0536	01-C0286	CIVICPLUS, INC.	RECREATION MAINT. SOFTWAR	8/2017	REC1-011087	2,400.00
18-0273	01-C1562	RUTH ELAINE COUTS	BELL CHOIR LESSONS	8/2017	201708295961	45.00
18-0454	01-G0063	LAWRENCE GRECH	SERVICES PERFORMED	8/2017	201708295967	175.00
18-0274	01-M0286	JIMANI VENTURES INC.	OIL CHANGES	8/2017	259007	31.99
18-0640	01-M1158	JENNIFER MULLINS	COUCH TO 5K REFUND	8/2017	231221	35.00
18-0641	01-M1159	RHONDA MIX	COUCH TO 5K REFUND	8/2017	230542	35.00
18-0139	01-O0055	OG&E COMPANY	ELECTRIC SERVICE	8/2017	201708295976	244.29
18-0541	01-P0133	KRISTEN POLSON	ACTIVITIES FOR SPECIAL EV	8/2017	CM001	600.00
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	125.00
18-0535	01-S0093	SMART TECHNOLOGIES, INC	DROP LINE @ SOFTBALL	8/2017	717392	225.00
18-0227	01-S0236	SWANK MOTION PICTURES, INC	LICENSE FOR MOVIES/EVENTS	8/2017	2380894	413.00
18-0389	01-S0328	SPRINT SPECTRUM, LP	CELL PHONES	8/2017	597274785-112	156.18
18-0505	01-V0050	CELLCO PARTNERSHIP	JET PACK & PHONE	8/2017	201708295991	110.27
18-0374	01-W0098	RAWLING SPORTING GOODS CO.,	SPORTS SUPPLIES	8/2017	84306996	296.01
					DEPARTMENT TOTAL:	5,414.87
DEPARTMENT: 15		GENERAL GOVERNMENT				
18-0002	01-A0114	PHIL & HELEN SCHUMINSKY MUS	STORAGE SERVICES	8/2017	201708295933	133.00
18-0075	01-C0278	COX COMMUNICATIONS, INC.	TELEPHONE/INTERNET	8/2017	201708295965	6,545.29
18-0094	01-F0078	DAIOHS USA, INC	COFFEE SERVICES	8/2017	186235	34.50
18-0008	01-I0015	TYLER TECHNOLOGIES, INC	UB, COURT, ONLINE COMPONE	9/2017	025-199709	250.00
18-0011	01-K0053	KG HOLDINGS, LP/WEP LAND HO	STAGE PAYBACK INCENTIVE	9/2017	201708295935	4,833.34
18-0010	01-K0127	KG SC HOLDINGS, LLC	CASH SAVER PAYBACK INCENT	9/2017	201708295936	5,000.00
18-0131	01-O0010	ONE GAS, INC.	GAS SERVICES	8/2017	201708295977	96.78
18-0020	01-O0014	OK MUNICIPAL ASSURANCE GROU	PROPERTY INSURANCE	8/2017	201708295972	22,111.00
18-0021	01-O0014	OK MUNICIPAL ASSURANCE GROU	GENERAL & AUTO LIABILITY	8/2017	201708295974	19,240.25
18-0539	01-O0014	OK MUNICIPAL ASSURANCE GROU	PROPERTY INSURANCE	8/2017	201708295973	2,580.00
18-0601	01-O1177	OK TAX COMMISSION	SALES TAX PAYABLE	8/2017	201708295925	1,699.40
18-0146	01-P1051	PITNEY BOWES BANK, INC	BULK POSTAGE	8/2017	201708295981	2,642.44
					DEPARTMENT TOTAL:	65,166.00

FUND: 01 - GENERAL FUND SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 18		TOWN CENTER				
18-0131	01-O0010	ONE GAS, INC.	GAS SERVICES	8/2017	201708295979	117.90
18-0240	01-P0055	PLUMBCO, INC	PLUMBING REPAIRS	8/2017	201708295983	445.00
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	25.00
18-0323	01-S1165	INTERLINE BRANDS, INC	JANITORIAL SUPPLIES	8/2017	409322542	2,117.37
18-0554	01-T0056	TRANE CO	DIAGNOSIS & REPAIRS	8/2017	38266941	1,095.00
18-0339	01-W0139	WEATHERMAN MECHANICAL, INC	PREVENTATIVE MAINTENANCE	8/2017	22194-16254	2,524.64
18-0553	01-W0139	WEATHERMAN MECHANICAL, INC	REPAIRS TO RTU #12	8/2017	22201-16261	2,213.83
					DEPARTMENT TOTAL:	8,538.74
DEPARTMENT: 19		BALL COMPLEX				
18-0485	01-B1019	BEN E. KEITH COMPANY	FOOD FOR CONCESSION	8/2017	63615416	2,977.60
18-0522	01-D0058	DOLESE CONCRETE	SAND FOR SPORTS COMPLEX	8/2017	AG17092195	316.63
18-0222	01-M1000	MAZZIO'S MUSTANG INC	PIZZA FOR CONCESSION	8/2017	471660	28.00
18-0139	01-O0055	OG&E COMPANY	ELECTRIC SERVICE	8/2017	201708305993	168.48
18-0221	01-P0144	BOTTLING GROUP, LLC	DRINKS FOR CONCESSION	8/2017	84383605	1,562.35
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	60.00
18-0338	01-R0107	RODGERS FROZEN TREATS, LLC	MINI MELTS FOR CONCESSION	8/2017	201708295984	560.00
18-0645	01-S0282	CHRIS L. SPITLER	SCHEDULING OF UMPIRE	8/2017	201708295989	760.00
18-0531	01-S1002	STERLING J. BEECROFT, LLC	ELECTRICAL FOR CONCESSION	8/2017	3400	738.00
18-0225	01-S1165	INTERLINE BRANDS, INC	JANITORIAL SUPPLIES FOR C	8/2017	409322526	520.18
					DEPARTMENT TOTAL:	7,691.24
DEPARTMENT: 20		AQUATICS				
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	20.00
18-0378	01-S0237	UNITED INDUSTRIES, INC	UMBRELLA FOR TABLE & LIFE	8/2017	67887	846.79
18-0238	01-S9983	SUNBELT POOLS, INC	CHLORINE FOR AQUATIC	8/2017	30728-1	824.53
18-0534	01-S9983	SUNBELT POOLS, INC	POOL CHEMICALS	8/2017	30728-1A	569.60
					DEPARTMENT TOTAL:	2,260.92
DEPARTMENT: 21		FINANCE				
18-0054	01-A0293	ASSOCIATION OF PUBLIC TREAS	ANNUAL MEMBERSHIP FEES	8/2017	105447	185.00
18-0076	01-C0245	CRAWFORD & ASSOCIATES, PC	CAFR REVIEW	8/2017	10867	507.50
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	45.00
					DEPARTMENT TOTAL:	737.50

FUND: 01 - GENERAL FUND SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 31		COMMUNITY DEVELOPMENT				
18-0069	01-C0020	CANADIAN COUNTY CLERK	FILING FEES FOR ABATEMENT	8/2017	R522450	15.00
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	75.00
18-0175	01-V0050	CELLCO PARTNERSHIP	CELL PHONE SERVICE	8/2017	201708295992	226.94
18-0180	01-X0004	JOHN RYCZKOWSKI	MOWING & CLEANING ABATEME	8/2017	201708295987	75.00
18-0382	01-X0004	JOHN RYCZKOWSKI	MOWING & ABATEMENTS	8/2017	201708295986	515.00
					DEPARTMENT TOTAL:	906.94
DEPARTMENT: 41		POLICE				
18-0052	01-A0122	ALLIANCE MAINTENANCE, INC	FACILITY CLEANING	8/2017	95619	75.00
18-0473	01-A1117	AXON ENTERPRISES, INC	TASER CARTRIDGE & BATTERY	8/2017	SI1496474	2,644.71
18-0066	01-C1118	GLOBAL BUSINESS, INC.	UNIFORM CLEANING	8/2017	201708295962	272.00
18-0405	01-G0198	THE GOODYEAR TIRE & RUBBER	TIRE ORDER	8/2017	255-1010724	396.30
18-0217	01-I0030	INTEGRIS HEALTH, INC.	POLICE PENSION PHYSICAL	8/2017	2017-23203	475.00
18-0110	01-I0126	COLOSSUS, INCORPORATED	MOBILECOP LICENSE RENEWAL	8/2017	10924	204.58
18-0125	01-M0055	SANTIAGO BRENNAN'S MCDONALD	PRISONER MEALS	8/2017	7003-185	417.78
18-0366	01-M0115	MTM RECOGNITION CORPORATION	DOOR NAME TAGS	8/2017	5896234	493.00
18-0126	01-M0170	DAVID L. MORRIS	VEHICLE REPAIRS	8/2017	66542	286.00
18-0131	01-O0010	ONE GAS, INC.	GAS SERVICES	8/2017	201708295979	168.09
18-0619	01-O1277	OK TAX COMMISSION	LIEN RELEASE FOR UNITS	8/2017	201708295922	44.00
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	745.00
18-0517	01-S1002	STERLING J. BEECROFT, LLC	ELECTRIC FOR PARKING LOT	8/2017	3403	454.00
18-0165	01-T0013	TASER INTERNATIONAL, INC.	TASER AGREEMENTS	8/2017	SI1496161	3,280.00
18-0166	01-V0050	CELLCO PARTNERSHIP	MOBILE DATA TERMINAL USAG	8/2017	201708315999	550.05
18-0665	01-W0167	DYLAN WILSON	TUITION REIMBURSEMENT	8/2017	201708316007	850.00
					DEPARTMENT TOTAL:	11,355.51
DEPARTMENT: 42		ANIMAL CONTROL				
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	10.00
18-0166	01-V0050	CELLCO PARTNERSHIP	MOBILE DATA TERMINAL USAG	8/2017	201708315999	29.90
					DEPARTMENT TOTAL:	39.90

FUND: 01 - GENERAL FUND SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 51		FIRE				
18-0550	01-01210	OSDH	EMERGENCY MEDICAL RESPONS	8/2017	201708295975	20.00
18-0461	01-A0039	A.S.C. INC.	VEHICLE REPAIR & MAINT.	8/2017	68409	56.48
18-0462	01-A0110	ALL SEASON BUILDING SUPPLY,	BUILDING REPAIR & MAINT.	8/2017	116687	38.27
18-0193	01-C0065	CASCO INDUSTRIES, INCORPORAG	AUGE, VALVE REBUILD KITS	8/2017	185187	1,598.00
18-0369	01-C0065	CASCO INDUSTRIES, INCORPORA	BOOSTER HOSE	8/2017	185087	2,226.00
18-0413	01-C0065	CASCO INDUSTRIES, INCORPORA	NEW FIREFIGHTER BRASS	8/2017	185336	581.00
18-0521	01-C1031	CUSTOM IDENTIFICATION PRODU	LOCKER NAME TAGS	8/2017	315907	29.86
18-0379	01-I0030	INTEGRIS HEALTH, INC.	OCCUPATIONAL PHYSICAL	8/2017	2017-23188	475.00
18-0537	01-J1061	WILLIAM A. JUSTICE	HEARTSAVE, FIRST AID & AE	8/2017	129	62.00
18-0131	01-O0010	ONE GAS, INC.	GAS SERVICES	8/2017	201708295977	135.66
18-0591	01-O0022	OKLAHOMA CITY COMMUNITY COL	PARAMEDIC CLASS	8/2017	201708295957	2,300.00
18-0139	01-O0055	OG&E COMPANY	ELECTRIC SERVICE	8/2017	201708305996	1,551.02
18-0380	01-O0100	OKLAHOMA FIREFIGHTERS PENSI	NEW VOLUNTEERS PENSION	8/2017	201708295970	120.00
18-0508	01-P0059	FERGUSON ENTERPRISES, INC	QUICK DISCONNECT PITOT	8/2017	84995	214.18
18-0637	01-P0161	PHYSIO CONTROL, INC	ANNUAL MAINTENANCE AGREEM	8/2017	417141878	2,388.96
18-0018	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295943	890.00
18-0419	01-S0088	SPECIAL OPS UNIFORMS, INC	CLASS A UNIFORMS	8/2017	267487	687.92
18-0211	01-S0206	STOLZ TELECOM, LLC	REPLACE LIGHT BAR ON E-4	8/2017	2591	3,975.00
18-0191	01-U0055	UNIFIRST HOLDINGS, INC.	SHOP TOWEL SERVICE	8/2017	825 1210864	41.45
18-0458	01-W0020	WALMART COMMUNITY BRC	MISC. SUPPLIES	8/2017	201708295985	11.54
					DEPARTMENT TOTAL:	17,402.34
DEPARTMENT: 61		STREETS				
18-0139	01-O0055	OG&E COMPANY	ELECTRIC SERVICE	8/2017	201708295976	10,911.49
					DEPARTMENT TOTAL:	10,911.49
					FUND TOTAL:	138,286.99

FUND: 07 - LIBRARY FUND SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 07		ADMINISTRATION				
18-0660	01-G0030	GENERAL FUND	TRANSFER TO GENERAL FUND	8/2017	201708316004	1,467.50
					DEPARTMENT TOTAL:	1,467.50
					FUND TOTAL:	1,467.50

FUND: 08 - PD TRAFFIC ENFORCEMENT SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 41		POLICE ENFORCEMENT				
18-0642	01-W0174	CHRISTIAN DAHL WINDHAM	PHONE REIMBURSEMENT	8/2017	201708295946	450.00
					DEPARTMENT TOTAL:	450.00
					FUND TOTAL:	450.00

FUND: 39 - LIMITED PURPOSE SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 13		PARK AND RECREATION				
18-0552	01-B1002	BEASLEY TECHNOLOGY	ROOF SOUND SYSTEM	8/2017	3005671	11,909.00
18-0536	01-C0286	CIVICPLUS, INC.	RECREATION MAINT. SOFTWAR	8/2017	REC1-011087	4,000.00
					DEPARTMENT TOTAL:	15,909.00
DEPARTMENT: 41		POLICE				
18-0212	01-R0149	ROCK RIVER ARMS, INC.	PATROL RIFLES	8/2017	787928	22,210.00
					DEPARTMENT TOTAL:	22,210.00
DEPARTMENT: 51		FIRE				
18-0328	01-S0202	SHEPPARD & SONS CONS'T.	CEILING REMODEL FOR AUDIO	8/2017	2017-29-INV	4,948.42
18-0327	01-S1002	STERLING J. BEECROFT, LLC	ELECTRICAL MODIFICATION	8/2017	3395	3,577.00
					DEPARTMENT TOTAL:	8,525.42
DEPARTMENT: 61		STREETS				
18-0654	01-U0027	UNITED RENTALS	DRUM SMOOTH ROLLER	8/2017	149734547	20,000.00
					DEPARTMENT TOTAL:	20,000.00
					FUND TOTAL:	66,644.42

FUND: 69 - RISK MANAGEMENT SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 00		ADMINISTRATION				
18-0590	01-D0147	DIAGNOSTIC LABORATORY OF OK	WORKERS COMP CLAIM	8/2017	201708295950	53.02
18-0586	01-E0007	EMERGENCY PHYSICIANS OF MID	WORKERS COMP CLAIM	8/2017	201708295949	167.28
18-0608	01-E0107	EMERGENCY SERVICES OF OK, P	WORKERS COMP CLAIM	8/2017	201708295948	247.96
18-0610	01-I1030	INTEGRIS CANADIAN VALLEY RE	WORKERS COMP CLAIM	8/2017	201708295951	2,027.25
18-0611	01-I1032	INTEGRIS CARDIOVASCULAR PHY	WORKERS COMP CLAIM	8/2017	201708295952	235.08
18-0635	01-L0107	LANKIKE N. ABEYEWARDENE, MD	WORKERS COMP CLAIM	8/2017	201708295953	326.06
18-0587	01-M0240	HEALTHSMART BENEFITS SOLUTI	WORKERS COMP CLAIM	8/2017	201708295956	280.00
18-0667	01-M0299	B3W LLC	WORKERS COMP CLAIM	8/2017	201708316008	188.34
18-0589	01-M1044	MODERN MEDICAL, INC	WORKERS COMP CLAIM	8/2017	201708295955	141.18
18-0666	01-M1044	MODERN MEDICAL, INC	WORKERS COMP CLAIM	8/2017	201708316009	346.16
18-0607	01-M1198	MUSTANG FAMILY PHYSICIANS P	WORKERS COMP CLAIM	8/2017	201708295954	365.25
18-0609	01-R0019	RADIOLOGY ASSOCIATES, LLC	WORKERS COMP CLAIM	8/2017	201708295958	24.30
18-0606	01-S0255	SSM HEALTH CARE OF OKLAHOMA	WORKERS COMP CLAIM	8/2017	201708295959	857.73
18-0588	01-T024	THE PHYSICIANS GROUP, LLC	WORKERS COMP CLAIM	8/2017	201708295960	53.02
					DEPARTMENT TOTAL:	5,312.63
					FUND TOTAL:	5,312.63
					GRAND TOTAL:	648,233.28

AUGUST 2017 VISA

DEPT		
511	CITY MANAGER	$ 500.00
512	LIBRARY	$ 4,000.00
513	PARKS & RECREATION	$ 8,000.00
515	GENERAL GOVERNMENT	$ 4,000.00
518	TOWN CENTER	$ 6,000.00
521	FINANCE	$ 200.00
531	COMM. DEV.	$ 1,500.00
541	POLICE	$ 4,000.00
551	FIRE	$ 6,000.00
TOTAL		$ 34,200.00

AUGUST 2017 PAYROLL

DEPT		
501	CITY ATTORNEY	$ 9,973.96
511	CITY MANAGER	$ 31,631.64
512	LIBRARY	$ 29,023.38
513	PARKS & RECREATION	$ 76,984.87
518	TOWN CENTER	$ 5,854.08
519	BALL COMPLEX	$ 16,978.41
520	AQUATICS	$ 49,587.16
521	FINANCE	$ 41,428.16
531	COMMUNITY DEVELOPMENT	$ 35,194.60
541	POLICE	$ 204,369.30
542	ANIMAL CONTROL	$ 3,697.41
543	OHSO GRANT	$ 701.30
551	FIRE	$ 149,905.60
TOTAL		$ 655,329.87

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. **ITEM NO.** F-4

2. **DATE:** September 5, 2017

3. **TITLE:** Approval to turn past due utility accounts over to the collection agency

4. **COUNCIL ACTION:** Approve or Deny

5. **INITIATOR:** Janet Watts, Finance Director

6. **BACKGROUND:** The attached utility accounts are past due and need to be sent to collections. Total balance is $1,623.08 excluding collection agency fees.

7. **STAFF SOURCE:** Janet Watts, Finance Director

8. **FINANCIAL IMPACT:** Bad debt write-off of $1,623.08

9. **STAFF COMMENTS:** Recommends turning accounts over to collections.

10. **CITY ATTORNEY'S COMMENTS:**

11. **RESOLUTION/ORDINANCE NO.** N/A

JANA FERRELL - COLLECTIONS

09/05/2017

ACCOUNT NUMBER	NAME	SERVICE ADDRESS	MAILING ADDRESS	BALANCE	TOTAL FEE	AGENCY FEE TOTAL FEE
06-0235-13	BEESON, LANEY	1001 N CRYSTAL WAY	1001 N CRYSTAL WAY	$ 276.83	$ 373.72	
START DATE:	COX, KATRINA	MUSTANG, OK 73064	MUSTANG, OK 73064			
FINAL DATE:						
16-0081-03	DRAPER, BRANDIE	1063 S BROOKVIEW LN	713 W PERRY DR	$ 147.00	$ 198.45	
START DATE:		MUSTANG, OK 73064	MUSTANG, OK 73064			
FINAL DATE:						
09-0231-06	HUMPHREY, CHAUNCEY	834 W FORSTER DR	511 W HWY 35	$ 96.91	$ 130.83	
START DATE:		MUSTANG, OK 73064	NEWCASTLE, OK 73065			
FINAL DATE:						
09-0173-02	RIBBLE, DAVID	648 W FORSTER DR	11308 SW 5TH ST APT 6137	$ 803.86	$ 1,085.21	
START DATE:		MUSTANG, OK 73064	YUKON, OK 73099			
FINAL DATE:						
04-0228-05	SHEYAHSHE, MICHAEL	1442 W ONYX WAY	8120 LOMA DEL NORTE RD NE	$ 110.39	$ 149.03	
START DATE:		MUSTANG, OK 73064	ALBUQUERQUE, NM 87109			
FINAL DATE:						
13-0144-12	SLATTERY, TAMARA	421 W MAPLE BRANCH WAY	5008 S BYPASS TERR	$ 50.39	$ 68.03	
START DATE:		MUSTANG, OK 73064	OKC, OK 73119			
FINAL DATE:						
10-0079-09	TAYLOR, STEPHANIE	652 W SHEPHERD DR	36151 HWY 17A	$ 137.70	$ 185.90	
START DATE:		MUSTANG, OK 73064	WYNNEWOOD, OK 73098			
FINAL DATE:						
					$ -	
START DATE:		MUSTANG, OK 73064				
FINAL DATE:						
ACCOUNTS: 7			TOTALS:	$ 1,623.08	$ 2,191.16	$ 568.08 $ 2,191.16

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. **ITEM NO.** F-5
2. **MEETING DATE:** September 5, 2017
3. **TITLE:** Approval to turn past due library accounts over to collection agency.
4. **COUNCIL ACTION:** Approve/Deny
5. **INITIATOR:** Janet Watts, Finance Director
6. **BACKGROUND:**
   The attached library accounts are past due and need to be sent to collections. The total balance is $1,015.10 excluding collection agency fees.
7. **FINANCIAL IMPACT:**
   Inventory loss of $1,015.10
8. **STAFF COMMENTS:** Recommend Approval
9. **STAFF SOURCE:** Desiree Webber, Library Director
10. **CITY ATTORNEY COMMENTS:**
11. **RESOLUTION/ORDINANCE NO.** N/A

Council Copy
Accounts Sent to Collections
for August, 2017

	A	B	C	D	E
1	**Acct #**	**NAME/RESPONSIBLE PARTY**	**CITY, STATE, ZIP**	**BOOK BALANCE**	
2	0070869	Clayton A. Hodson	Yukon, OK 73099	$111.49	
3	0070909	Josh Jordan	Mustang, OK 73064	$82.47	
4	0070600	Ashlie Nichole Ralston	Mustang, OK 73064	$128.93	
5	0070758	Jade E. Schane	Yukon, OK 73099	$207.61	
6	0070157	Stephanie L. Humphrey	Yukon, OK 73099	$203.30	
7	0070158	Stephanie L. Humphrey	Yukon, OK 73099	$38.93	
8	0060545	Wendy E. Howard	Mustang, OK 73064	$15.00	
9	0060546	Wendy E. Howard	Mustang, OK 73064	$16.00	
10	0060547	Wendy E. Howard	Mustang, OK 73064	$119.42	
11	0070393	Jennifer A. Duckworth	Oklahoma City, OK 73169	$82.96	
12	0070394	Jennifer A. Duckworth	Oklahoma City, OK 73169	$8.99	
13					
14					
15			TOTAL FOR INDIVIDUALS	$1,015.10	
16					
17			TOTAL FOR ILL	0.00	
18					
19			OVERALL TOTAL	1,015.10	
20					
21					
22					
23					
24					
25					
26					
27					
28					
29					
30					

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NUMBER F-6
2. MEETING DATE: September 5, 2017
3. TITLE: To declare old and damaged library materials as surplus.
4. COUNCIL ACTION: Approve/Deny
5. INITIATOR: Julie Slupe, Library Director
6. BACKGROUND: The library has removed 3,062 outdated and/or damaged books, DVDs and other items from its collection. The library would like to claim these items as surplus and discard or sell them in the annual/ongoing book sales at the Library.
7. FINANCIAL IMPACT: Hardcover books for $1.00 apiece and paperbacks for $0.50 apiece. Friends of the Library operate the annual book sale and the Library manages the ongoing book sale. Funds raised are used for educational programs, to purchase additional library materials and/or computer equipment or software.
8. STAFF COMMENTS: Recommend Approval
9. STAFF SOURCE: Desiree Webber, Library Director
10. CITY ATTORNEY COMMENTS
11. RESOLUTION/ORDINANCE NUMBER _____

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. G-2a

2. MEETING DATE: SEPTEMBER 5, 2017

3. TITLE: APPOINTMENT OF ONE MEMBER TO THE MUSTANG BOARD OF ADJUSTMENT

4. COUNCIL ACTION: Appoint One New Member to the Mustang Board of Adjustment

5. INITIATOR: Melissa Helsel, Community Development Director

COMMENTS & FACTS: Stan Griffin has moved outside the city limits and has tendered his resignation on the Board of Adjustment.

We have received one application for the open seat from Ed Harris who previously submitted a letter of interest through our Talent Bank application. He has experience in construction and is interested in serving on the Board of Adjustment.

Board of Adjustment seats are not ward-specific.

7. FINANCIAL IMPACT: none

8. STAFF COMMENTS: Staff recommends the appointment of Ed Harris to the Mustang Board of Adjustment. His construction experience may be helpful on the board.

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. _____

8/20/2017

CITY OF MUSTANG
BOARD OR COMMITTEE APPLICATION

NAME: Ed Harris

ADDRESS: 229 E Mohr Lane

NUMBER OF YEARS RESIDED IN MUSTANG 5

PHONE NUMBER: _____ (HOME) 602-332-4156 (CELL)

E-MAIL ADDRESS: e.harris.ahc@gmail.com

OCCUPATION: Specification Consultant

EMPLOYER: Dorma USA

EMPLOYMENT, AFFILITATIONS, OR EDUCATIONAL INFORMATION THAT WOULD BE APPLICABLE TO THE PARTICULAR BOARD OR COMMITTEE:
I've been in the commercial construction field for 25+ years. Currently consultant with Architects on our Division 08 & 10 our product lines.

Credentials: AHC, CML, CDT, LEED-AP

I WOULD BE INTERESTED IN SERVING ON THE FOLLOWING BOARD FOR THE CITY OF MUSTANG:

PLANNING COMMISSION X BOARD OF ADJUSTMENT X

(For information concerning the functions of these boards, contact the Community Development Department or visit the City of Mustang website)

EXPLAIN WHY YOU ARE INTERESTED IN SERVICE:
Have always taken an interest in the communities I have lived in, so it's time I did in Mustang.

REFERENCES: Eddie Huff , BWA Architects, Norman
Brian Mays, Fitzgerald + Associates Architects, OKC

I UNDERSTAND MY APPLICATION OR RESUME IS A MATTER OF PUBLIC RECORD AND SUCH INFORMATION AS SHOWN ON MY APPLICATION OR RESUME IS RELEASEABLE TO THE GENERAL PUBLIC, ACCORDINGLY PURSUANT TO THE REQUEST BY THE MEDIA AND OTHER MEMBERS OF THE PUBLIC, SUCH INFORMATION WILL BE RELEASED UPON REQUEST.

SIGNATURE: _____

DATE: 8/20/17

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. H-1

2. MEETING DATE: September 5, 2017

3. TITLE: IMAGINE MUSTANG COMPREHENSIVE PLAN UPDATE, HALFF & ASSOCIATES AND ADG PARTNERS, DISCUSSION, CONSIDERATION, PUBLIC HEARING AND POSSIBLE ADOPTION

4. COUNCIL ACTION: Discussion, Consideration and Possible Action to Adopt Plan

5. INITIATOR: Community Development Department

6. Project Description: City staff and the Comprehensive Plan Team would like to ask for your consideration in adoption of the Imagine Mustang Comprehensive Plan

A team of city staff and community leaders has been working on an update to Mustang's comprehensive plan for approximately one year. The Mustang Planning Commission has unanimously recommended the plan for adoption.

The document you received represents our team's efforts in envisioning and creating a guide for the future of Mustang. It addresses issues such as stormwater management, parks and trails, land use, transportation mobility and economic development. It also includes a clear detailed implementation strategy.

7. FINANCIAL IMPACT: None

8. STAFF COMMENTS: Staff recommends final adoption of the Imagine Mustang Comprehensive Plan

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. _____

City of Mustang
City Council
Agenda Item Commentary

1. ITEM NO. H-2

2. MEETING DATE: September 5, 2017

3. TITLE: Changing City Council Meetings to Allow for One Meeting Per Month

4. COUNCIL ACTION: Approve

5. INITIATOR: Timothy Rooney, City Manager

BACKGROUND: As discussed with the City Council at two previous work sessions, staff has looked into the possibility of the Council holding one regular meeting each month as opposed to two regular meetings.

The Charter of the City of Mustang requires the City Council to meet at least once each month:

> "*Section 2-6. Council Meetings.*
> *The Council shall hold at least one regular meeting every month, at such time as it may prescribe by ordinance or otherwise. The Mayor or majority of the Councilmembers may call special meetings. The City Clerk shall attempt to notify all Councilmembers by special delivery, certified mail, registered mail, or other verifiable means, at least twenty-four (24) hours before such special meetings. All meetings of the Council shall be open to the public, and the journal of its proceedings shall be open to the public inspection, provided the Council may hold executive sessions when authorized by the Oklahoma Open Meeting Law."*

Chapter 2, Article II, Section 2-31 (a) of the Code of Ordinances for the City of Mustang establishes regular City Council meetings to be held first and third Tuesday of every month:

> *"The Council of the city shall hold regular meetings at 7:00 PM on the first and third Tuesday of every month; provided that, if such a Tuesday falls on a holiday, the regular meetings shall be held at that time on the next day which is not a holiday."*

With that in mind, and prior to the required publication of regular meeting dates of the City Council for 2018, staff asked Mr. Jon Miller to draft up a proposed ordinance that would establish the City Council having one regular meeting on the first Tuesday of each month, rather than the first and third Tuesday. Work sessions would continue to be special meetings but instead would be held on the third Tuesday when needed. Currently, work sessions are held every other month on the Monday between the two Tuesday meetings.

A copy of the proposed ordinance is attached for your information and review.

6. FINANCIAL IMPACT: Advertisement costs for both newspapers.

7. STAFF COMMENTS: None

8. STAFF SOURCE: Timothy Rooney, City Manager

9. RESOLUTION / ORDINANCE: Ordinance No. 1151

11. ATTACHMENTS: Ordinance No. 1151

ORDINANCE NO. 1151

AN ORDINANCE OF THE CITY OF MUSTANG, OKLAHOMA, AMENDING CHAPTER 2, ARTICLE II, BY AMENDING SECTION 2-31 TO PROVIDE THAT REGULAR MEETINGS OF THE MUSTANG CITY COUNCIL SHALL OCCUR ONE TIME PER MONTH; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR REPEALER; AND, PROVIDING FOR SEVERABILITY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MUSTANG, OKLAHOMA:

SECTION 1. ENACTMENT.

That Chapter 2, Article II, Section 2-31 of the Code of Ordinances of the City of Mustang, is hereby amended to read as follows:

Sec. 2-31 - Time and place of regular meetings.

(a) The council of the city shall hold regular meetings at 7:00 p.m. on the first Tuesday of every month; provided that, if such a Tuesday falls on a holiday, the regular meeting shall be held at that time on the next day which is not a holiday.

(b) Every meeting of the council shall be held in the council chamber in the municipal building, unless, in case of an emergency or special meeting, the mayor or the councilmembers calling a special meeting designate another place in the city for the holding of the special meeting; provided that any adjourned meeting may be held at any other place within the city designated by the council.

SECTION 2. EFFECTIVE DATE

This ordinance shall take effect as of 12:01 a.m. on January 1, 2018.

SECTION 3. REPEALER.

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed

SECTION 4. SEVERABILITY.

That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Mustang City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

PASSED AND APPROVED and Emergency Clause voted upon separately and passed and approved this ____day of _____, 2017.

_____
Mayor Jay Adams

ATTEST:

_____
Lisa Martin, City Clerk

APPROVED as to form this ____day of _____, 2017.

_____
Jonathan E. Miller, City Attorney

CITY OF MUSTANG

AGENDA COMMENTARY

1. ITEM: H.3

2. MEETING DATE: September 5, 2017

3. TITLE: Contract approval for public safety software solution with Zuercher Technologies for the City of Mustang

4. COUNCIL ACTION: Approve/Deny

5. INITIATOR: Robert Groseclose, Chief of Police

6. BACKGROUND:

The City of Mustang published public notice for a new public safety software system. One proposal was accepted, and awarded to Zuercher Technologies. The contract for these services is attached.

Zuercher Technologies - $297,672

7. FINANCIAL IMPACT: $297,672

8. STAFF'S COMMENTS: Staff recommends approval of the contract.

9. STAFF SOURCE: Robert Groseclose, Chief of Police

ZUERCHER

Software License and Service Agreement

Mustang Police Department

This Software License and Service Agreement (this "Agreement") entered into as of this ____ day of _____ 20___ by and between Mustang Police Department ("Customer"), having its principal place of business at 650 E. State Highway 152, Mustang, OK 73064, and Zuercher Technologies LLC ("Zuercher"), having its principal place of business at 4509 West 58th Street, Sioux Falls, South Dakota 57108. Customer and Zuercher may also be referred to herein individually as a "Party" or collectively as the "Parties".

This Agreement details the responsibilities of Zuercher and Customer with regard to the public safety software, hardware, and related services to be provided by Zuercher under this Agreement.

Now, therefore, in consideration of the mutual covenants and promises contained in this Agreement, the Parties agree as follows:

1.0 Exhibits and Order of Precedence

The following Exhibits are incorporated into this Agreement:

1. Exhibit A: Statement of Work
2. Exhibit B: Pricing Detail
3. Exhibit C: Payment Schedule
4. Exhibit D: Maintenance Agreement
5. May 4, 2017 Request for Proposal, *Public Safety Software System* (the "RFP"), as responded to by Zuercher proposal dated June 6, 2017.

In the event of any inconsistency among the various documents that comprise this Agreement, the order of precedence shall be as follows: the Agreement and its Exhibits (in the order in which they appear.

2.0 License

2.1 Grant of the License

In consideration of Customer's payment of the license fees set forth in *Exhibit B: Pricing Detail*, and subject to the terms and conditions set forth herein, Zuercher hereby grants to Customer, and Customer accepts, a perpetual, non-transferable and non-exclusive license to use certain Zuercher software (the "Software") identified in *Exhibit B: Pricing Detail* only for Customer's own business purposes in object code format.

2.2 Copies and Modifications

Customer may make a copy of the Software solely for backup or archival purposes. No Zuercher identifying marks, copyright or proprietary right notices may be deleted from any copies of the Software made by Customer. Customer shall not decompile, or create by reverse engineering or otherwise, the source codes from the object code supplied hereunder, or adapt the Software in any way or use it to create a derivative work. Zuercher shall not be responsible in any way for Software performance if the Software has been modified, except as modified by Zuercher.

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2.3 Restrictions on Usage

Customer shall not allow any party, other than Zuercher, to add, update, or delete database records or file system objects directly to or on the server or database except as provided for in the Zuercher Documentation.

Customer shall not access any Server Hardware except as provided in the Zuercher Documentation or cause any software except the Software provided under this Agreement to be installed on or executed on the Server Hardware.

2.4 Infringement

Zuercher will at its expense defend against any claim, action or proceeding by a third party ("Action" herein) for infringement by the Zuercher Software of copyright or trade secrets, provided that Customer notifies Zuercher in writing of such Action as soon as reasonably possible and cooperates fully with Zuercher and its legal counsel in the defense thereof. Zuercher may in its discretion (i) contest, (ii) settle, (iii) procure for Customer the right to continue using the Zuercher Software, or (iv) modify or replace the Zuercher Software so that it no longer infringes (as long as the functionality and performance described in the Specifications substantially remains following such modification or replacement.) Customer may participate in the defense of such Action at its own expense. If Zuercher concludes in its sole judgment that none of the foregoing options are commercially reasonable, and Customer's use of the Zuercher Software is permanently enjoined as a result of a judgment of a court of competent jurisdiction in such Action, then Zuercher will return to Customer the Zuercher Software license fee(s) paid by Customer under this Agreement less a prorated portion of said fee(s) for Customer's use of the Zuercher Software (calculated by multiplying the ratio of the number of months of actual use in live operations to sixty (60) months times the license fees paid) and the licenses granted in this Agreement shall terminate. In addition, in the event such Action results in a money judgment against Customer which does not arise, wholly or in part, from the actions or omissions of Customer, its officers, directors, employees, contractors, agents, or elected officials, or a third party, other than the use of the Software by Customer as contemplated by this Agreement (excluding claims arising from third party products), Zuercher will, subject to Section 5.0 herein, indemnify Customer therefrom.

Notwithstanding the above, Zuercher shall have no duty under this Section 2.4 with respect to any claim, action or proceeding arising from or related to infringements (i) by Third Party Software, including operating system software, or hardware, (ii) arising out of modifications to the Zuercher Software and/or Documentation not made by Zuercher, (iii) resulting from use of the Zuercher Software to practice any method or process which does not occur wholly within the Zuercher Software, or (iv) resulting from modifications to the Zuercher Software or Documentation prepared pursuant to specifications or other material furnished by or on behalf of Customer. This Section 2.4 states the entire obligation of Zuercher regarding infringement of intellectual property rights, and it will survive the termination of this Agreement.

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3.0 Delivery, Fees and Payments

3.1 Delivery of Software to Customer

The Software shall be delivered in executable object code form only. Zuercher shall initially deliver and install copies of the Software as set forth in *Exhibit A: Statement of Work*, in the quantities set forth in *Exhibit B: Pricing Detail.* Except as stated in *Exhibit D: Maintenance Agreement*, Zuercher shall not be responsible for providing any updates, enhancements, modifications, revisions, additions, replacements, conversions or maintenance to the Software.

3.2 Delivery of Hardware to Customer

Zuercher shall ship Hardware provided under this Agreement as set forth in *Exhibit B: Pricing Detail* to Customer's location at a mutually agreeable time in the project timeline. Items shipped via commercial carrier are FOB destination at the fixed price stated in *Exhibit B: Pricing Detail*. It shall be Customer's responsibility to install all Hardware and to perform proper facility preparation (such as appropriate uninterrupted power, air conditioning, space, electrical drops, security, network equipment, network drops, etc.) not specified in this Agreement as being provided by Zuercher, but necessary to accommodate equipment as specified in the Statement of Work before, during, and/or after installation.

3.3 Delivery of Services to Customer

Zuercher will provide Services as set forth in *Exhibit A: Statement of Work*.

3.4 Fees

Customer will pay Zuercher the fees, without deduction or offset, on the dates set forth in *Exhibit C: Payment Schedule*.

3.5 Late Payment

If Customer fails to pay any amount due within forty-five (45) days of invoice date, Customer shall pay late charges of one and one half percent (1.5%) or the highest allowed by law, whichever is lower, per month on such balance, together with all of Zuercher's expenses, collection costs and reasonable attorneys' fees incurred in enforcing this Agreement.

3.6 System Acceptance

Customer acknowledges that the System shall be deemed accepted on the date of Go Live. In the event that a Customer notifies Zuercher of a material non-conformity in the Software as compared with the Statement of Work, Zuercher shall correct the reported non-conformity in accordance with the support provisions set forth in *Exhibit D: Maintenance Agreement* and the Limited Warranty

3.7 Additional Components

Other components (hardware and/or software, collectively "Third Party Components") may be desired for use with the System. Zuercher assumes no responsibility under this Agreement for obtaining and/or supporting any Third Party Components except as expressly agreed herein. This includes, but is not

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limited to, networking equipment, workstations, servers for third-party systems, mobile networking equipment, and mobile workstations, laptops, or tablets.

3.8 Third-Party Costs

Except as expressly agreed herein, Zuercher assumes no responsibility for any third-party costs related to implementation of the System. This includes, but is not limited to, any third-party costs associated with the implementation of Interfaces as defined in *Exhibit A: Statement of Work.*

3.9 Annual Appropriations

Notwithstanding any other provision of this Agreement, the parties acknowledge and agree that funds to be paid by Customer under the terms of this Agreement will be available only as appropriated on a fiscal year-to-fiscal year basis by properly constituted legal authority. In the event that Customer determines that sufficient funds have not been appropriated to make the payments required under the terms of this Agreement, the obligations of Customer under this Agreement shall terminate. In such event, Customer shall give prompt written notice of termination to Zuercher. In the event of termination of the Agreement due to non-appropriation of funds, Zuercher shall be paid for all fees and expenses earned up to the date of termination.

4.0 Rights and Obligations

4.1 Proprietary Rights

Zuercher represents that it is the owner of or otherwise has the rights to the Software and that it has the right to grant the License. Zuercher retains title to the Software and its associated Documentation, including, without limitation, all copies and audiovisual aspects thereof and all rights to patents, copyrights, trademarks, trade secrets and other intellectual property rights inherent therein and appurtenant thereto. Customer shall not, by virtue of this Agreement or otherwise, acquire any proprietary rights whatsoever in the Software or its associated Documentation, which shall be confidential information of Zuercher and the sole and exclusive property of Zuercher. Zuercher hereby expressly reserves any right not expressly granted to Customer by this Agreement. No identifying marks, copyright or proprietary right notices may be deleted from any copy of the Software provided to or made by Customer. All right and title to any third party software provided by Zuercher under this Agreement shall remain with the applicable vendor thereof. Nothing in this Agreement shall be construed as conveying title in the Software, its associated Documentation, or any third party software to Customer.

4.1.1 Zuercher understands and agrees that all information and data provided by Customer for input into the Software and/or System ("Customer Data") in the performance of this Agreement remains the property of the Customer. All Customer Data shall be removed from the System and returned to the Customer upon termination of the Agreement. If return of Customer Data is not feasible, all Customer Data in Zuercher's possession shall be destroyed by Zuercher with written confirmation to Customer of such action.

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4.2 Trademarks and Trade Names

Any and all trademarks and trade names, which Zuercher uses in connection with the License granted hereunder, are and shall remain the exclusive property of Zuercher. Nothing contained in this Agreement shall be deemed to give Customer any right, title or interest in any trademark or trade name of Zuercher.

4.3 Confidentiality

Customer shall not sell, transfer, or publish any portion of the Zuercher Software or its associated Documentation. . Customer further agrees that it shall not disclose or otherwise make available any portion of the Zuercher Software or its associated Documentation, or business systems and techniques not generally known by the public (collectively the "Zuercher Confidential Information") to others, except as required for Customer's exercise of the license rights granted in this Agreement or as may be required by law. If any Zuercher Confidential Information is subject to any federal or state statute(s) providing for public access or disclosure, or pursuant to a court order or subpoena, Customer shall, as allowed by law, provide Zuercher with prior written notice of any such request, allowing Zuercher a reasonable opportunity to respond and/or oppose such action in the appropriate forum. Customer shall use its reasonable efforts to cooperate with and assist Zuercher in identifying and preventing any unauthorized use, copying or disclosure of the Software or any portion thereof or any of the algorithms or logic contained therein or any other deliverables. Provided, Zuercher understands that Customer will be required, pursuant to the Oklahoma Open Records Act, 51 Okla. Stat. §24A.1, et seq., to provide to the public upon request copies of this Agreement, any invoices from and payments to Zuercher, and communications between Zuercher and Customer. Zuercher further understand that all payments to Zuercher will be included on claims lists prior to payment, which lists are made available for public review on Customer's website. Zuercher agrees that such information shall not constitute Zuercher Confidential Information herein, and that Customer shall not be required to obtain Zuercher's consent to provide such information to the Public.

4.3.1 Zuercher agrees to maintain Customer's confidential business information and confidential data, including patient identifying data, to which Zuercher gains access in confidence and to not disclose such information except as required to perform hereunder or as required by law. Zuercher shall treat all Customer Data as confidential, unless Customer and Zuercher agree in writing that particular categories of data are not confidential. Notwithstanding the above, Zuercher shall own the copyrights, trade secrets, patent rights and other proprietary rights in and may use without restriction knowledge, information, ideas, methods, know-how, and copyrightable expression learned or acquired (including without limitation any feedback, suggestions, or other information or materials) as a result of or in connection with this Agreement to make modifications and enhancements to the Zuercher Software or Documentation. Customer shall acquire no intellectual property ownership rights to the Zuercher Software or Documentation as a result of such use, whether as author, joint author, or otherwise. Confidential information does not include any information which (a) is generally available to the public or becomes generally known to the public through no act or omission of Zuercher or any violation of confidentiality; (b) is disclosed to Zuercher by third parties without breach of confidentiality

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obligations; (c) is already in the lawful or rightful possession of Zuercher prior to receipt of the confidential information or (d) is developed independently by Zuercher without use of the confidential information; provided, however, that all Customer's Data is and shall remain Customer's property and shall either be removed from the System and returned to Customer, or destroyed by Zuercher with written confirmation to Customer of such action upon termination of this Agreement.

4.3.1.1 Zuercher maintains a security program for managing access to customer data – particularly HIPAA and CJIS information ("Security Approved Personnel"). This includes 1) a pre-employment background check; 2) security training required by Federal CJIS regulations; and 3) criminal background checks/fingerprints required by Federal or State regulations. Zuercher will work with the Customer to provide reasonably required documentation (such as the CJIS Security Addendum Certification form and VPN documents).

4.3.1.2 If required by the Customer, Zuercher will provide paper fingerprint cards for such Security Approved personnel with the fingerprinting performed in the state of the Zuercher staff's job assignment. If the Customer requires fingerprints submitted in a form other than paper prints (such as Live Scan) or that such fingerprints be performed at the Customer's site, the Customer will reimburse Zuercher for the cost of Zuercher Security Approved Personnel traveling to the Customer's site or for a vendor (such as Live Scan) to travel to the applicable Zuercher office location. This provision will apply during the installation of the Project and for the duration of the Customer's Maintenance Agreement.

4.4 Termination for Breach

Zuercher may immediately terminate this Agreement, including all license rights granted herein, in the event Customer breaches any of its material confidentiality obligations regarding the Software and its associated Documentation.

4.5 Non-Confidential Information

Confidentiality obligations of the Parties shall not extend to information that:

(a) is, as of the time of its disclosure, or thereafter becomes part of the public domain through a source other than the receiving party;

(b) was known to the receiving party at the time of its disclosure and such knowledge can be proven by documentation;

(c) is independently developed by the receiving party;

(d) is subsequently learned from a third party not under a confidentiality obligation to the providing party; or

(e) is required to be disclosed pursuant to court order, subpoena, or government authority, whereupon the receiving party shall provide notice to the other party prior to such disclosure.

Zuercher shall not use Customer's Data for any purpose other than set forth in this Agreement, and shall not sell, transfer, or publish Customer's Data. Zuercher shall not disclose or otherwise make available

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Customer's Data or any portion thereof to others except as may be required by law. Zuercher shall promptly notify Customer upon Zuercher's receipt of any subpoena, order or other directive seeking Customer's Data, and shall cooperate with Customer in responding to any such request.

4.6 Limited Warranties

4.6.1 *Software Warranties*

Zuercher warrants that: (i) it owns or otherwise has the rights in the Software and has the right to license the Software as described in this Agreement. Zuercher further warrants that for a period of twelve (12) months from the date of Go Live (the "Warranty Period"), the Zuercher Software will perform in conformance with the Zuercher Documentation and any applicable specifications set forth in *Exhibit A: Statement of Work*. Zuercher's sole obligation or liability during the Warranty Period shall be to correct or replace the Software upon receipt of written notice of a warranty defect from Customer, in a reasonable time in accordance with the provisions of *Exhibit D: Maintenance Agreement*. In the event Zuercher fails to remedy material defects in the Software reported by Customer during the Warranty Period, Customer's sole remedy and Zuercher's sole liability shall be to receive a refund of the price paid to Zuercher under this Agreement, as reflected in Exhibits B and C, less a prorated portion of that price for the period that Customer had full use of the Zuercher Software, prorated over the five (5) year initial term of this Agreement.

4.6.1.1 Wireless Service Limitations

Problems in the Zuercher software or transmission of data caused by wireless services, including cell phone carriers, cell phone devices and operating systems, and any personal settings on the devices are not warranted by Zuercher, or covered under the terms of this Agreement. The Customer's use of services provided by wireless service providers or carrier, or transmission of data from cell phone carriers, cell phones and operating systems, and the security, privacy, or accuracy of any data provided via such services is at the Customer's sole risk.

4.6.2 *Provision of Services*

Zuercher agrees that it shall perform the Services under this Agreement in accordance with commercially accepted standards for such services, including maintenance and support services to be provided pursuant to *Exhibit D: Maintenance Agreement.*

4.6.3 *Hardware and Third-Party Software Warranties*

Zuercher warrants that, at the time of delivery, the Hardware will be new and unused. In addition, Zuercher warrants that upon payment of the applicable fees, Customer will acquire good and clear title to the Hardware, free and clear of all liens and encumbrances.

All Hardware and Third-Party Software warranties provided by the manufacturer will be passed through to Customer. Zuercher will be solely responsible for processing and managing of all Hardware and Third-Party Software warranty claims that may be necessary during the term of this Agreement.

EXCEPT AS SPECIFICALLY STATED IN THIS SECTION 4.6, ZUERCHER MAKES AND CUSTOMER RECEIVES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF

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MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; PROVIDED, ZUERCHER ACKNOWLEDGES CUSTOMER'S RIGHTS UNDER PARAGRAPH 5.0.

4.7 Legal Relationship

It is expressly understood by Customer and Zuercher that Zuercher shall not be construed to be, and is not, an employee of Customer. Zuercher shall provide services to Customer as an independent contractor with control over the time, means and methods for accomplishing the services outlined in this Agreement. Zuercher further acknowledges that it is not entitled to such benefits as holiday time, vacation time, sick leave, retirement benefits, health benefits, or other benefits usually associated with employment.

4.8 Insurance Provision

Zuercher, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

(a) Commercial General Liability Insurance: Commercial general liability insurance with a limit of $1,000,000 for each occurrence; $2,000,000 in the aggregate.

(b) Professional Liability Insurance: Professional liability insurance with a limit of $5,000,000 each claim; $5,000,000 in the aggregate.

(c) Business Automobile Liability Insurance: Business automobile liability insurance or equivalent form with a limit of not less than $1,000,000 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

At Customer's request, Zuercher shall provide properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days prior written notice to Customer.

5.0 Indemnification and Limitation of Liability

Zuercher shall indemnify, defend and hold harmless Customer from any and all claims, lawsuits or liability, including attorneys' fees and costs, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising from a wrongful or negligent act, error or omission of Zuercher, its employees, agents, contractors, or any subcontractor as a result of Zuercher's or any subcontractor's performance pursuant to this Agreement; however, Zuercher shall not be required to indemnify Customer for any claims or actions caused to the extent of the negligence or wrongful act of Customer, its employees, agents, or contractors. Notwithstanding anything to the contrary in the foregoing, if a claim, lawsuit or liability results from or is contributed to by the actions or omissions of Customer, or its employees, agents or contractors, Zuercher's obligations under this provision shall be reduced to the extent of such actions or omissions based upon the principle of comparative fault to the extent allowed by law.

Notwithstanding the foregoing, the aggregate liability of Zuercher for any reason and upon any cause of action of claim, including, without limitation, Zuercher's obligation to indemnify and hold harmless

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under this agreement, shall be limited to direct damages which shall not exceed (i) the amount of the fees paid for the portion of the System giving rise to such claims in the aggregate, including, without limitation, breach of contract, breach of warranty, indemnity, negligence, strict liability, misrepresentations, and other torts; or (ii) for claims arising under annual maintenance, the amount of the maintenance fees paid for the term in which the claim arises; or (iii), in the case of bodily injury, personal injury, or property damage for which defense and indemnity coverage is provided by Zuercher's insurance carrier, the coverage limits of such insurance

TO THE EXTENT ALLOWED UNDER OKLAHOMA LAW, IN NO EVENT SHALL ZUERCHER, ITS SUBCONTRACTORS OR SUPPLIERS BE LIABLE WHETHER IN CONTRACT OR IN TORT FOR LOST PROFITS, LOST SAVINGS, LOST DATA, LOST OR DAMAGED SOFTWARE, OR ANY OTHER CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF, OR OTHERWISE RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER ZUERCHER HAS NOTICE OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE.

ZUERCHER UNDERSTANDS THAT CUSTOMER CONTENDS CERTAIN PROVISIONS IN THIS AGREEMENT CONSTITUTE WAIVER AND LIMITATION OF DAMAGE PROVISIONS THAT ARE VOID UNDER OKLAHOMA LAW. ZUERCHER FURTHER UNDERSTANDS THAT CUSTOMER WILL NOT BE ENCUMBERING ANY PUBLIC FUNDS RELATING TO SUCH DAMAGE LIMITATION OR WAIVER PROVISIONS. ZUERCHER AGREES CUSTOMER HAS NO OBLIGATION TO ENCUMBER FUNDS RELATING TO SUCH WAIVER OR LIMIATION OF DAMAGE PROVISIONS UNDER THIS CONTRACT, AND THAT CUSTOMER RETAINS THE RIGHT TO ASSERT THE INVALIDITY OF SUCH PROVISIONS.

6.0 Termination

6.1 By Zuercher for Cause

In addition to various other express rights of Zuercher to terminate this Agreement set forth herein, Zuercher shall also have the right to terminate this Agreement upon thirty (30) day's prior written notice to Customer and cancel any unfulfilled portion of it if: (i) Customer becomes bankrupt or insolvent or enters into any arrangement or composition with its creditors or if a receiver is appointed to direct the business of Customer, or (ii) upon Customer's breach of the License or confidentiality and nondisclosure provisions contained herein, or (iii) upon a violation of Zuercher's proprietary rights hereunder. The termination of this Agreement shall automatically terminate and extinguish the License.

Zuercher may terminate this Agreement for cause due to Customer's failure to comply with the material terms and conditions of this Agreement; provided, that Zuercher shall give Customer thirty (30) days' written notice specifying Customer's failure. If within thirty (30) days after receipt of such notice, Customer shall not have either corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then Zuercher may, at its option, place Customer in default and the Agreement shall terminate on the date specified in such notice.

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6.2 By Customer for Cause

In addition to various other express rights of Customer to terminate this Agreement set forth herein, Customer shall have the right to terminate this Agreement upon thirty (30) day's prior written notice to Zuercher if: (i) Zuercher becomes bankrupt or insolvent or enters into any arrangement or composition with its creditors or if a receiver is appointed to direct the business of Zuercher; (ii) upon Zuercher's breach of the confidentiality and nondisclosure provisions contained herein, or (iii) upon a violation of Customer's proprietary rights hereunder. Customer may terminate this Agreement for cause based upon the failure of Zuercher to comply with any material terms and/or conditions of the Agreement, provided that Customer shall give Zuercher thirty (30) days' written notice specifying Zuercher's failure. If within thirty (30) days after receipt of such notice, Zuercher shall not have either corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then Customer may, at its option, place Zuercher in default and the Agreement shall terminate on the date specified in such notice.

6.3 Post-Termination Obligations

All provisions hereof relating to Zuercher's and Customer's proprietary rights, confidentiality, non-disclosure and non-solicitation shall survive the termination or expiration of this Agreement. Any fees due as per *Exhibit C: Payment Schedule* for work completed prior to termination shall still be paid by Customer. In the event of termination of this Agreement prior to implementation of the Zuercher Software, or termination due to Customer's breach of Zuercher's intellectual property rights, the license to the Zuercher Software granted under this Agreement shall also terminate and Customer shall remove all Zuercher Software from its computer system and at Zuercher's direction, either return or destroy the Software and its associated Documentation.

7.0 Customer Responsibilities

Customer shall provide one primary Project Manager to be the main point of contact for Zuercher. Duties of the Project Manager are outlined in *Exhibit A: Statement of Work*.

8.0 Miscellaneous

8.1 Force Majeure

Neither party shall be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control. Performance times shall be considered extended for a period of time equivalent to the time lost because of such delay.

8.2 Governing Law

This Agreement and performance hereunder shall be governed by the law of the State of Oklahoma, without giving effect to the principles of conflict of law of such state or international treaties.

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8.3 Forum Selection

The Parties hereby submit to the exclusive jurisdiction and venue of Canadian County, State of Oklahoma, or federal courts with respect to any action between the Parties relating to this Agreement.

8.4 Assignment

This Agreement shall apply to, inure to the benefit of, and be binding upon the Parties hereto and upon their permitted successors in interest and permitted assigns. Neither party may assign this Agreement or its interests or obligations thereof without the prior, written consent of the other party, which consent shall not be unreasonably withheld.

8.5 Notice

Any notice provided pursuant to this Agreement, if specified to be in writing, shall be in writing and shall be deemed given (i) if by hand delivery, upon receipt hereof; (ii) if mailed, 7 days after deposit in the U.S. mails, postage prepaid, certified mail, return receipt requested. All notices shall be addressed to the Parties at the addresses set forth on the first page hereof.

8.6 Survival

All provisions of this Agreement relating to proprietary rights, confidentiality, non-disclosure and to payment of fees by Customer shall survive the termination of this Agreement.

8.7 No Waiver

The waiver or failure of either party to exercise any right in any respect provided for herein shall not be deemed a waiver of any further right hereunder.

8.8 Enforceability

If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to affect the intent of the Parties, and the remainder of this Agreement shall continue in full force and effect.

8.9 Remedies

Unless otherwise specified herein, the rights and remedies of the Parties set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available at law or in equity.

8.10 Headings

The headings of the sections of this Agreement are inserted for convenience only and shall not constitute a part hereof or affect in any way the meaning or interpretation of this Agreement.

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8.11 No Third-Party Beneficiaries

The Parties agree that this Agreement is for the benefit of the Parties hereto and is not intended to confer any rights or benefits on any third party, and that there are no third-party beneficiaries as to this Agreement or any part or specific provision of this Agreement.

8.12 Taxes

Customer shall, in addition to the payments required hereunder, pay all applicable sales, use, transfer or other taxes and all duties, whether international, national, state or local, however designated, which are levied or imposed by reason of the transactions contemplated hereby, excluding, however, income taxes on net profits which may be levied against Zuercher. Customer shall reimburse Zuercher for the amount of any such taxes or duties paid or accrued directly by Zuercher as a result of this transaction. If Customer is a tax-exempt organization, Customer will provide Zuercher with documentation required by the taxing authority to support such exemption at the time of Execution of this Agreement.

8.13 Non-Discrimination

Zuercher agrees to abide by the requirements of the following as applicable: Title VI of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246 as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Fair Housing Act of 1968 as amended, and Zuercher agrees to abide by the requirements of the Americans with Disabilities Act of 1990. Zuercher agrees not to discriminate in its employment practices, and will render services under this Agreement without regard to race, color, religion, sex, national origin, veteran status, political affiliation, disabilities, or because of an individual's sexual orientation. Any act of discrimination committed by Zuercher, or failure to comply with these obligations when applicable shall be grounds for termination of this Agreement.

8.14 Change Orders

Change orders and out-of-scope work will be defined by written agreement.

8.15 Entire Agreement

This Agreement, and any Exhibits specifically incorporated therein by reference, constitutes the entire agreement between the Parties with respect to the subject matter. These documents supersede and merge all previous proposals of sale, communications, representations, understandings and agreements, whether oral or written, between the Parties with respect to the subject hereof.

This Agreement may not be modified except by a writing subscribed to by authorized representatives of both Parties.

9.0 Definitions

(a) **Documentation**: All written, electronic, or recorded end user and system administrator documentation and functional descriptions therein that describe the uses, features, and

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functional capabilities of the System, and that are published or provided to Customer by Zuercher.

(b) **Executable Object Code**: Software code which has been compiled for use by the computer and is no longer directly readable or modifiable by humans.

(c) **Execution of Agreement**: Date Agreement is signed by all enumerated Parties.

(d) **Hardware**: All hardware, equipment, and other tangible non-Software items supplied to Customer by Zuercher under this Agreement.

(e) **Go Live**: The use of the System as a live, non-test-bed system. This can be exhibited by events such as the completion of the first real-world booking, the taking of the first real-world call for service, the entry of the first real-world case report, or a similar event dealing with real-world use.

(f) **Software**: Any computer programs in object code form and any updates, enhancements, modifications, revisions, additions, replacements or conversions thereof owned by Zuercher and set forth or identified in *Exhibit B: Pricing Detail* or subsequently licensed to Customer. Software specifically excludes any Third-Party Software.

(g) **Server Hardware**: All hardware, equipment, and other tangible non-Software items supplied to Customer by Zuercher under this Agreement listed as "Server Hardware" in *Exhibit B: Pricing Detail.*

(h) **Services**: All project management, training, data conversion, and other services to be provided by Zuercher under this Agreement.

(i) **SSH**: Secure Shell. A cryptographic protocol for securing data which it transmitted over an insecure network.

(j) **System**: The collective whole of all Software, Hardware, and Services to be purchased, developed, licensed, supplied, installed, configured, or implemented by Zuercher under this Agreement.

(k) **Third-Party Software**: Any software to be supplied by Zuercher under this agreement that is purchased or licensed from any source external to Zuercher for use with or integration into the System.

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EACH PARTY'S ACCEPTANCE HEREOF IS EXPRESSLY LIMITED TO THE TERMS OF THIS AGREEMENT, INCLUDING ITS EXHIBITS, AND NO DIFFERENT OR ADDITIONAL TERMS CONTAINED IN ANY PURCHASE ORDER, CONFIRMATION OR OTHER WRITING SHALL HAVE ANY FORCE OR EFFECT UNLESS EXPRESSLY AGREED TO IN WRITING BY THE PARTIES.

Mustang Police Department

Jay Adams
Mayor

_____ _____
Signature *Date*

Zuercher Technologies, LLC

Tony Eales
CEO

_____ 21 August 2017
Signature *Date*

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Exhibit A: Statement of Work

Zuercher will provide Software, Hardware and Services substantially similar to those outlined below, in the quantities specified in *Exhibit B: Pricing Detail*.

1.0 Software

The software detailed in the following sections includes, but is not limited to, the listed functionality.

Zuercher Suite Base	• Operating system software • Database software • Master name index • Master address index • Master vehicle index	• Secure intra-Customer messaging • Configurable dashboard • Web address links • No duplicate data entry • Authentication
Administration (Core)	• Equipment • Fleet Management • Inventory Management • Purchase Requisitions	• Service Dogs • Policy Manual • Full audit trail • Custom Forms
CAD (Core)	• Command-line entry • Bulletins • Configurable CAD Windows • Inactivity Alarms • Rip and Run • Full audit trail	• Command Log • Triple I • Custom CAD Commands • Unit Alarms • ANI/ALI
CAD (Advanced)	• Alarm Billing • Alarm Calls • Nurse Calls • Scheduled and Recurring Scheduled Calls • Tow Calls • Custom Forms	• NCIC Automation • Basic Paging • Run Cards and Unit Recommendation • Unit Specialties • Web windows

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Mapping (Core) w/ GIS Server	• Command-line entry • Drag and drop commands • Visual status alerts • User-configurable map layers • GIS functions with map window closed	• Active calls for service • Call for service click-through • Custom map markers • Address verification • Faster map functions (compared with non-server version)
Mapping AVL	• Vehicle locations on map	• Call for service integration
Jail (Short-Term Holding)	• Booking and Release Wizard • Cell Occupancy Log • Activities • Basic Bank • Issued Property • Medicine	• Inmate Property • Victim Notification • Visitor logging • Jail Log • Shift Log • Full audit trail
Mobile Core	• Grants access to the Zuercher Mobile application	
Mobile Accident Reporting	• Driver's license and vehicle registration scanning • Automated NCIC driver's license and registration queries • Prefill from NCIC return (for agency State only) • Diagramming (via Easy Street Draw)	• Paper accident report creation and printing • Case report association • Customer must provide all necessary licenses for the most current version of Easy Street Draw
Mobile Mapping AVL	• Vehicles shown on map	• Call for service integration
Mobile CAD	• User-configurable layouts • Day/Night mode • Instant messaging	• Silent dispatch • Bulletins/BOLOS • NCIC queries

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Mobile eCitations	• Off-line operation • Driver's license and vehicle registration scanning • Automated NCIC driver's license and registration queries	• Prefill from NCIC return (for agency State only) • Paper ticket creation and printing • Case report association
Mobile Mapping	• Active calls for service • Map Markers • Visual status alerts	• User configurable map layers • Route from current location to CFS location
Mobile Records	• Cases • Warrants	• Master index access (including mug shots and alerts)
Personnel (Core)	• Personnel Log	• Full audit trail
Records (Core)	• Case Reports • NIBRS/UCR Submission • Master Record Notes • Protection Orders • Warrants • Juvenile Referral List	• Pawn Property • Pistol Permits • Citations and Warnings • Sex Offenders • Full audit trail
Records (Advanced)	• Field Identifications • Expungement • Intelligence Cases • Investigative Leads • Form Requirements	• Tow Calls • Basic Accident Reports • Bicycle Registrations • Parking Tickets • Custom Forms • Accident Reports • eCitations
Reporting (Core)	• Pre-defined reports • Custom reports • Ad-hoc reports • Drag and drop report building • Export to PDF, XLS, XML, TXT	• Custom data filters • Statistical analysis • Scheduled reports • COMSTAT compatible • Emailed reports

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1.1.5 *CAD – Rip and Run Interface (Fax/Email)*

This is a one-way interface from CAD to fax and email services. Completed Calls for Service (CFS) from CAD are output (printed) to the services. Zuercher provides the connection from Zuercher Suite to the SMTP server.

Customer will provide Zuercher with SMTP information for setup and will manage all user configurations.

1.1.6 *Jail - Livescan/AFIS Interface (Export)*

This is a one-way interface from Zuercher Jail to the AFIS network. When an inmate is booked into Jail, a NIST file is sent to the AFIS Livescan device. Zuercher Technologies creates the web service which sends the NIST file to AFIS.

1.1.7 *Jail - M2SYS Fingerprint Interface (Import)*

This is a one-way interface from the M2SYS two-finger biometric scanners to Jail. The M2SYS scanners are installed locally on key terminal locations within the Customer's facility. From these terminals, the MS2YS scanners will be able to accept fingerprint registrations during the booking process, and also verify or identify an inmate from a previously registered biometric ID within the M2SYS database.

The licenses needed for the scanners are included in this contract.

1.1.8 *Records - eCitations Court Interface (Export)*

This is a one-way interface between Zuercher Records and Tyler Technologies Incode Court System. Once per day, citations records will be exported from Zuercher Suite as XML in a batch file, and sent to a network share, where Tyler Tech is responsible for processing the files into the Incode court system. Zuercher will submit these files per the batch citation service specification. The court's network share is maintained by the Court IT administrator. This interface is dependent on Tyler Technologies' ability to provide the specified functionality.

1.1.9 *Records - N-DEx Adapter (IA IEPD)*

This is an adapter that produces XML that is conformant to the N-DEx Incident/Arrest (IA) IEPD. Zuercher Suite transmits data to the N-DEx web service via Zuercher's existing N-DEx WSDL. Data transmission does not include all fields defined in the IEPD.

1.1.10 *Records - OK Crime Reporting (SIBRS) Interface*

This is a one-way interface from Zuercher Records to OK NIBRS. Customer is able to select cases in Zuercher Records and manually export those cases to a text file on the local file system. From there, Customer provides the file to the state system. Zuercher creates functionality to support the text file export from Zuercher Records.

1.1.11 *Zuercher Suite - OLETS/NCIC Interface (Basic Queries)*

This is a two-way interface between Zuercher Suite and the Zuercher-provided NCIC server. The following basic queries will be generated by Zuercher Suite and passed to the NCIC server: Article, Boat, Driver History, Driver License, Gun, Log Off Request, Log On Request, Snowmobile Registration, Vehicle Registration. The Zuercher-provided NCIC server then sends the queries on to NCIC and collects the results. Those query results are then sent back to Zuercher Suite.

Customer is responsible for providing a network connection and the necessary authentication to the state message switch from the NCIC server. NCIC data mining results will only be returned for the state in

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1.1 Interfaces

All costs related to Zuercher's implementation of the following interfaces is represented in *Exhibit B: Pricing Detail.* Any third-party costs or charges incurred related to the implementation of the following interfaces will be the responsibility of Customer.

Any interfaces that cannot be deployed as part of System go-live due to Customer or a third-party vendor not being ready for deployment shall not delay System Acceptance.

Refer to *Exhibit A: Statement of Work: 3.2 Implementation Process* overview for interface implementation information.

1.1.1 *CAD – Basic Paging Interface (SMS/Email) (Export)*

This is a one-way interface from Zuercher CAD. Pages are sent via email, SMS, and/or CAP codes from Zuercher CAD. Zuercher enables the paging functionality in CAD.

Customer is responsible for configuring paging groups, templates, and trigger events for this interface.

1.1.2 *CAD – E911 (ANI/ALI) Interface (Import)*

This is a one-way interface from the 911 service provider to Zuercher CAD. It prepopulates calls for service by parsing raw spill data from the 911 service and importing it.

Customer is responsible for ensuring that:

(a) 911 service provider sets up the serial connection from the 911 controller to Zuercher CAD.

(b) 911 spill data can be pushed to Zuercher CAD at a decided upon frequency.

(c) ALI data meets NENA standards

1.1.3 *CAD - FIREHOUSE RMS Interface (Export)*

This is a one-way interface from Zuercher CAD to Firehouse. Upon completion of a call for service (CFS) in CAD, an XML file is written to a network file share which is watched by the Firehouse CAD Monitor. In addition, users may send current CFS information to the network share by using a custom command in CAD regardless of whether the call has been completed or not. Information is then imported into Firehouse via a process managed entirely by that application. Zuercher sets up the export of data from CAD to the network file share. *Customer is required to have Firehouse CAD Monitor for this interface.*

1.1.4 *CAD - PulsePoint Interface (Export)*

This is a one-way interface from Zuercher CAD to PulsePoint's Respond incident reporting system. CAD Calls for Service (CFS) records and unit response time information are exported to PulsePoint via two database views hosted by Zuercher on the CAD production server. Zuercher supplies PulsePoint with database user credentials to access these views. PulsePoint will query the database at an approved frequency to retrieve specific CFS and unit information for import into their Respond system. The information retrieved by PulsePoint will be made available via PulsePoint's Respond application. PulsePoint then uses this information to push alerts to citizens running the PulsePoint Respond mobile application, informing them of live EMS incidents within the agency's CAD. The goal of this integration is to create a public alert system for EMS incidents as they happen, empowering citizens to provide aid to a patient prior to the arrival of EMS units on scene.

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Community Data Platform	• Searchable repository of incident data from agencies across the US • RMS incident data to include: date of occurrence, location, incident type description, case status, case number, and agency	• Contribute data from CAD, RMS, Incidents, Arrests, Warrants, and Master Names • Search the same data from other participating agencies within the same state
IQ Crimemapping.com Subscription	• Online public portal • Citizen email alert sign-up • Online tip submission	• Searchable/printable map display • CAD and RMS incidents plotted based on user defined filters

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which Customer is located.

1.1.12 *Zuercher Suite - OLETS/NCIC Interface (Warrants)*

This is a two-way interface between Zuercher Suite and the state message switch. Authorized Zuercher Suite users can perform wanted person submissions to NCIC via the state message switch directly from the warrants screen in Zuercher Suite. Contractor will provide the following forms: EW, EWJ, MDW, CW, XW, QW, QWI, DW, XDW, EN and XN. Request and return information will be logged to the NCIC tab on the warrants screen in Zuercher Suite, and contain a link to the warrant.

1.1.13 *Zuercher Suite – Time Synchronization Interface*

This a one-way interface that uses NTP to keep all Zuercher server's clocks in sync.

1.2 Data Conversion

Zuercher will provide data conversion services from one (1) of Customer's current software database sources to one (1) Zuercher database module. For example, Customer's current CAD database will be converted to Zuercher CAD. The contents of the data conversion will be determined by the Data Conversion Specification documents.

Zuercher was not provided a data sample of Customer's current data sources requiring conversion. Therefore, Zuercher is unable to accurately estimate the level and scope of effort associated with the data conversion. Once provided a data sample, Zuercher will discuss with Customer any changes to the scope or price of this implementation.

Customer shall work with its existing vendors to obtain unencrypted data for conversion in one of the following compatible formats:

(a) MS SQL .bak files with database version and credential information

(b) MySQL .dump or .sql files with database version and credential information

(c) PostgreSQL .sql files with database version and credential information

(d) MS Access 2003 or newer .mdb files

(e) CSV files with column headers and relationship mapping documentation

(f) Oracle 10g or newer backup files

1.2.1 *Sleuth RMS*

Data will be converted into the Zuercher Records module from the Sleuth database and data will be provided in one of the formats listed above.

1.2.2 *GIS Data Conversion (One-time Set Up)*

In Zuercher's efforts to make sure that Customer-supplied GIS data is working to the best of its abilities, Zuercher will run a series of tests to ensure that the GIS data is ready for first installation. In addition, the data will be converted from the source files into the ArcGIS format, set up with the proper configuration and loaded into an ArcGIS map document that is required for the software to operate. Address locator and network dataset files will be created and updated for proper geocoding and routing abilities.

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A thorough GIS data review by Customer is imperative for an effective and organized Zuercher software Go Live.

Zuercher cannot make any guarantees for the spatial nor the tabular accuracy of Customer-supplied GIS data as it pertains to geocoding results, routing, and searching. Customer understands that there are several steps involved to make the GIS data sufficiently perform the abovementioned functions. If Customer is unable to make these corrections on its end, a GIS data contract can be set up with Zuercher to ensure the data is built according to the desired specifications.

2.0 Customer Hardware, Network and Power Requirements

Zuercher is not responsible for installation or networking of the computer hardware required for operating Zuercher Software.

Unless otherwise specified, Customer will be responsible for providing the following to meet the hardware, network and power requirements for the System.

2.1 Server Hardware

1. Two (2) rack-mount servers will be purchased by Customer as part of this agreement.
2. They will be configured as Zuercher Suite Servers as follows:
    (a) One (1) Production Server with Lantronix remote access device
    (b) One (1) Testing/Training server
3. The servers will be installed at the Mustang Police Department.
4. In addition to the standard Zuercher Suite operating environment, the Production Server will have the capability of running the following on a virtual machine:
    (a) One (1) virtual NCIC server (message switch)
    (b) One (1) virtual GIS server
5. Ten (10) inches of rack space is required at the primary server location for one (1) Zuercher Suite Production rack-mounted server (3.5"), one (1) Zuercher Suite Testing/Training rack-mounted server (3.5"), and one (1) Lantronix remote access device (3.0").

2.2 Production and Testing/Training Server Network Requirements

1. Six (6) open Ethernet cables and ports to be used by one (1) Zuercher Suite Production rack-mounted server, one (1) Zuercher Suite Testing/Training rack-mounted server, and one (1) Lantronix remote access device.
2. Static IP addresses that include four (4) for the Zuercher Suite Production rack-mounted server, three (3) for the Zuercher Suite Testing/Training rack-mounted server, and one (1) for the Lantronix remote access device.
3. Network access that maintains low-latency and high bandwidth that includes a Virtual Private Network (VPN) to support remote users per the requirements that are set forth in the *Network*

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3.1.1.1 Customer's Dedicated Project Manager Responsibilities

1. Have the authority to speak for Customer from a project perspective.
2. Designate people responsible for specific roles as needed, examples below:
    (a) Module Subject Matter Experts (SMEs)
    (b) Hardware Project Manager
    (c) Zuercher Build Team Members
    (d) Data Conversion Review Team Members
    (e) Interface points of contact at Customer (assigned per interface)
3. Involve Customer decision makers when needed
4. Escalate issues to the Zuercher project manager
5. Eliminate roadblocks for completing project on schedule
6. Sign various project documents and ensuring signoff documents and deliverables are provided to Zuercher project manager in a timely manner
7. Organize training schedules, training rooms, and training equipment
8. Provide real world scenarios for testing and review

3.1.2 *Zuercher Project Manager and Project Team*

From the start of the project, a Zuercher project manager will work with Customer as the single point of contact for implementation of the Zuercher Suite system. The project manager will develop and manage the implementation schedule and will coordinate with Customer to keep the project on track and on schedule. The project manager will conduct weekly status meetings to provide Customer with project updates.

The Zuercher project team, under the direction of the project manager, will visit pertinent areas of Customer and will meet with key Customer personnel to understand Customer's operational needs and business rules. Team members will observe Customer's daily operations first-hand and use that information to identify how the Zuercher Suite system would best be configured to match and enhance Customer's workflows. The project team will train Customer system administrators on configuration options and code table setup.

3.2 Implementation Process Overview

Zuercher uses a multi-phase approach to ensure a successful implementation for each Customer. Trained and experienced members of the Zuercher implementation team move through the process with Customers to ensure successful outcomes. Timelines will be discussed with Customer's project manager and will be mutually agreed upon as part of the CMD Approval process to ensure a successful Go Live.

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Requirement Specifications and *Server Requirement Specification* documents provided by Zuercher.

2.3 Production and Testing/Training Server Power Requirements

6. One (1) uninterrupted power supply (UPS) that support 1000 watts.
7. Power supply that will handle dual 720 watts for one (1) Zuercher Suite Production rack-mounted server, one (1) Zuercher Suite Testing/Training rack-mounted server, and one (1) Lantronix remote access device.
8. Server cooling that will ensure the appropriate temperatures for one (1) Zuercher Suite Production rack-mounted server, one (1) Zuercher Suite Testing/Training rack-mounted server, and one (1) Lantronix remote access device.

2.4 Peripheral Hardware

2.4.1 *Jail – Mugshot Camera Package*

This contract will provide for three (3) mugshot camera packages that will include three (3) Canon EOS Rebel Bodies, three (3) EF-S 38-55mm lenses, three (3) straps, three (3) video cables, three (3) USB interface cables, three (3) battery packs, three (3) battery chargers, three (3) Canon AC Adapter Kits, and three (3) InPhoto ID SLR licenses.

2.4.2 *Jail – Fingerprint Scanner, Dual Finger (M2Sys)*

This contract will provide for three (3) M2Sys, Dual Finger, Fingerprint Scanners. This dual finger scanner uses a biometric signature to identify inmates in Zuercher Jail.

2.4.3 *Records – Property & Evidence Barcode Scanner and Printer Package (Wasp)*

This contract will provide for one (1) property and evidence barcode scanner and printer package that will include one (1) wireless Wasp WWS550i barcode scanner, one (1) Wasp WPL305 label printer, and four (4) rolls of labels.

3.0 Services

3.1 Project Management

3.1.1 *Customer Project Manager*

Customer shall provide one primary Project Manager to be the main point of contact for Zuercher.

A single, dedicated Project Manager will be assigned to manage the project for all Customers included in this installation.

Customer will identify a Zuercher Build Team. With assistance from Zuercher Implementation Analysts, Customer's Build Team is responsible for the configuration of Zuercher software. The Build Team should expect to devote 10-20% of each week of implementation to Zuercher configuration work.

Customer's Project Manager and Build Team will work within standard business hours (7:00 AM CST to 6:00 PM CST, Monday through Friday) to enable mutual availability to work with Zuercher on configuration and project activities.

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3.2.1 *Kickoff Meeting*

Upon contract signature, a kickoff meeting is scheduled to initiate the implementation process, setting up a statement work, server installations and scheduling the Business Practice Review (BPR).

3.2.2 *Business Practice Review*

During this meeting, the Zuercher project team works with Customer's build team to determine the contents of the Configuration Management Document (CMD). All product needs and requests are reviewed, and the Zuercher project team documents in the CMD how the software currently meets those needs or how Zuercher plans to develop additional functionality to fulfill them.

3.2.3 *CMD Approval*

After the CMD is composed, the Zuercher project team reviews it with Customer's project manager and build team and to ensure that all aspects of the initial proposal have been satisfied.

3.2.4 *Configuration, Conversion, and Interfaces*

After the CMD is approved and signed, work begins on the steps outlined in it, including the necessary configuration, data conversions, and interfaces.

3.2.4.1 Configuration

Customer plays a large part in the configuration and setup of the final system. Configuration of Zuercher software is guided by Implementation Analysts, via in-person or remote online sessions, but is considered a Customer responsibility to complete.

3.2.4.2 Data Conversion and GIS Data Conversion

Data not contained in systems listed in *Exhibit A: Statement of Work: 1.2 Data Conversion* will not be converted. Code tables, data mapping, and other system configuration will be entered by Customer with the assistance of a Zuercher Implementation Analyst. Code tables will not be part of the converted data.

A major part of data conversion is review of data that has been converted to Zuercher software. Customer plays a key role in this data review.

A thorough data conversion review by Customer is imperative for an effective and organized Zuercher software Go Live. Customer should expect to devote 10-20% of each week of the data conversion process to Zuercher configuration work. Each module converted will require participation of SMEs.

See *Exhibit A: Statement of Work: 1.2. GIS Data Conversion* for information regarding the GIS data conversion process.

3.2.4.3 Interfaces

See *Exhibit A: Statement of Work: 1.1 Interfaces* for a list of included interfaces.

Customer tasks related to interfaces will start immediately after the initial Zuercher kickoff meeting. Customer will set up conference calls with Zuercher and each interface vendor within two weeks of contract signing or one week of kickoff call. Interfaces to and from Zuercher software are created and tested internally before being available for Customer testing.

Customer is responsible for initiating and facilitating the relationship(s) between Zuercher and the third-party interface vendor(s).

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Zuercher software interface specifications must be clearly defined in the CMD and thoroughly tested by Customer before Go Live.

3.2.5 *Final System Review*

Throughout the project, implementation analysts from Zuercher will schedule sessions with Customer's Build Team and end users to review any questions or concerns.

3.2.6 *Train-the-Trainer and/or End User Training*

Zuercher offers several options for end user training. All of the training options provide hands-on use of the software with real-world examples. Class sizes are limited to ensure that each individual has sufficient time to practice using the system. When the go live date arrives, users are well-prepared to begin using the new software.

3.2.7 *Go Live*

Zuercher provides on-site support the day that the new system goes live. Any questions that arise are addressed immediately by the on-site team, ensuring that the first day(s) using the new system goes smoothly.

3.2.8 *System Acceptance*

Customer has reviewed all aspects of the system to ensure that the system meets the required functionality. After system acceptance, the Zuercher Support Center becomes the point of contact for questions and concerns; however, the project implementation team continues to be available throughout the transition.

3.3 Training and Go Live Support

3.3.1 *Training*

Zuercher staff will provide for up to nineteen (19) person-days of on-site or remote training.

The number of days specified for 'on-site' services herein may include travel days in addition to actual days on site at Customer's location(s). Zuercher will make a good faith effort to minimize the travel time which is necessary for a project by working with Customer to most efficiently plan and schedule the delivery of on-site services.

3.3.1.1 System Configuration and Training

(4 person days on-site, 3 remote) – The first portion of training will be performed by the Zuercher project team. Team members will train and guide Customer's Build Team in configuring the Zuercher Suite system, setting up and maintaining code tables, managing users and user rights, among other options. Through Zuercher-guided configuration of the system, the Build Team becomes well versed in the Zuercher software system administration.

3.3.1.2 Train-the-Trainer and/or End User Training

(8 person days on-site, 2 remote) – Trainers will conduct detailed courses for each of Customer's user groups (such as dispatchers or officers). The content of each course will be tailored to the features and functionality in Zuercher software that each group needs to know and use.

3.3.1.3 Refresher Training

(2 remote days) – Zuercher will provide follow-up training (after successful implementation) to refresh

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existing personnel on best practices with regard to using Zuercher Suite.

3.3.2 *Training Resources*

Training will be scheduled within standard business hours (7:00 AM CST to 6:00 PM CST, Monday through Friday).

The training facilities and equipment will be provided by Customer based on the following:

3.3.2.1 Trainer Resources

1. One (1) computer with a network connection
2. Most recent Zuercher Suite version installed and tested (includes login)
3. Two (2) projectors and two (2) screens set up and tested
4. One (1) podium or desk for trainer

3.3.2.2 Trainee Resources

1. Five (5) to ten (10) computers with network connections two (2) monitors required, three (3) monitors are suggested)
2. One (1) supervisor will attend every class to address policy questions
3. No more than ten (10) trainees in each class
4. Most recent Zuercher Suite version installed and tested (includes login)
5. All third-party devices (i.e., printers, scanners, barcode reader, mugshot camera) connected and tested

3.3.3 *Go Live Support*

(4 person days on-site) – Zuercher staff will be on site at Customer site for Go Live. The project manager and/or implementation analysts will assist users with questions that arise during Go Live and will reinforce skills learned during the training sessions.

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Exhibit B: Pricing Detail

Software and Servers	Comments	Unit	Qty	Price	Total
Zuercher Suite Production Server (Dell Server, OS, DBMS, Installation & Testing)	Includes up to 4TB of disk.		1	$ 12,400	$ 12,400
Zuercher Suite Training/Testing Server (Dell Server, OS, DBMS, Installation & Testing)	Includes up to 4TB of disk.		1	$ 7,600	$ 7,600
Zuercher Suite Production NCIC Server (Virtualized Server, OS, Installation & Testing)			1	Included	Included
Zuercher Suite Production GIS Server (Virtualized Server, OS, Software, Analytics, Installation & Testing)			1	Included	Included
Administration Core			1	$ 4,000	$ 4,000
Administration Core (Agency Site License)	Mustang PD		1	$ 1,225	$ 1,225
CAD Core			1	$ 15,000	$ 15,000
CAD Core (Agency Site License)	Mustang PD		1	$ 11,250	$ 11,250
CAD Advanced (Agency Site License)	Mustang PD		1	$ 3,750	$ 3,750
CAD - Basic Paging Interface (SMTP/Email)			1	Included	Included
CAD - E911 (ANI/ALI) Interface			1	Included	Included
CAD - FIREHOUSE RMS Interface (Export)			1	$ 5,500	$ 5,500
CAD - PulsePoint Interface (Export)			1	Included	Included
CAD - Rip and Run (Fax/Email) Interface			1	Included	Included
Mapping Core			1	$ 10,000	$ 10,000
Mapping Core (Agency Site License) for Full-Time CAD Workstations	Mustang PD	Per Agency	1	$ 5,000	$ 5,000
Mapping AVL (Agency Site License) for Full-Time CAD Workstations	Mustang PD	Per Agency	1	$ 6,000	$ 6,000
Jail Short-Term Holding Only	Mustang PD		1	$ 10,000	$ 10,000
Jail Short-Term Holding Only (Agency Site License)	Mustang PD		1	$ 788	$ 788
Jail M2SYS Fingerprint Scanner (Agency Site License)			1	$ 3,150	$ 3,150
Jail - Livescan/AFIS Interface (Export)			1	$ 6,060	$ 6,060
Jail - M2SYS Fingerprint Interface			1	$ 5,030	$ 5,030
Mobile Core			1	$ 5,000	$ 5,000
Mobile Accident Reporting	Mustang PD	Per Unit	27	$ 150	$ 4,050
Mobile Accident Reporting (Easy Street Draw)	Mustang PD	Per Unit	27	$ 200	$ 5,400
Mobile AVL	Mustang PD	Per Unit	27	$ 200	$ 5,400
Mobile AVL	Mustang FD	Per Unit	10	$ 200	$ 2,000
Mobile CAD	Mustang PD	Per Unit	27	$ 450	$ 12,150
Mobile CAD	Mustang FD	Per Unit	10	$ 450	$ 4,500
Mobile eCitations	Mustang PD	Per Unit	27	$ 350	$ 9,450
Mobile Mapping	Mustang PD	Per Unit	27	$ 550	$ 14,850
Mobile Mapping	Mustang FD	Per Unit	10	$ 550	$ 5,500
Mobile NCIC	Mustang PD	Per Unit	27	Included	Included
Mobile Records	Mustang PD	Per Unit	27	$ 950	$ 25,650
Personnel Core			1	Included	Included
Personnel Core (Agency Site License)	Mustang PD		1	Included	Included
Records Core			1	$ 7,500	$ 7,500
Records Core (Agency Site License)	Mustang PD		1	$ 10,500	$ 10,500
Records Advanced (Agency Site License)	Mustang PD		1	$ 3,500	$ 3,500
Records Accident Reporting			1	$ 7,500	$ 7,500
Records Accident Reporting State-Specific Form			1	$ 7,500	$ 7,500
Records eCitations			1	$ 7,500	$ 7,500
Records eCitations State-Specific Form			1	$ 7,500	$ 7,500

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Records - eCitations Court Interface (Export)	Tyler Incode		1	$ 7,500	$	7,500
Records - N-DEx Adapter (IA IEPD)			1	Included		Included
Records - OK Crime Reporting (SIBRS) Interface			1	Included		Included
Reporting Core			1	Included		Included
Reporting Universal Interface Engine			1	Included		Included
Zuercher Suite - OLETS/NCIC Interface (Basic Queries)	Queries needed		1	$ 10,000	$	10,000
Zuercher Suite - OLETS/NCIC Interface (Warrants)			1	$ 10,000	$	10,000
Zuercher Suite - Time Synchronization Interface			1	Included		Included
Software and Servers Pre-Discount Subtotal					$	279,703
Software and Servers Discount					$	(55,393)
Software and Servers Total					$	224,310
Subscriptions	**Comments**	**Unit**	**Qty**	**Price**		**Total**
Community Data Platform	Recurs annually		1	Included		Included
IQ CrimeMapping.com Subscription	Recurs annually		1	Included		Included
Subscriptions Total					$	-
Peripheral Hardware	**Comments**	**Unit**	**Qty**	**Price**		**Total**
Jail - Mugshot Camera Package (Canon EOS Rebel)			3	$ 1,495	$	4,485
Jail - Fingerprint Scanner, Dual Finger (M2Sys)			3	$ 450	$	1,350
Records - Property & Evidence Barcode Scanner and Printer Package (Wasp)			1	$ 1,295	$	1,295
Peripheral Hardware Total					$	7,130
Services	**Comments**	**Unit**	**Qty**	**Price**		**Total**
Project Manager (includes travel time & expenses)		Per Project	1	$ 22,947	$	22,947
System Admin Training and Configuration (on-site, includes travel time & expenses)		Per Day	4	$ 1,295	$	5,180
System Admin Training and Configuration (remote)		Per Day	3	$ 795	$	2,385
Administration Training (remote)		Per Day	2	$ 795	$	1,590
CAD Training (on-site, includes travel time & expenses)		Per Day	3	$ 1,295	$	3,885
Jail Training (on-site, includes travel time & expenses)		Per Day	1	$ 1,295	$	1,295
Mobile Training - Train the Trainer (on-site, includes travel time & expenses)		Per Day	3	$ 1,295	$	3,885
Records Training (on-site, includes travel time & expenses)		Per Day	1	$ 1,295	$	1,295
Go-live Support (on-site, includes travel time & expenses)		Per Day	4	$ 1,295	$	5,180
Refresher Training (remote)		Per Day	2	$ 795	$	1,590
Mapping - One-time GIS Data Set Up			1	$ 4,500	$	4,500
Data Conversion	Sleuth RMS	Per Module	1	$ 12,500	$	12,500
Services Total					$	66,232

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TOTALS			
Software and Servers Pre-Discount Subtotal		$	279,703
Software and Servers Discount		$	(55,393)
Software and Servers Total		$	224,310
Peripheral Hardware Total		$	7,130
Services Total		$	66,232
TOTAL		$	297,672

Recurring (Maintenance & Support)			
Maintenance & Support Pre-Discount Subtotal		$	47,115
Maintenance & Support Discount		$	(7,256)
Maintenance & Support (Year 1)	1		Included
Maintenance & Support (Year 2)	1	$	39,860
Maintenance & Support (Year 3)	1	$	41,055
Maintenance & Support (Year 4)	1	$	42,287
Maintenance & Support (Year 5)	1	$	43,556

Taxes are not included in the pricing. On-site services provided on a 'per day' basis may include both actual time spent on site as well as travel time to and from the site(s).

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Exhibit C: Payment Schedule

The total amount of this contract is $297,672.

The amounts due under this contract are as follows:

Upon contract execution	50%	$148,836
Upon delivery of the initial draft of the Configuration Management Document (CMD)	30%	$89,301.60
Go Live	20%	$59,534.40

Commencing one year after the System reaches "Go Live," an annual maintenance fee of $39,860 will be due. Thereafter, the annual maintenance fee shall increase by an amount not to exceed 3% annually for the first five years.

These amounts do not include any taxes. See Agreement section *8.13 Taxes* for more information.

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Exhibit D: Maintenance Agreement

1.0 Term

The initial term of Maintenance under this Exhibit D begins on the date of Go Live and ends five (5) years thereafter. At Customer's option, the Maintenance may be renewed for two additional five (5) year terms. Maintenance and support fees will be paid on an annual basis. The fees for the initial term (years 1 through 5) are shown as line items in the pricing set forth in *Exhibit B: Pricing Detail*. The purchase of additional Zuercher Software licenses will result in an increase in the annual maintenance and support fees. Maintenance is contingent upon payment of the applicable maintenance and support fee. Zuercher will invoice Customer prior to the end of each annual maintenance period.

2.0 Software Updates

While this Agreement has not expired, Zuercher will maintain the Software by providing software updates and enhancements to Customer. All software updates provided to Customer by Zuercher pursuant to the terms of this Agreement shall be subject to the terms and conditions of Section 2.0 License of this Agreement.

At a time mutually acceptable to both parties, Zuercher will install software updates remotely.

2.1 Included Updates

Updates will be provided on an as-available basis and include the items listed below:

1. Bug fixes;
2. Enhancements to products licensed by Customer under this Agreement, including updating to the latest version;

2.2 Not-Included Updates

Updates do not include:

1. Platform extensions including product extensions to different hardware platforms, different windowing system platforms, or different operating system platforms
2. New functions such as new modules, components, products, or applications.

3.0 Support

3.1 General Support

Zuercher shall provide phone and email support for the Software licensed under this agreement and shall maintain a support center database to track any reported issues. No support will be provided for Software more than two versions back from the most recently released version.

Support does not include custom programming services or training.

Support is available 24 hours a day, seven days a week for Zuercher Suite customers.

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3.2 Server Hardware Maintenance

Zuercher will maintain the Server Hardware necessary to host the Software. This does not include any Hardware except Server Hardware.

3.3 Customer Responsibilities

3.3.1 *Access to Premises*

Customer shall provide Zuercher with reasonable and timely access to the sites and personnel necessary for Zuercher to perform its obligations under this Agreement.

3.3.2 *Zuercher Server Access*

Customer will ensure that all Zuercher Suite servers are network accessible to Zuercher at all times via SSH. Zuercher shall maintain records showing dates, and names, and shall provide that information to Customer upon request at the Customer's expense. Zuercher shall promptly notify Customer in the event unauthorized access is made to Customer's Data or the Software through Zuercher's access.

3.3.3 *System Administrator*

Customer is responsible for naming one or more System Administrators to serve as a primary point of contact between Customer and Zuercher. At least one System Administrator must be available at all times. Customer will ensure that the System Administrators possesses the appropriate technology and public safety knowledge and skills to perform this role sufficiently.

3.3.4 *Security*

Customer is responsible for providing all network and physical security.

3.3.5 *System Updates*

Customer shall work in good faith to allow Zuercher to install System updates as requested by Zuercher.

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CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. **ITEM NO. H-4**

2. **MEETING DATE:** September 5, 2017

3. **TITLE:** Approval to Purchase Dispatch Consoles for Project Labeled Public Safety Software

4. **COUNCIL ACTION:** Approve/Deny

5. **INITIATOR:** Robert Groseclose, Chief of Police

6. **BACKGROUND:** On July 18, 2017 the City Council approved a proposal for a CAD System/Dispatch upgrade. Initially, the supply and installation of new radio consoles were to be purchased from Total Radio at $73,482.00 using the HGAC competitively bid contract; however, due to the funding source (MIA Funds – 2017 upgrade dispatch system) we are not able to utilize this contract. Staff has secured another proposal from Avtec (recommended by our current radio system vendor) with pricing per NASPO (State of Oklahoma) competitively bid contract at $76,544.74. The annual service agreement with Avtec will be $6,635.56/annually beginning in FY19.

7. **FINANCIAL IMPACT:** $76,544.74 plus annual maintenance of $6,635.56 beginning in FY19

8. **STAFF COMMENTS:** Staff recommends approval as funding is already in place to complete the project.

9. **STAFF SOURCE:** Robert Groseclose, Police Chief

10. **ORDINANCE /RESOLUTION NO.**

State of Oklahoma
Office of Management and Enterprise Services

Notice of Statewide Contract Award

Contract Title: Public Safety Communications Equipment – Avtec, Inc.

Statewide Contract #: SW1053AV

Contract Issuance Date: 04/17/2017

Total Number of Vendors: 01 *(For details see: Vendor Information Sheet)*

Contract Period: 04/17/2017 – 06/30/2017

Agreement Period: 09/23/2015 – 06/30/2020

Authorized Users: All State Agencies, Authority, Office, Bureau, Board, Council, Court, Commission, Department, District, Institution, Unit, Division, Body or House of any branch of the State government, any political subdivision of the State, and any organization related to any of the foregoing.

Type of Contract: Discount from list

OMES Contact: Marc Brown

Email: Marc.brown@omes.ok.gov

Contract Intent:

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State of Oklahoma
Office of Management and Enterprise Services

Awarded Supplier Information

Supplier Name: Avtec Inc.
Supplier ID#: 0000273465
Supplier Address: Address: 4335 Augusta HWY
City: Gilbert State: SC Zip Code: 29054-9275
Primary Contact: Nancy Dodson
Phone #: 803-892-2181

Email: ndodson@avtecinc.com
Fax #: 803-892-3715
Website:
Contract ID #: 00000000000000004764
P/Card Accepted: ☒ Yes ☐ No
Other:

PARTICIPATING ADDENDUM
NASPO ValuePoint COOPERATIVE PURCHASING PROGRAM
Public Safety Communication Equipment
Administered by the State of Washington

MASTER AGREEMENT
Master Agreement No: 06913
Avtec, Inc.
And
State of Oklahoma by and through the Office of Management and Enterprise Services

(Oklahoma Contract No.: SW1053)

THIS PARTICIPATING ADDENDUM (this "Addendum") is entered into effective as of March 28, 2016 (the "Effective Date"), by and between the State of Oklahoma by and through the Office of Management and Enterprise Services (the "State of Oklahoma" or Participating State/Entity") and Avtec, Inc. ("Contractor" or "Vendor"). The State of Oklahoma and Contractor are sometimes collectively referred to herein as the "Parties." Capitalized terms used but not defined herein have the meanings ascribed to such terms in that certain Master Agreement Award among the State of Washington ("Lead State"), Contractor and those states entering into a Participating Addendum thereto (the "Master Agreement").

WHEREAS, the Master Agreement is further identified as Master Agreement NO. 06913. This Participating Addendum will be coterminous with the Master Agreement and any extensions of the Master Agreement, unless terminated pursuant to the terms of this addendum and MASTER AGREEMENT TERMS AND CONDITIONS WSCA-NASPO TERMS AND CONDITIONS, Section 6 Cancellation.

WHEREAS, the Master Agreement contemplates that all authorized entities in any state are welcome to use the Master Agreement through WSCA-NASPO Cooperative Procurement Program (WSCA-NASPO) with such state's chief procurement official and provides that any such state reserves the right to add state-specific terms and conditions and modify the scope of the contract in such state's Participating Addendum as allowed by the Master Agreement; and

WHEREAS, this Addendum is the State of Oklahoma's Participating Addendum contemplated by the Master Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Scope: This Addendum allows for the purchase of the following Public Safety Communication Equipment: Any and all Products and Services led by the Lead State along with a multi-state sourcing team for use by state agencies and other entities located in the Participating State/Entity that are authorized by that state's statutes to utilize state /entity contracts, and which receive prior written approval of the state's chief procurement official.

2. Participation: Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use **state/entity** contracts are subject to the prior approval of

the respective state chief procurement official. Notwithstanding anything to the contrary in the Master Agreement, all issues of interpretation and eligibility for participation are solely within the authority of the state's chief procurement official.

3. Participating State's Modifications and Additions to the Master Agreement:

The Oklahoma Specific Terms and Conditions set forth in Exhibit No. 1, attached hereto, are hereby incorporated in and made a part of this Addendum.

Master Contract, Section 11.0, Contract Termination is hereby modified to reflect that any and all references to the DES shall mean the State of Oklahoma.

4. Primary Contacts: The primary contact individuals for the Participating Addendum are as follows (or their named successors):

Contractor

Name	Bob Kramer
Address	100 Innovation Place, Lexington, SC 29072
Telephone	803-358-3427
Fax	803-358-3636
E-mail	bkramer@avtecinc.com

Participating Entity

Name	IT Statewide Initiatives Lead
Address	5005 N. Lincoln Blvd. Ste. 200, Oklahoma City, OK 73105
Telephone	(405) 521-4772
Fax	N/A
E-mail	purchasing@omes.ok.gov

5. Partner Utilization: Each state represented by NASPO ValuePoint participating in the Master Agreement independently has the option of utilizing partners. Only partners approved by this Participating State/ Entity may be deployed. The Participating State will define the process to add and remove partners and may define the partner's role in this Participating Addendum. The Contractor's partners' participation will be in accordance with the terms and conditions set forth in the Master Agreement. Approved partners are

only upon written approval from the State of Oklahoma.

6. Terms: The Participating State/Entity agrees to the terms and conditions of the Master Agreement only to the extent the terms and conditions are not in conflict with this Addendum, applicable law, or both.

7. Orders: Any order placed by a Participating State/ Entity or any Purchasing Entity for a product and/or service available through the Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions of) the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

8. Leasing: The Parties acknowledge and agree that (i) the Master Agreement provides that Participating State/Entity may enter into lease agreements if it has the authority to do so; and (ii) Participating State/Entity reserves the right, but has no obligation, to lease equipment under this Addendum and the Master Agreement upon terms and conditions mutually acceptable to the Parties.

9. Counterparts: This Addendum may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Addendum. Delivery of an executed counterpart of this Addendum by electronic means, including, without limitation, by facsimile transaction or by electronic delivery in portable document format (".pdf") or tagged image file format (".tiff"), shall be equally effective as delivery of a manually executed counterpart thereof.

PARTICIPATING ADDENDUM
NASPO ValuePoint COOPERATIVE PURCHASING PROGRAM
Public Safety Communication Equipment
Administered by the State of Washington

MASTER AGREEMENT
Master Agreement No: 06913
Avtec, Inc.
And
State of Oklahoma by and through the Office of Management and Enterprise Services

IN WITNESS WHEREOF, the Parties have executed this Addendum through the duly authorized representative of each Party.

Participating State: Oklahoma	Contractor: Avtec, Inc.
By:	By:
Name: James L. Reese, II	Name: Bob Kramer
Title: Chief Information Officer	Title: Sales Operations Manager
Date: 4-8-16	Date: March 30, 2016

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator	Tim Hay
Telephone	503-428-5705
E-mail	thay@naspovaluepoint.org

[Please email fully executed PDF copy of this document to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases]

Exhibit No. 1 Oklahoma Specific Terms and Conditions

Any and all licensing, maintenance, or order-specific agreements referenced within the terms and conditions of this Master Agreement are agreed to only to the extent that the terms do not conflict with the terms of the Participating Addendum, and to the extent the terms are not in conflict with applicable Oklahoma law. In the event of conflict among the terms and conditions, the Participating Addendum shall take precedence. This Participating Addendum shall take precedence over all other Contract Documents.

1. Definitions: The parties agree that, when used in the Agreement, the following terms are defined as set forth below:

A. Acquisition

The term ("Acquisition") means items, products, materials, supplies, services, and equipment a state agency acquires by purchase, lease purchase, lease with option to purchase, orrental pursuant to the Oklahoma Central Purchasing Act.

B. Contract Document

The term ("Contract Document") means this Agreement, any statement of work, work order, or other similar ordering document related hereto and executed by the Vendor and the State of Oklahoma, as applicable; any purchase order related hereto; other mutually agreed documents; and any Addendum to any of the foregoing.

C. Purchasing Entity

The term ("Purchasing Entity") shall include the State of Oklahoma (the "State") and (a) any board, commission, committee, department or other instrumentality or entity designated to act on behalf of the State of Oklahoma or a political subdivision thereof; (b) any governmental entity specified as a political subdivision of the State of Oklahoma pursuant to the Governmental Tort Claims Act, including, without limitation, (i) any associated institution, instrumentality, board, commission, committee department, or other entity designated to act on behalf of the political subdivision; and (ii) a county or local governmental entity; and (c) entities authorized to utilize contracts awarded by the State of Oklahoma via a multistate or multi-governmental contract.

D. Destination

The term ("Destination") means delivered to the receiving dock or other point specified in the applicable Contract Document.

E. Indemnified Parties

The term ("Indemnified Parties") means the State of Oklahoma and Customers, and/or their officers, agents, employees, representatives, contractors, assignees and/or designees.

2. Limitation of Authority

With respect to procurement transactions for Customers, Vendor shall have no authority to act for or on behalf of Customers or the State of Oklahoma, except as expressly provided for in this Agreement; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses or liabilities of any kind on behalf of Customers or the State of Oklahoma.

3. Administrative Fees

For Oklahoma-based Purchasing Entities, Contractor agrees to submit a Contract Usage Report to the State of Oklahoma on a quarterly basis. "Contract Usage Report" shall include the following: (i) the applicable state contract number; (ii) report amount(s); (iii) reporting period covered; and (iv) the applicable state agency name(s). Contract Usage Reports shall also include usage of the Participating Addendum by any other governmental entities (i.e. county, city, etc.). Continuous failure to submit Contract Usage Reports as required herein may result in termination of the Participating Addendum.

All Contract Usage Reports shall meet the following criteria:

a) Must be submitted electronically in Microsoft Excel format.
b) Reports shall be submitted quarterly regardless whether this Addendum has been used during the applicable quarterly reporting period.
c) Quarterly reporting periods
    a. January 01 through March 31, due April 30
    b. April 01 through June 30, due July 31
    c. July 01 through September 30, due October 31
    d. October 01 through December 31, due January 31

All Contact Usage Reports shall be delivered to:
E-mail: strategic.sourcing@omes.ok.gov

For Oklahoma-based Purchasing Entities, the State of Oklahoma assesses an administrative fee in the sum of one percent (1%) on all net sales transacted by any Purchasing Entity under the Participating Addendum (the "Oklahoma Admin Fee").

Contractor shall submit the Oklahoma Admin Fee on a quarterly basis. Failure to remit the Oklahoma Admin Fee quarterly may result in cancellation of the Participating Addendum. Oklahoma Admin Fees shall not be reflected as a separate line item in Contractor's billing to participating state agencies and authorized users.

Payment of the Oklahoma Admin Fee shall be made via company check payable to

OMES within forty five (45) calendar days from the completion of the applicable quarterly reporting period set forth above.

Contractor agrees to notify OMES-ISD Procurement via the email address set forth below twenty-four (24) hours in advance of Contractor's submitting payment of the Oklahoma Admin Fee.

To ensure payment is properly accounted for, Contractor shall identify payment in the applicable Contract Usage Report as an "Administrative Fee" and shall include the following information: (i) the applicable state contract number, (ii) Oklahoma Admin Fee amount(s) paid, and (ii) the applicable quarterly reporting period.

Oklahoma Admin Fees shall be mailed to:
Office of Management and Enterprise Services
Attention: Accounts Receivable
5005 N. Lincoln Boulevard, Suite 200
Oklahoma City, OK 73105

4. Pricing

A. Pursuant to 68 O.S. § 1404, 68 O.S. § 1352, and 68 O.S. § 1356, Customers under the Contract that are Oklahoma state agencies are exempt from the assessment of State sales, use, and excise taxes. Further, such Customers and Customers that are political subdivisions of the State of Oklahoma are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Customers will provide Vendor with a tax exemption certificate upon request. Any taxes of any nature whatsoever payable by the Vendor shall not be reimbursed by the Customer.

B. Pursuant to Okla. Stat. tit. 74, § 85.40, Oklahoma Purchasing Entities shall not pay Contractor any travel expenses in addition to the total price of the products and/or services purchased; therefore, Contractor shall not invoice Oklahoma-based Purchasing Entities for any travel expenses in addition to the total price of the products and/or services purchased hereunder..

C. The price to the Customer under the Participating Addendum shall include and Vendor shall prepay all shipping, packaging, delivery and handling fees. All Product deliveries will be Free on Board Customer's Destination. No additional fees shall be charged to the Customer for standard shipping and handling. If the Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

5. Invoices and Payment

As applicable, the Parties shall comply with applicable Oklahoma law with respect to invoicing and making payments hereunder. Payments for goods and services are due

thirty (30) days after receipt of a proper invoice; provided, however, Contractor acknowledges and agrees that payment received in accordance with applicable Oklahoma law allowing forty-five (45) days to pay Contractor shall not constitute default hereunder nor entitle Contractor to late payment fees or interest. Any applicable late fees or interest incurred after forty-five (45) days of nonpayment shall be paid only in accordance with the Master Agreement and Oklahoma law.

6. Termination for Non-appropriation

With respect to all Oklahoma-based transactions and all Oklahoma-based Purchasing Entities, Participating State may terminate any order if funds sufficient to pay its obligations under the Participating Addendum are not appropriated by the applicable state legislature, federal government or other appropriate government entity or received from an intended third party funding source. In the event of such insufficiency, Participating State shall provide ten (10) calendar days' written notice of intent to terminate. Notwithstanding the foregoing, if a Purchasing Entity issues an order and has accepted the products and/or services under such order, the Purchasing Entity shall be obligated to pay for such products and/or services. In the event of termination of an order as provided in the foregoing, Participating State shall not be considered to be in default or breach under the Participating Addendum nor under the Master Agreement, nor shall it be liable for any further payments ordinarily due under, with respect to, related to, or arising out of such order, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

7. Notices

If a party is to give notice under the Participating Addendum, all notices to the State of Oklahoma shall be address as follows:

If sent to the State of Oklahoma:
James L. Reese, II
Chief Information Officer
3115 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

With a copy to:
OMES-IS Deputy General Counsel
3115 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

8. Choice of Law

Any claim, dispute, or litigation relating to the execution, interpretation, performance, or enforcement of the Contract Documents shall be governed by the laws of the State of Oklahoma without regard to application of choice of law principles.

9. Choice of Venue

Venue for any action, claim, dispute, or litigation relating in any way to the execution, interpretation, performance, or enforcement of the Agreement, or any of the Contract Documents, shall be in Oklahoma County, Oklahoma. Further, notwithstanding any provision in the Agreement, the State does not waive the doctrine of sovereign immunity and immunity from suit to the extent authorized by the Constitution and laws of the State of Oklahoma nor any other right or defense available to the State.

10. Conflict of Interest

In addition to any requirement of law or through a professional code of ethics or conduct, the Vendor, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Further, as long as the Vendor has an obligation under the Agreement, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State.

11. Force Majeure

Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. In the event that a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable. Subject to the conditions set forth above, such non-performance shall not be deemed a default. However, a Purchasing Entity may terminate a purchase order if Vendor cannot cause delivery of Products or Services in a timely manner to meet the business needs of the Purchasing Entity.

Exhibit No. 1 Oklahoma Specific Terms and Conditions

12. Invalid Term or Condition

To the extent any term or condition in the Participating Addendum conflicts with an applicable Oklahoma and/or United States law or regulation, such Contract term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, Purchasing Entity makes no representation or warranty regarding the enforceability of such term or condition and Purchasing Entity does not waive the applicable Oklahoma and/or United States law or regulation which conflicts with the Contract term or condition.

13. Audits and Records Clause

A. As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Vendor agrees any pertinent federal or State agency or governing entity of a Purchasing Entity shall have the right to examine and audit all records relevant to the execution and performance of the Contract except costs of Vendor that comprise pricing under the Contract, unless otherwise agreed.

B. The Vendor is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

14. Compliance with Applicable Laws

A. As long as Vendor has an obligation under the terms of the Contract and in connection with performance of its obligations, the Vendor shall comply with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:

i. Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. § 81.

ii. Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;

iii. Prospective participant requirements set at 45 C.F.R. part 76 in connection with debarment, suspension and other responsibility matters;

iv. 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;

v. Anti-Lobbying Law set forth at 31 U.S.C. § 1325 and as implemented at 45 C.F.R. part 93;

vi. Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Circular A-133 with approval and work paper examination rights of the applicable procuring entity;

vii. Be compliant with the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. § 1312, and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. § 1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at www.dhs.gov/E-Verify; and

viii. Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.

B. The Vendor shall maintain all applicable licenses and permits required in association with its obligations under the Contract.

C. As applicable, Vendor agrees to comply with Governor's Executive Order 2012-01, effective August 06, 2012, which prohibits the use of any tobacco product on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.

15. Employment Relationship

The Addendum does not create an employment relationship. Individuals performing Services required by the Addendum are not employees of the Purchasing Entity. The Vendor's employees shall not be considered employees of the Purchasing Entity for any

purpose, and accordingly shall not be eligible for rights or benefits accruing to such employees.

16. Publicity

Vendor acknowledges and agrees that the existence of the Contract or any Acquisition thereunder is not in any way an endorsement by the Purchasing Entity, the Products or the Services and shall not be so construed by Vendor in any advertising or publicity materials. Vendor agrees to submit to the State all advertising, sales, promotion, and other publicity matters relating to the Participating Addendum wherein the name of the Purchasing Entity is mentioned or language used from which the connection of the Purchasing Entity therewith may, in the State's judgment, be inferred or implied as an endorsement. Vendor further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices without obtaining the prior written approval of the State.

17. Open Records Act

Vendor acknowledges that Purchasing Entity are subject to the Oklahoma Open Records Act. Vendor also acknowledges that such Purchasing Entity will comply with the Oklahoma Open Records Act and with all opinions of the Oklahoma Attorney General concerning this Act. Except for a provision of the Contract specifically designated as confidential in a writing executed by both parties or a provision protected from disclosure in the Open Records Act, no Contract provision is confidential information and, therefore, any provision is subject to disclosure under the Open Records Act.

18. Confidentiality

A. The Vendor shall maintain strict security of all State data and records entrusted to it or to which the Vendor gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as needed by Vendor for performance of its obligations under the Contract. The Vendor further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. If Vendor utilizes a subcontractor, Vendor shall obtain specific written assurance, and provide a copy to the State, that the subcontractor shall maintain this same level of security of all data and records entrusted to or accessed by the subcontractor and agree to the same

obligations as Vendor, to the extent applicable. Such written assurance may be set forth in the required subcontractor agreement referenced herein.

B. No State data or records shall be provided or the contents thereof disclosed to a third party unless specifically authorized in advance to do so in writing by the State Purchasing Director, the individual with administrative control over a Customer or in compliance with a valid court order. The Vendor shall immediately forward to the State and the State Purchasing Director any request by a third party for data or records in the possession of the Vendor or any subcontractor or to which the Vendor or subcontractor has access and Vendor shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.

19. Assignment and Permitted Subcontractors

A. Vendor's obligations under the Addendum may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Vendor assign its rights to payment, in whole or in part, under the Addendum, Vendor shall provide the State of Oklahoma with written notice of the assignment. Such written notice shall contain details sufficient for the Participating Entity to perform its payment obligations without any delay caused by the assignment.

B. If the Vendor is permitted to utilize subcontractors in support of the Addendum, the Vendor shall remain solely responsible for its obligations under the terms of the Addendum and for its actions and omissions and those of its agents, employees and subcontractors. Any proposed subcontractor shall be identified by entity name, and by employee name if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. Prior to a subcontractor being utilized by the Vendor, the Vendor shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Vendor. Such approval is within the sole discretion of the State. As part of the approval request, the Vendor shall provide a copy of a written agreement executed by the Vendor and subcontractor setting forth that such subcontractor is bound by and agrees to perform, as applicable, the same covenants and be subject to the same conditions, and make identical certifications to the same facts and criteria, as the Vendor under the terms of all applicable Contract Documents. Vendor agrees that maintaining such agreement with any subcontractor and obtaining prior approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State of Oklahoma further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

C. All payments under the Addendum shall be made directly to the Vendor, except as provided in Section A above regarding the Vendor's assignment of payment. No payment shall be made to the Vendor for performance by unapproved or disapproved employees of the Vendor or a subcontractor.

20. Failure to Enforce

Failure by the State or a Customer, as applicable, at any time to enforce a provision of, or exercise a right under, the Addendum shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Addendum at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Addendum.

21. Mutual Responsibilities of the Parties

A. Neither the State nor the Vendor grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.

B. The Addendum is a non-exclusive contract, and each party is free to enter into similar agreements with others.

C. The Customer and Vendor each grant the other only the licenses and rights specified in the Addendum and all other rights and interests are expressly reserved.

D. The State and Vendor shall reasonably cooperate with each other and any vendor to which Products and/or Services under the Contract may be transitioned after termination or expiration of the Addendum.

E. Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by either Customer, the State or the Vendor is required under the Addendum, such action shall not be unreasonably delayed or withheld.

22. Indemnification

A. Acts or Omissions

Vendor shall indemnify and hold harmless the Indemnified Parties, as applicable, from any and all liability, including costs, expenses and

attorney fees, for actions, claims, demands and suits arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified Parties to the extent arising from any negligent act or omission or willful misconduct of the Vendor or its agents, employees, or subcontractors in the execution or performance of the Addendum.

B. Coordination of Defense

IN CONNECTION WITH INDEMNIFICATION OF A PURCHASING ENTITY WHEN AN OKLAHOMA STATE AGENCY IS A NAMED DEFENDANT IN ANY LAWSUIT, THE DEFENSE OF THE OKLAHOMA STATE AGENCY SHALL BE COORDINATED BY THE ATTORNEY GENERAL OF OKLAHOMA. THE ATTORNEY GENERAL OF OKLAHOMA MAY, BUT HAS NO OBLIGATION TO, AUTHORIZE CONTRACTOR TO CONTROL THE DEFENSE AND ANY RELATED SETTLEMENT NEGOTIATIONS; PROVIDED, HOWEVER, THAT, IN SUCH EVENT, CONTRACTOR SHALL NOT AGREE TO ANY SETTLEMENT OF CLAIMS AGAINST THE STATE OF OKLAHOMA WITHOUT FIRST OBTAINING A CONCURRENCE FROM THE ATTORNEY GENERAL OF OKLAHOMA. IF THE ATTORNEY GENERAL OF OKLAHOMA DOES NOT AUTHORIZE SOLE CONTROL OF THE DEFENSE AND SETTLEMENT NEGOTIATIONS FOR CONTRACTOR, CONTRACTOR SHALL BE GRANTED AUTHORIZATION TO EQUALLY PARTICIPATE IN ANY PROCEEDING RELATED TO THIS SECTION; PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, CONTRACTOR SHALL CONTINUE TO BE OBLIGATED TO INDEMNIFY THE PARTICIPATING ENTITY AND, TO THE EXTENT APPLICABLE, ANY AND ALL PURCHASING ENTITIES, IN ACCORDANCE WITH AND TO THE EXTENT CONTRACTOR PROVIDES SUCH INDEMNITY UNDER THIS MASTER AGREEMENT.

23. Miscellaneous

A. Severability

If any provision of a Contract Document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect.

B. Section Headings

The headings used in any Contract Document are intended for convenience only and do not constitute terms of the contract.

C. Sovereign Immunity

Notwithstanding any provision of any Contract Document, the State does not waive its sovereign immunity or immunity from suit.

D. Survival

As applicable, performance under all license, subscription, service agreements and other similar Contract Documents entered into between Vendor and any Customer under the terms of the Contract shall survive expiration or termination of the contract. Additionally, rights and obligations under the Addendum which by their nature should survive including, but not limited to, payment obligations invoiced prior to expiration or termination; confidentiality obligations and indemnification remain in effect after expiration or termination of the contract.

E. Entire Agreement

The Contract Documents taken together as a whole constitute the entire agreement between a Customer and Vendor. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid.

B. Compliance and Electronic and Information Technology Accessibility

Vendor shall comply with federal and State laws, rules and regulations related to information technology accessibility, as applicable, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set forth at http://www.ok.gov/cio/documents/isd_itas.pdf. and shall provide a Voluntary Product Accessibility Template ("VPAT") describing such compliance, which may be provided via a URL linking to the VPAT. If Products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Vendor. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum. Accordingly, in each statement of work or similar document issued pursuant to the Addendum, Vendor shall describe such compliance and identify, if and as applicable, (i) which exception to the Standards applies or (ii) a description of the tasks and

estimated cost to make the proposed products and/or services compliant with applicable Standards.

C. Offshore Services

Contractor shall not store, access, nor process outside of the United States of America any data belonging to any such Purchasing Entity without the prior written approval of the Participating State/Entity, which approval may be given or withheld at the sole and absolute discretion of the Participating State/Entity. Notwithstanding, this section shall not prohibit Contractor from providing Order related administration and/or support services available from its global locations outside of the United States.

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Category:	DISPATCH CONSOLES
Product/Model Number:	Avtec Scout™ IP Radio Dispatch Console System
Product/Model Description:	Scout is a true VoIP console system that is flexible enough to meet the needs of a wide range of mission- and business-critical environments as highlighted below: • **Hardware Audio Package** - Mission critical environments demand the most reliable communication systems possible. For dispatching, a dedicated media processing appliance at each console position ensures the highest level of reliability. • **Software Audio Package** - Offering the highest level of flexibility, Scouts Software Audio Package allows organizations to break free of traditional limitations in dispatch technology with a software-based dispatching option. The Software Audio Package is an excellent fit to provide portability for a dispatch center or to expand dispatch capability quickly for disaster management or during special events. • **Ranger™** - Ranger, a unique Scout accessory that offers full connectivity for up to four radio channels, is ideal for management, IT professionals, senior staff, and anyone who has an occasional need for monitoring or communicating across the radio infrastructure. Ranger provides a concentration of key Scout features including endpoint cross indications. • **Mobile Scout with Ranger™** - Mobile Scout enables Ranger to work over LTE to give fire, police, and EMS chiefs the ability to monitor up to four radio talk groups simultaneously during an emergency.

Description	Part Number	Unit	MSRP	Net Price
Analog ANI decoder card, supports simultaneous decode of MDC1200, GE-STAR, and FleetSync protocols. Requires ACC-ANI-RACK	ACC-ANI-DECODE	EA	$1,750.00	$1,662.50
Analog ANI encoder/decoder card, supports simultaneous decode of MDC1200, GE-STAR, and FleetSync protocols plus one encode format. Requires ACC-ANI-RACK	ACC-ANI-ENCODE	EA	$2,138.00	$2,031.10
Rackmount cage with 110/220VAC power supply for up to 10 ACC-ANI-DECODE cards	ACC-ANI-RACK	EA	$2,268.00	$2,154.60
Industrial 1U Computer with Windows including Solid State hard drive and Windows 2012 Server OS. Rack mount for Cabinets. Requires DISP-XXXX for monitor, keyboard, etc. Used in a Scout system when an Enterprise Rack Mount is needed.	ACC-CPU-RM-2012	EA	$5,675.00	$5,391.25

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Industrial 1U Computer with Windows including Solid State hard drive and Windows7 Professional 64 bit OS. Rack mount for Cabinets. Requires DISP-XXXX for monitor, keyboard, etc. Used in a Scout System when a Standard Rack mount computer is needed.	ACC-CPU-RM-WIN7	EA	$5,043.00	$4,790.85
PC mini tower with dual NICs for Console Position or "Plus" Console Packages, MS Windows 7 Professional 64 bit OS. Used in a Scout System when a Standard Desktop computer is needed.	ACC-CPU-WIN7-DN	EA	$1,410.00	$1,339.50
Desktop Handset Cradle, Unwired	ACC-HCA-UNWIRED	EA	$155.00	$147.25
Desktop Handset Cradle, Wired	ACC-HCA-WIRED	EA	$176.00	$167.20
Complete 6W Headset, Plantronics Supra Model H251 with plug-prong base.	ACC-HED-6W	EA	$342.00	$324.90
Complete 6W Headset, Plantronics Supra Model H251 Noise Canceling Microphone with plug-prong base.	ACC-HED-6W-NC	EA	$342.00	$324.90
Plantronics CA12CD Wireless PTT Headset Base. Headset top is sold separately.	ACC-HED-BASE-WLS-6W	EA	$793.00	$753.35
Headset top, Plantronics Supra HW261 binaural. Requires base.	ACC-HED-TOP-DUAL	EA	$109.00	$103.55
Headset top, Plantronics Supraplus HW251 monaural. Requires Base.	ACC-HED-TOP-SING	EA	$109.00	$103.55
Headset top, Plantronics Supra HW251N monaural with noise canceling microphone. Requires base.	ACC-HED-TOP-SING-NC	EA	$109.00	$103.55
Handset, black, 9' cord, 4W Telephone only	ACC-HND-4W	EA	$130.00	$123.50
Handset, black, 9' cord, 6W PTT	ACC-HND-6W-9F	EA	$130.00	$123.50
Handset, black, 15' cord, 6W PTT	ACC-HND-6W-15F	EA	$150.00	$142.50
Laptop PC for SMW Console Position, MS Windows 7 Professional 64 bit OS	ACC-LAPTOP-WIN7	EA	$4,141.00	$3,933.95
LED Display, 20" Widescreen VGA input (non-touch)	ACC-LED-20WS	EA	$264.00	$250.80
LED Display, 22" Widescreen VGA input (non-touch)	ACC-LED-22WS	EA	$228.00	$216.60
Kit to rack mount PS-12V-3BAY-AC , ACC-CPU-RM-2012 or -WIN7 in 19" relay rack. 1U high.	ACC-MTG-1U-RR	EA	$233.00	$221.35

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Kit to rack mount two (2) each ACC-CPU-RM-2012 or -WIN7 in 19" Relay Rack. 2U high.	ACC-MTG-2U-RR	EA	$389.00	$369.55
24 Port Gigabit Switch with 4 SFP Ports	ACC-NETWK-24P-SFP4	EA	$2,482.00	$2,357.90
Localization package for CE compliance and primary power adapter for the Scout Media Workstation Plus. One required per console position outside of North America.	ACCPLUS-CLP-01	EA	$1,031.00	$979.45
Single PTT footswitch, Scout Media Workstation Plus	ACCPLUS-FSW-SING	EA	$124.00	$117.80
Wide treadle PTT footswitch, Scout Media Workstation Plus	ACCPLUS-FSW-WIDE	EA	$244.00	$231.80
Headset/handset jack box (single jack), Scout Media Workstation Plus	ACCPLUS-HJB	EA	$513.00	$487.35
Scout Hardware Media Workstation Plus For replacement or spare console. This model does not include console licensing.	ACCPLUS-HMW	EA	$7,250.00	$6,887.50
Scout Media Workstation Plus Under Desk Mounting Kit Vertical Orientation	ACCPLUS-HMW-MTG1	EA	$207.00	$196.65
Scout Media Workstation Plus Under Desk Mounting Kit Horizontal Orientation	ACCPLUS-HMW-MTG2	EA	$207.00	$196.65
PTT Desk Microphone, Scout Media Workstation Plus	ACCPLUS-MIC-DESK	EA	$617.00	$586.15
Dual Speaker Kit, Scout Media Workstation Plus	ACCPLUS-SPK-DUAL	EA	$808.00	$767.60
Single Speaker Kit, Scout Media Workstation Plus	ACCPLUS-SPK-SING	EA	$435.00	$413.25
19" LCD touch screen for PC console - 4x3 format	ACC-TSC-19-PC	EA	$1,135.00	$1,078.25
19" LED touch screen for PC console - Standard - Aspect 5x4 ratio	ACC-TSC-19-RES	EA	$1,114.00	$1,058.30
21.5" LED touch screen for PC console - 16x9 format - Full HD	ACC-TSC-215WS-PC	EA	$1,446.00	$1,373.70
23" LED touch screen for PC console - 16x9 format	ACC-TSC-23WS-PC	EA	$2,068.00	$1,964.60
Panasonic ToughPad Tablet w/LTE and Wi-Fi enabled	ACC-TABLET-LTE	EA	$4,675.00	$4,441.25
Motorola Bluetooth Whisper Headset	ACC-BT-HEADSET	EA	$119.00	$113.05
USB PTT Footswitch Accessory, Software Media Workstation	ACCUSB-FSW-SING	EA	$301.00	$285.95

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
USB Headset, Plantronics Supra H51 monaural with noise canceling microphone. Includes USB Quick Disconnect Adaptor.	ACCUSB-HED-6W-NC	EA	$311.00	$295.45
USB PTT Quick Disconnect Adaptor, Software Media Workstation. Requires Headset Top ACC-HED-TOP-XXX.	ACCUSB-HED-ADAPTER	EA	$207.00	$196.65
USB Desktop Microphone, Software Media Workstation	ACCUSB-MIC-DESK	EA	$340.00	$323.00
USB Relay Kit, 4 each Form C Relays, Software Media Workstation	ACCUSB-RELAY	EA	$460.00	$437.00
USB Dual Speaker Kit, Software Media Workstation	ACCUSB-SPK-DUAL	EA	$25.00	$23.75
Programmable USB keypad, four columns of six keys. Model comes with labels and pre-configured as a keypad dialer. If customization of the keypad is needed at the factory, please contact Services for the additional amount to add to the quote for their time.	ACCUSB-KPD-4X6	EA	$306.00	$290.70
Four day class and certification exam at Avtec's HQ, covers system architecture, configuration, and administration. Price per person.	CLS-SCOUT-MAINT	EA	$2,591.00	$2,461.45
Three day class at customer site, covers system architecture, configuration, and administration. Price per class for up to six persons.	CLS-SCOUT-MAINT-ONSITE	EA	$9,847.00	$9,354.65
1U LCD Folding Display, for Relay Rack. Includes Keyboard with trackpad and 8-port KVM	DISP-KVM-F-RR	EA	$3,073.00	$2,919.35
Cisco Session Initiation Protocol (SIP) Telephony Gateway, Supports one each DS1 circuit	GWC-1DS1-SIP	EA	$10,831.00	$10,289.45
Cisco Session Initiation Protocol (SIP) Telephony Gateway, supports eight each FXO circuits	GWC-8FXO-SIP	EA	$5,815.00	$5,524.25
Two port DC Radio Adapter for Outpost. Includes 2 one-foot DB25 cables.	OUTPOST-DC-2R	EA	$1,550.00	$1,472.50
Radio Controller, VoIP, 2 Ports, 12VDC input	OUTPOST-2R	EA	$2,275.00	$2,161.25
120 VAC to 12 VDC Power Supply, 1 per Outpost	OUTPOST-AC-ADAPT	EA	$93.00	$88.35

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Kit to add support 1 EDACS Radio. Includes hardware adapter, cabling, driver, and software license. Does not include Outpost	OUTPOST-EDACS	EA	$2,068.00	$1,964.60
Kit to add support for (1) each Kenwood mobile endpoint. Includes Software License. Cable included at no charge; Outpost purchased separately.	OUTPOST-KENWOOD-MOBILE	EA	$1,031.00	$979.45
3U Rack mount shelf (holds 1-4 Outposts) plus 3U Rack mount power supply	OUTPOST-RACKMT-PKG	EA	$622.00	$590.90
3U Rack mount shelf (holds 1-4 Outposts)	OUTPOST-RACKMT-SHELF	EA	$171.00	$162.45
Connector for OUTPOST Radio port that supports RJ45 cable for 2/4W tone keying and E&M applications.	OUTPOST-RJ-CONN	EA	$52.00	$49.40
Kit to add support for (1) each Sprint Direct Connect PTT over Cellular Advanced Bridge endpoint. Includes Software License. Cable included at no charge; Outpost purchased separately. Advanced Bridge purchased through Sprint.	OUTPOST-SDC	EA	$1,031.00	$979.45
Kit to add support OUTPOST / TAIT Mobile Radio Adapter. Includes Software License. Cable included at no charge; Outpost purchased separately.	OUTPOST-TAIT	EA	$1,031.00	$979.45
Kit to add support for (1) each URC-200 radio endpoint. Includes Software License. Cable included at no charge	OUTPOST-URC200	EA	$1,031.00	$979.45
Adds 24 additional Inputs to PKG-IO-X. Up to 3 supported.	PKG-INPUT-EXP	EA	$2,068.00	$1,964.60
Type 66 Cabling/Punch block kit to install one auxiliary I/O package, 25' cables	PKG-INST-AUX-25	EA	$797.00	$757.15
Type 66 Cabling/Punch block kit to install one auxiliary I/O package, 50' cables	PKG-INST-AUX-50	EA	$1,082.00	$1,027.90
Input-Output Package for Scout and DSPatchNET, includes one each 24-input, one each 24-output rack mount panel and power supply. 25 pr cabling is optionally purchased, PKG-INST-AUX-XX.	PKG-IO-VPGATE	EA	$4,145.00	$3,937.75
Adds 24 additional relay outputs to PKG-IO-X. Up to 3 supported.	PKG-RELAY-EXP	EA	$2,068.00	$1,964.60

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Spare 12VDC/10A 3U rack mount power supply for OUTPOST-RACKMT-PKG or PKG-IO-VPGATE.	PS-12V-10A-RM	EA	$348.00	$330.60
Rack Mount 1U Universal AC input, 12VDC 900W output. N+1 Redundant supply with 3 hot-swap bays, 2 populated.	PS-12V-3BAY-AC	EA	$4,555.00	$4,327.25
Spare or expansion 12VDC module for PS-12V-3BAY-AC. Provides a total of 1800W when added to PS-12V-3BAY-AC.	PS-12V-MODULE	EA	$2,075.00	$1,971.25
Ranger console system accessory with four channel software audio package. Windows 7 PC, Monitor, and other accessories not included.	RANGER-SMW4	EA	$2,068.00	$1,964.60
ScoutCare Tier 1: Annual Extended Software Maintenance Program.	SCOUTCARE-T1	A/R	Calculated at 15% of the list price value of the Software in the system or product being covered.	5-1/4% off MSRP.
Mobile License add-on for Ranger console system accessory to enable Wi-Fi and LTE mobile capability. Includes Frontier. Hardware not included. Software not licensed to communicate using mobile broadband devices over Cellular or LTE on MOTOTRBO networks unless authorized by Motorola Solutions.	SFW-RANGER-MB	EA	$3,110.00	$2,954.50
Radio Internet Communication Module, 1 port, advances model, includes 120AC/12VDC power supply, v.24 cable, DVD that contains the configuration guide and software, and a RIC-M license.	RICM	EA	$1,037.00	$985.15
Cable for use between the RICM analog port and a Quantar base station radio to support mixed mode operation.	RICM-QUANTAR	EA	$181.00	$171.95
Two-post Relay Rack in clear aluminum finish, 72 inches in Height, 38U mounting space	RR-72-38U	EA	$679.00	$645.05
Two-post Relay Rack in clear aluminum finish, 84 inches in Height, 45U mounting space	RR-84-45U	EA	$736.00	$699.20

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Relay Rack,45,7FT HT, SIEMSMIC ZONE 4	RR-84-45U-Z4	EA	$2,384.00	$2,264.80
Two-post Relay Rack in clear aluminum finish, 90 inches in Height, 48U mounting space	RR-90-48U	EA	$793.00	$753.35
Software seat license for API interface for Scout Console Positions. One required per console.	SFW-SCOUT-API	EA	$1,031.00	$979.45
Software license for integrated, multi-channel IRR recorder for Scout Console Positions. One required per Tier 1 console, included with Tier 2 consoles.	SFW-SCOUT-IRR	EA	$1,550.00	$1,472.50
Mobile License add-on for Scout Console to enable Wi-Fi and LTE mobile capability. Includes Frontier. Hardware not included. Software not licensed to communicate using mobile broadband devices over Cellular or LTE on MOTOTRBO networks unless authorized by Motorola Solutions.	SFW-SCOUT-MB	EA	$6,219.00	$5,908.05
Licensing required to enable Enterprise Management Tools which incorporates management of a multi-site, multi-role Scout system via a single management infrastructure. The Enterprise Management Tools include Multi-user Administration, System Configuration, Multi-site Intercoms, System Diagnostics and Troubleshooting, System Operational Reporting, and System Licensing. Required for systems that include up to 25 Scout Console positions and/or 4 Sites. Each license includes two dongles: One for primary use and one replacement.	SFW-EMT-L1	EA	$31,095.00	$29,540.25

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Licensing required to enable Enterprise Management Tools which incorporates management of a multi-site, multi-role Scout system via a single management infrastructure. The Enterprise Management Tools include Multi-user Administration, System Configuration, Multi-site Intercoms, System Diagnostics and Troubleshooting, System Operational Reporting, and System Licensing. Required for systems that include up to 50 Scout Console positions and/or 4 Sites. Each license includes two dongles: One for primary use and one replacement.	SFW-EMT-L2	EA	$62,190.00	$59,080.50
Licensing required to enable Enterprise Management Tools which incorporates management of a multi-site, multi-role Scout system via a single management infrastructure. The Enterprise Management Tools include Multi-user Administration, System Configuration, Multi-site Intercoms, System Diagnostics and Troubleshooting, System Operational Reporting, and System Licensing. Required for systems that include up to 100 Scout Console positions and/or 4 Sites. Each license includes two dongles: One for primary use and one replacement.	SFW-EMT-L3	EA	$124,380.00	$118,161.00

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Licensing required to enable Enterprise Management Tools which incorporates management of a multi-site, multi-role Scout system via a single management infrastructure. The Enterprise Management Tools include Multi-user Administration, System Configuration, Multi-site Intercoms, System Diagnostics and Troubleshooting, System Operational Reporting, and System Licensing. Required for systems that include up to 200 Scout Console positions and/or 5 Sites. Each license includes two dongles: One for primary use and one replacement.	SFW-EMT-L4	EA	$155,475.00	$147,701.25
Licensing required to enable Enterprise Management Tools which incorporates management of a multi-site, multi-role Scout system via a single management infrastructure. The Enterprise Management Tools include Multi-user Administration, System Configuration, Multi-site Intercoms, System Diagnostics and Troubleshooting, System Operational Reporting, and System Licensing. Required for systems that include up to 200 Scout Console positions and/or 10 Sites. Each license includes two dongles: One for primary use and one replacement.	SFW-EMT-L5	EA	$290,220.00	$275,709.00

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Licensing required to enable Enterprise Management Tools which incorporates management of a multi-site, multi-role Scout system via a single management infrastructure. The Enterprise Management Tools include Multi-user Administration, System Configuration, Multi-site Intercoms, System Diagnostics and Troubleshooting, System Operational Reporting, and System Licensing. Required for systems that include up to 300 Scout Console positions and/or 15 Sites. Each license includes two dongles: One for primary use and one replacement.	SFW-EMT-L6	EA	$419,783.00	$398,793.85
Licensing required to enable Enterprise Management Tools which incorporates management of a multi-site, multi-role Scout system via a single management infrastructure. The Enterprise Management Tools include Multi-user Administration, System Configuration, Multi-site Intercoms, System Diagnostics and Troubleshooting, System Operational Reporting, and System Licensing. Required for systems that include up to 500 Scout Console positions and/or 20+ Sites. Each license includes two dongles: One for primary use and one replacement.	SFW-EMT-L7	EA	$518,250.00	$492,337.50
License to add MDC1200 ANI capability to an OUTPOST-2R endpoint, 1 required per channel.	SFW-MDC-1	EA	$513.00	$487.35
Redundant VPGate Software License for a maximum of 24 endpoints; up to 12 may be "B" Licenses.	SFW-VPG-L0	EA	$8,287.00	$7,872.65
Non-Redundant VPGate Software License for a maximum of 24 endpoints; up to 12 may be "B" Licenses.	SFW-VPG-L0-NR	EA	$5,177.00	$4,918.15
Redundant Frontier Enabled VPGate Software License for a maximum of 24 endpoints; up to 12 may be "B" Licenses.	SFW-VPG-L0-FTR	EA	$16,579.00	$15,750.05

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Non-Redundant Frontier Enabled VPGate Software License for a maximum of 24 endpoints; up to 12 may be "B" Licenses.	SFW-VPG-L0-NR-FTR	EA	$10,360.00	$9,842.00
Mobile License add-on for VPGate to enable Wi-Fi and LTE mobile capability. Includes Frontier. Hardware not included. Sells only with SFW-SCOUT-MB. Software not licensed to communicate using mobile broadband devices over Cellular or LTE on MOTOTRBO networks unless authorized by Motorola Solutions. Order 1 EACH of this model for every individual VPGate in the system.	SFW-VPG-MB	EA	$1.04	$0.98
Redundant VPGate Software License for a maximum of 40 endpoints; up to 20 may be "B" Licenses.	SFW-VPG-L1	EA	$16,579.00	$15,750.05
Redundant Frontier-enabled VPGate Software License for a maximum of 40 endpoints; up to 20 may be "B" Licenses.	SFW-VPG-L1-FTR	EA	$33,163.00	$31,504.85
Redundant VPGate Software License for a maximum of 80 endpoints; up to 40 may be "B" Licenses.	SFW-VPG-L2	EA	$35,236.00	$33,474.20
Redundant Frontier-enabled VPGate Software License for a maximum of 80 endpoints; up to 40 may be "B" Licenses.	SFW-VPG-L2-FTR	EA	$70,477.00	$66,953.15
Redundant VPGate Software License for a maximum of 160 endpoints; up to 100 may be "B" Licenses.	SFW-VPG-L3	EA	$62,185.00	$59,075.75
Redundant Frontier-enabled VPGate Software License for a maximum of 160 endpoints; up to 100 may be "B" Licenses.	SFW-VPG-L3-FTR	EA	$124,375.00	$118,156.25
Redundant Key Management Facility Software License; requires VPGate (SFW-VPG-Lx) and P25 Supplemental Licenses (SFW-VPG-P25-XXX). One required per system to enable OTAR.	SFW-VPG-KMF	EA	$36,272.00	$34,458.40
Supplementary VPGate Tier 3 DMR radio endpoint license, requires SFW-VPG-XXXX. Supports up to 16 each redundant DMR trunking wire-line IP endpoints.	SFW-VPG-DMR3-16	EA	$7,183.00	$6,823.85

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Supplementary VPGate Tier 3 DMR radio endpoint license, requires SFW-VPG-XXXX. Supports up to 16 each non-redundant DMR trunking wire-line IP endpoints.	SFW-VPG-DMR3-16-NR	EA	$4,488.00	$4,263.60
Supplementary VPGate Tier 3 DMR radio endpoint license, requires SFW-VPG-XXXX. Supports up to 30 each redundant DMR trunking wire-line IP endpoints.	SFW-VPG-DMR3-30	EA	$14,361.00	$13,642.95
Supplementary VPGate Tier 3 DMR radio endpoint license, requires SFW-VPG-XXXX. Supports up to 60 each redundant DMR trunking wire-line IP endpoints.	SFW-VPG-DMR3-60	EA	$26,643.00	$25,310.85
Supplementary VPGate Tier 3 DMR radio endpoint license, requires SFW-VPG-XXXX. Supports up to 100 each redundant DMR trunking wire-line IP endpoints.	SFW-VPG-DMR3-100	EA	$40,947.00	$38,899.65
Supplementary VPGate P25 DFSI endpoint license, requires SFW-VPG-XXXX. Supports up to 1 each redundant P25 DFSI endpoints.	SFW-VPG-DFSI-1	EA	$1,031.00	$979.45
Supplementary VPGate P25 DFSI endpoint license, requires SFW-VPG-XXXX. Supports up to 2 each redundant P25 DFSI endpoints.	SFW-VPG-DFSI-2	EA	$2,068.00	$1,964.60
Supplementary VPGate P25 DFSI endpoint license, requires SFW-VPG-XXXX. Supports up to 6 each redundant P25 DFSI endpoints.	SFW-VPG-DFSI-6	EA	$6,214.00	$5,903.30
Supplementary VPGate P25 DFSI endpoint license, requires SFW-VPG-XXXX. Supports up to 10 each redundant P25 DFSI endpoints.	SFW-VPG-DFSI-10	EA	$9,323.00	$8,856.85
Supplementary VPGate P25 DFSI endpoint license, requires SFW-VPG-XXXX. Supports up to 1 each non-redundant P25 DFSI endpoints.	SFW-VPG-DFSI-1-NR	EA	$649.00	$616.55
Supplementary VPGate P25 DFSI endpoint license, requires SFW-VPG-XXXX. Supports up to 2 each non-redundant P25 DFSI endpoints.	SFW-VPG-DFSI-2-NR	EA	$1,296.00	$1,231.20

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Supplementary VPGate P25 DFSI endpoint license, requires SFW-VPG-XXXX. Supports up to 6 each non-redundant P25 DFSI endpoints.	SFW-VPG-DFSI-6-NR	EA	$3,887.00	$3,692.65
Supplementary VPGate P25 DFSI endpoint license, requires SFW-VPG-XXXX. Supports up to 10 each non-redundant P25 DFSI endpoints.	SFW-VPG-DFSI-10-NR	EA	$5,830.00	$5,538.50
Supplementary VPGate NXDN radio endpoint license, requires SFW-VPG-XXXX. Supports up to 10 each redundant NXDN conventional or trunking wire-line IP endpoints (ICOM, Kenwood, or future).	SFW-VPG-NXDN-10	EA	$2,591.00	$2,461.45
Supplementary VPGate NXDN radio endpoint license, requires SFW-VPG-XXXX. Supports up to 100 each redundant NXDN conventional or trunking wire-line IP endpoints (ICOM, Kenwood, or future).	SFW-VPG-NXDN-100	EA	$25,913.00	$24,617.35
Supplementary VPGate NXDN radio endpoint license, requires SFW-VPG-XXXX. Supports up to 30 each redundant NXDN conventional or trunking wire-line IP endpoints (ICOM, Kenwood, or future).	SFW-VPG-NXDN-30	EA	$7,774.00	$7,385.30
Supplementary VPGate NXDN radio endpoint license, requires SFW-VPG-XXXX. Supports up to 60 each redundant NXDN conventional or trunking wire-line IP endpoints (ICOM, Kenwood, or future).	SFW-VPG-NXDN-60	EA	$15,548.00	$14,770.60
Supplementary VPGate P25 endpoint license, requires SFW-VPG-XXXX. Supports up to 10 each redundant P25 DFSI or CSSI endpoints.	SFW-VPG-P25-10	EA	$10,360.00	$9,842.00
Supplementary VPGate P25 endpoint license, requires SFW-VPG-XXXX. Supports up to 100 each redundant P25 DFSI or CSSI endpoints.	SFW-VPG-P25-100	EA	$40,947.00	$38,899.65
Supplementary VPGate P25 endpoint license, requires SFW-VPG-XXXX. Supports up to 30 each redundant P25 DFSI or CSSI endpoints.	SFW-VPG-P25-30	EA	$18,652.00	$17,719.40

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Supplementary VPGate P25 endpoint license, requires SFW-VPG-XXXX. Supports up to 60 each redundant P25 DFSI or CSSI endpoints.	SFW-VPG-P25-60	EA	$31,090.00	$29,535.50
Professional consultative services for CAD API developers, Software Engineer, eight hours	SVC-CSLT-API	EA	$2,073.00	$1,969.35
Professional consultative services to evaluate, integrate, and configure CSSI connection to P25 RFSS infrastructure. Per system fee exclusive of travel and per diem charges.	SVC-CSLT-CSSI	EA	$10,360.00	$9,842.00
Professional consultative services, Project Engineer	SVC-CSLT-PE	EA	$1,244.00	$1,181.80
Professional services, evaluation of customer provided singular hardware item (except Tablet). Includes specification review, loading of Avtec software, with demo project to test operability with any preloaded customer software. Avtec software and demo project to be removed prior to shipping back to customer	SVC-EVAL-INDIVIDUAL-HW	EA	$518.00	$475492.10
Professional services, evaluation of customer provided total system (except Tablet). Includes specification review, loading of Avtec software, with demo project to test operability with any preloaded customer software and compatibility with other customer provided hardware. Avtec software and demo project to be removed prior to shipping back to customer.	SVC-EVAL-SYSTEM-HW	EA	$2,068.00	$1,964.60
Professional services, evaluation of customer provided Tablet. Includes specification review, loading of Avtec software, with demo project to test operability. Avtec software and demo project to be removed prior to shipping back to customer	SVC-EVAL-TABLET	EA	$1,037.00	$985.15

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Tier 1 Scout Plus Hardware Audio Package Console. includes Scout Media Workstation Plus, dual speakers, and serial cable. Includes Scout Standard Runtime, DMS, NENA Headset Interface, Conventional DMR, Conventional P25, Conventional NXDN. Windows 7 PC, Monitor and other Standard series accessories not included. Installation outside of North America requires a cable localization package, Model Number ACCPLUS-CLP-XX. One each required per console position.	T1-SCOUT-PLUS	EA	$11,915.00	$11,319.25
Tier 1 Scout Console Package with 12 channel software media workstation. Includes Scout Standard Runtime, DMS seat licenses, P25 Conventional, NXDN Conventional and DMR Conventional. Windows 7 PC, Monitor, and other USB accessories not included. NENA Headset interface is NOT available in this package.	T1-SCOUT-SMW12	EA	$9,842.00	$9,349.90
Tier 2 Scout Plus Hardware Audio Package Console. Includes Scout Media Workstation Plus, dual speakers, and serial cable. Includes Scout Standard Runtime, DMS, NENA Headset Interface. Tier 1 Capabilities plus P25 Trunked, DMR Trunked, MPT Trunked, NXDN Trunked and IRR. Windows 7 PC, Monitor and other Standard series accessories not included.. Installation outside of North America requires a cable localization package, Model Number ACCPLUS-CLP-XX. One each required per console position.	T2-SCOUT-PLUS	EA	$16,579.00	$15,750.05

NASPO VALUEPOINT CONTRACT 06913 PUBLIC SAFETY COMMUNICATIONS EQUIPMENT

AVTEC SCOUT™ PRODUCTS/PRICING — PERCENT OFF MSRP: 5.25% *

Description	Part Number	Unit	MSRP	Net Price
Tier 2 Scout Console Package with 12 channel software media workstation. Includes Scout Standard Runtime, DMS, Tier 1 Capabilities plus P25 Trunked, DMR Trunked, MPT Trunked, NXDN Trunked and IRR. Windows 7 PC, Monitor, and other USB accessories not included. NENA Headset interface is NOT available in this package.	T2-SCOUT-SMW12	EA	$14,506.00	$13,780.70

*NET PRICE AFTER DISCOUNT HAS BEEN CALCULATED AS FOLLOWS: [LIST PRICE -5.25%] + [.25% FEE]).

Professional Services & Expenses *5.25% Discount Applied to Hourly Listed Price		
Equipment Configuration and System Design	Hourly	$184.63
Technical Support Services	Hourly	$246.17
Equipment Installation	Hourly	$147.70
Equipment Repair	Hourly	$96.03
Training	Hourly	$147.70
Airfare (Round Trip)	Each	$1,554.75
Car Rental & Per Diem (Daily)	Each	$362.78

Other Services *5.25% Discount Will be Applied to Hourly and Flat Rate Prices		
Scout readiness Assessment	Discount	5.25%
Custom Solution Implementation	Discount	5.25%
Operational Efficiency Workshop	Discount	5.25%
System re-design, redeploy, relocations (moves)	Discount	5.25%
Risk Mitigation Workshop	Discount	5.25%

NASPO ValuePoint Contract 06913 Public Safety Communications Equipment

Avtec Scout™ Products/Pricing — Percent off MSRP: 5.25% *

Custom Solution	Discount	5.25%
Preventative Maintenance	Discount	5.25%
On-site Assistance	Discount	5.25%
Project Management	Discount	5.25%
Test Activities	Discount	5.25%

CONTRACT

State of Oklahoma

Dispatch via Print

Contract ID			Page
00000000000000000000004764			1 of 1
Contract Dates	**Currency**	**Rate Type**	**Rate Date**
04/13/2017 to 06/30/2017	USD	CRRNT	PO Date
Description:		**Contract Maximum**	
SW1053A Public Safety Comm		0.00	

Allow Open Item Reference

TYPE: STATEWIDE

Supplier 0000273465
AVTEC INC
100 INNOVATION PL
LEXINGTON SC 29072-3738
USA

Tax Exempt? Y Tax Exempt ID:736017987

Contract Lines:

Line #	Cat CD / Item ID / Item Desc	UOM	Minimum Order Qty	Minimum Order Amt	Maximum / Open Qty	Maximum / Open Amt
1	43191510 / RADIO: Equipment to include Two-Way, Radios, Transmitters, Tranceivers, Mobile, Equipment	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing 0.00000	EA		0001		

COMMENTS:

NASPO/ValuePoint contract 06913

Contract period:
04/13/2017 - 06/30/2017

Agreement Period:
10/01/2015 - 06/30/2018

Final = The price is final after adjustments
Hard = Apply adjustments regardless of other adjustments
Skip = Skip adjustments if any other adjustments have been applied

Authorized Signature

State of Oklahoma

Statewide Contract Addendum

This addendum is added to and is to be considered part of the subject contract.

Statewide Contract #: SW1053AV
PeopleSoft Contract ID: 4764
Contract Title: Public Safety Communications Equipment
Contract Issuance Date: 04/17/2017
Contract Supplier: Avtec
Addendum # 1
Addendum Date: 06/29/2017

OMES Point of Contact:

Contracting Officer: Marc Brown
Phone Number: 405-521-3381
E-mail address: Marc.brown@omes.ok.gov

Addendum Information:

Addendum #1 issued for contract renewal with Avtec.
Contract Period: 07/01/2017—06/30/2018
Agreement Period: 04/17/2017—06/30/2020

CONTRACT

State of Oklahoma

Dispatch via Print

Contract ID			Page
00000000000000000000004764			1 of 1
Contract Dates	**Currency**	**Rate Type**	**Rate Date**
04/13/2017 to 06/30/2018	USD	CRRNT	PO Date
Description:		**Contract Maximum**	
SW1053A Public Safety Comm		0.00	
Allow Open Item Reference			
TYPE: STATEWIDE			

Supplier 0000273465
AVTEC INC
100 INNOVATION PL
LEXINGTON SC 29072-3738
USA

Tax Exempt? Y Tax Exempt ID:736017987

Contract Lines:

Line #	Cat CD / Item ID / Item Desc	UOM	Minimum Order Qty	Minimum Order Amt	Maximum / Open Qty	Maximum / Open Amt
1	43191510 / RADIO: Equipment to include Two-Way, Radios, Transmitters, Tranceivers, Mobile, Equipment	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing 0.00000	EA		0001		

COMMENTS:

NASPO/ValuePoint contract 06913

Contract period:
07/01/2017 - 06/30/2018

Agreement Period:
10/01/2015 - 06/30/2018

Final = The price is final after adjustments
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Authorized Signature

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NASPO ValuePoint Quotation
Contract/Master Agreement #06913
Avtec Scout Dispatch System

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Lexington, SC 29072
(800) 310-7045 V
(803) 358-3636 F
www.avtecinc.com

Name:	Chief Rob Groseclose		Quote Number:	2017-4252	
Company:	Mustang Police Department		Quote Date:	9/1/2017	
Address:	650 E State Highway 152		Quote Expiration:	12/30/2017	
City, State, Zip:	Mustang, OK 73064		Prepared by:	Jeff Ziegler	
Phone:	405-376-7733		Approval Code:		
Email:	rgroseclose@cityofmustang.org		Mfg. Rep:	DH Sales	
Project Name:	Mustang PD Avtec Consoles	Requested Install Date: 10/01/2017	Entity Type:	Police Department	

NASPO Avtec Scout Dispatch System
Equipment and Spare Parts

UNSPSC	Item	Qty	Model Number	Description	NASPO List Price (w/ State fee IF APP)	NASPO Extended Price	
				Console (Operator) Position Hardware/Software			
43230000	1	2	T1-SCOUT-SMW12	Tier 1 Scout Console Package with 12 channel software media workstation. Includes Scout Standard Runtime, DMS seat licenses, P25 Conventional, NXDN Conventional and DMR Conventional. Windows 7 PC, Monitor, and other USB accessories not included. NENA Headset interface is NOT available in this package.	$ 9,349.90	$ 18,699.80	
43211500	2	2	ACC-CPU-WIN7-DN	PC mini tower with dual NICs for Console Position or "Plus" Console Packages, MS Windows 7 Professional 64 bit OS. Used in a Scout System when a Standard Desktop computer is needed.	$ 1,339.50	$ 2,679.00	WILL CHANGE TO ACC-CPU-WIN10-DN (WINDOWS 10), ADD TO NASPO, SAME PRICE
43211607	3	2	ACCUSB-SPK-DUAL	USB Dual Speaker Kit, Software Media Workstation	$ 23.75	$ 47.50	
43211903	4	2	ACC-TSC-215WS-PC	21.5" LED touch screen for PC console - 16x9 format - Full HD	$ 1,373.70	$ 2,747.40	
45111702	5	2	ACCPLUS-HJB	Headset/handset jack box (single jack), Scout Media Workstation Plus	$ 487.35	$ 974.70	WILL CHANGE TO ACCUSB-HJB (USB VERSION), ADD TO NASPO, SAME PRICE
43191609	6	2	ACC-HED-BASE-WLS-6W	Plantronics CA12CD Wireless PTT Headset Base. Headset top is sold separately.	$ 753.35	$ 1,506.70	
43191609	7	2	ACC-HED-TOP-SING-NC	Headset top, Plantronics Supra HW251N monaural with noise canceling microphone. Requires base.	$ 103.55	$ 207.10	
43211719	8	2	ACCUSB-MIC-DESK	USB Desktop Microphone, Software Media Workstation	$ 323.00	$ 646.00	
39122222	9	2	ACCUSB-FSW-SING	USB PTT Footswitch Accessory, Software Media Workstation	$ 285.95	$ 571.90	
43230000	10	2	SFW-SCOUT-IRR	Software license for integrated, multi-channel IRR recorder for Scout Console Positions. One required per Tier 1 console, included with Tier 2 consoles.	$ 1,472.50	$ 2,945.00	
				Console Equipment Subtotal		**$31,025.10**	
				Gateways and Endpoint Hardware/Software			
43230000	11	1	SFW-VPG-L0-NR	Non-Redundant VPGate Software License for a maximum of 24 endpoints; up to 12 may be "B" Licenses.	$ 4,918.15	$ 4,918.15	
45111714	12	4	OUTPOST-2R	Radio Controller, VoIP, 2 Ports, 12VDC input	$ 2,161.25	$ 8,645.00	
32130000	13	8	OUTPOST-EDACS	Kit to add support 1 EDACS Radio. Includes hardware adapter, cabling, driver, and software license. Does not include Outpost	$ -	$ -	PROVIDED AT NO COST ON A LOANER BASIS UNTIL P25 UPGRADE. SEE NOTE.
26121609	14	8	OUTPOST-RJ-CONN	Connector for OUTPOST Radio port that supports RJ45 cable for 2/4W tone keying and E&M applications.	$ 49.40	$ 395.20	
39122307	15	1	PKG-IO-VPGATE	Input-Output Package for Scout and DSPatchNET, includes one each 24-input, one each 24-output rack mount panel and power supply. 25 pr cabling is optionally purchased, PKG-INST-AUX-XX.	$ 3,937.75	$ 3,937.75	
43222612	16	1	ACC-NETWK-24P-SFP4	24 Port Gigabit Switch with 4 SFP Ports	$ 2,357.90	$ 2,357.90	
	17	5	ACC-ICOM-VC	Valcom durable flush mount SIP Door intercom with call button and LED	$ 556.70	$ 2,783.50	ADD TO NASPO.
				Gateway and Endpoint Equipment Subtotal		**$ 23,037.50**	
				Racking Equipment			
24102001	18	1	RR-72-38U	Two-post Relay Rack in clear aluminum finish, 72 inches in Height, 38U mounting space	$ 645.05	$ 645.05	
24102001	19	1	OUTPOST-RACKMT-PKG	3U Rack mount shelf (holds 1-4 Outposts) plus 3U Rack mount power supply	$ 590.90	$ 590.90	
43222806	20	1	PKG-INST-AUX-25	Type 66 Cabling/Punch block kit to install one auxiliary I/O package, 25' cables	$ 757.15	$ 757.15	
				Racking Equipment Subtotal		**$ 1,993.10**	
				Equipment Total (without services/expenses)		**$56,055.70**	

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Contract/Master Agreement #06913
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NASPO Avtec Scout Dispatch System
Equipment and Spare Parts

UNSPSC	Item	Qty	Model Number	Description	NASPO List Price (w/ State fee IF APP)	NASPO Extended Price	
				Extended Maintenance			
	21	0	SCOUTCARE-T1	ScoutCare Tier 1: Annual Extended Software Maintenance Program.	$ 5,159.78	$ -	
	22	0	SCOUTCARE-HARDWARE	Year 1 Annual ScoutCare Maintenance	$ 1,475.78	$ -	ADD TO NASPO.
				Shipping, Handling, and Insurance			
	23				No Charge		
				Professional Services and Expenses			
	24	0		Equipment configuration and system design (Hourly)	$ 184.63	$ -	
	25	48		Equipment installation (Hourly)	$ 147.70	$ 7,089.60	
	26	16		Training (Hourly)	$ 147.70	$ 2,363.20	
	27	16.2000		Technical support services (Hourly)	$ 246.17	$ 3,987.95	
	28	0		Custom Solution (Hourly)	$ 252.08	$ -	
	29	16		Project Management (Hourly)	$ 184.63	$ 2,954.08	
	30	0		Equipment repair (Hourly)	$ 96.03	$ -	
	31	1		Airfare (Round Trip)	$ 1,554.75	$ 1,554.75	
	32	7		Car Rental & Per diem (Daily)	$ 362.78	$ 2,539.46	
				Maintenance, Professional Services and Expenses Subtotal		**$ 20,489.04**	
				Grand Total		**$ 76,544.74**	

Commercial Terms and Conditions of Offer

1. This proposal is based on the requirements provided by the customer. We reserve the right to correct mathematical or other errors in the quotation.
2. Execution of a Statement of Work (SOW) is required prior to order acceptance, except for product purchases without services that are purchased under an existing Master contract executed by the customer.
3. Change Orders must be processed for additional out-of-scope material and labor, or other required deviations from quotation.
4. All quotations purchased under NASPO ValuePoint, GSA, or other Master Supply Agreement are subject to the applicable contract's terms and conditions and supersede any conflicting terms listed here.
5. NASPO ValuePoint quotations that include Avtec on-site services include 2 labor days per person/per trip for travel to and from the site of performance.

Taxes, Credit, Warranty, ScoutCare Pricing and Returns

1. All sales/use taxes and duties are the responsibility of the customer. quoted prices are exclusive of sales and use taxes.
2. Customer must self-remit use taxes and duties to the proper authorities, excepting Avtec will assess and remit sales and use taxes for Customer's convenience in the following states: CA, LA, MN, SC, TX, and WA, unless a valid exemption certificate is provided in a timely fashion.
3. Where the Customer is required to withhold taxes and duties from payments to Avtec, the Customer is responsible to notify Avtec and to work with Avtec to define method of tax and duty representation on the quote.
4. If outstanding payments are past due, no additional credit or services will be extended to the Customer until all past due amounts have been received in full.
5. Avtec products include a 1 year hardware and software warranty as well as 1 year of ScoutCare maintenance. ScoutCare starts at system acceptance when Avtec performs implementation services, or 90 days after shipment if customer performs implementation services. See warranty terms for more details.
6. ScoutCare pricing shown on lines 21 and 22 on this quotation will be honored for a multi-year contractual commitment (up to 4 years from warranty expiration) when executed as part of the original system purchase. The cost for additional years is not included in the Grand Total. Payment may be made at time of initial sale, or annually prior to the expiration of each coverage period. ScoutCare is non-
7. Hardware returned for reasons other than defects incur a 25% restocking fee. Returned items must be in unused condition and in original packaging. customer is responsible for return shipping, insurance, and transport charges. Software licenses can only be returned if determined to be materially defective under the terms of the license agreement.
8. Products added to existing Scout systems not covered by a ScoutCare Maintenance program are ineligible for software defect fixes and updates and may only operate under the existing Scout system software version.

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NASPO Avtec Scout Dispatch System
Equipment and Spare Parts

UNSPSC	Item	Qty	Model Number	Description	NASPO List Price (w/ State fee IF APP)	NASPO Extended Price

Notes and Design Assumptions

1 The Customer accepts responsibility to procure, configure, install, terminate, and test all networking infrastructure to meet the supplied Scout specifications, unless otherwise stated in the Scope of Work.

2 This system has been configured for IP recording only to a digital VoIP Logging Recorder. In the event analog recording is desired, additional Outpost gateways will be required, 1 for each 2 channels to be recorded. To record 8 channels, the total additional cost will be $8,931.00. Upgrading the Eventide 740 Logging Recorder is recommended instead.

2a Scout supports multiple vendors' radio, telephony, and logging recorder systems via a direct IP interface, with varying capabilities. See www.avtecinc.com/scout/integration for more information.

3 All Interfaces to Radios are analog via Outpost Gateways. Each Outpost supports two (2) interfaces. **Interfaces provide for audio and transmit PTT, + additional capabilities if TRC is used and supplied by the customer.**

3a For Interface(s) to Current Harris EDACS System radios, advanced interface capabilities are being provided as a "loan". These include PTT ID/ Alias, Confirmed Group Calls, Multi-Talkgroup Control, Inbound Emergency Calls, Emergency State/Clear, Alert Tones, Channel Marker Tones, and Keying Progress Tones. **A Harris M7100 Control Station Radio(s) must be supplied by the customer** and the Harris M7100 Outpost driver, adapter and cable purchased from Avtec. Normal cost per interface for the Avtec option is $2,068.00.

3b For Interface(s) to Future P25 Trunked System radios, advanced interface capabilities are available. A **Kenwood NX5000 or Tait TM9xxx Control Station Radio(s) must be supplied by the customer** and Kenwood or Tait Outpost Driver and Cable purchased from Avtec. The feature set for both radios include PTT ID/ Alias, Confirmed Group Calls, Unit Calls, Unit ALerts, Multi-Talkgroup Control, Inbound Emergency Calls, Alert Tones, Channel Marker Tones, and Keying Progress Tones, Paging Tones. In addition, the Tait radios support Unit Calls and Unit Alerts, Emergency State/Clear and Console Controlled Encryption. Cost per interface for the Avtec option is $1,031.00. These options (8) will be purchased by the City of Mustang when they convert to P25.

3c Supply and Programming of all Radios is the responsibility of the customer.

4 21.5" LED Touchscreen Monitors are provided. If non-touch screen monitors are desired, cost will be @$850.00 less per position.

5 New Intercoms have been provided for 5 locations. These are Power over Ethernet units and connect to the Avtec system via the customer provided network or customer provided CAT cable. They present to the Avtec as SIP devices and require no additional hardware or licensing. Additional intercoms can be easily added. Each consumes 1 "B" Endpoint on the system.

6 System has been sized to support a total of 24 Endpoints. Endpoints are radio interfaces, telephony interfaces, I/O Panels, Intercoms, Advanced Radio Drivers, etc. Current usage based on this design is 14, including 8 radio interfaces, 1 I/O Panel, and 5 Intercoms. Avtec systems can be expanded to support as many as 2,000 Endpoints and beyond.

7 All professional services will be provided by Avtec Systems Integration Engineer(s) and Project Managers. Pricing breakdown above is structured for NASPO contract and does not reflect actual breakdown. Our installation activities for this system will include:

7a Avtec Project Management

7b Site Survey and Screen Builder Workshop. Avtec SIE will review the site and conduct a workshop with Mustang staff to design and build the fully customizable GUI for the console positions. In addition, site readiness will be reviewed with the customer. This will be done via Webinar.

7c Factory Configuration and Staging at Avtec in Lexington SC

7d Installation, Optimization and Cutover. Avtec SIE will travel to Mustang to install, optimize and assist with system cutover. This will be a full week/5-day effort. User training will also be conducted.

7e Administrator Training. Each new system purchased includes 2 seats in Avtec Administration and Maintenance Training class conducted at Avtec in Lexington SC. These seats may be used by Mustang staff or designated 3rd party support staff. Students are responsible for travel costs for this one-week long class.

8 Avtec Console Systems are Mission Critical-Grade VoIP Systems used by customers in Public Safety, Transportation, Utilities/Energy, and Business and Industrial Customers that require reliable and configurable systems that allow for redundancy, disaster recovery designs, expansion, a wide breadth of interface capabilities and long term support.

8a Avtec Scout Systems offer interfaces to most radio systems in the North American market. Trunked System interfaces include P25 (most vendors including Harris, Motorola, EFJ and others via CSSI), Motorola TRBO, NXDN, DMR and MPT1327, Conventional Systems including P25 (via DFSI), Motorola TRBO, NXDN and DMR, and analog systems via Outpost Radio Gateways.

8b Avtec Scout System also offer integration to telephony via SIP Extension/VoIP or analog gateways for FX0 and T1.

8c Avtec System are IT-friendly. Multicast is only required between console positions. Interface connectivity to radio systems and gateways do not require multicast.

8d Avtec Scout console position GUIs are totally customer configurable, including all placement and sizing of icons, buttons, modules, tabs, pop-uo windowsetc. Color coding is customer defined. User log-ins allow for multiple screen configurations in a single system.

8e Avtec Scout Systems include advanced system management and reporting tools. System changes can be made on the fly and pushed to console positions without interuption of service.

CITY OF MUSTANG

AGENDA COMMENTARY

1. ITEM: H-5

2. MEETING DATE: September 5, 2017

3. TITLE: Approval of contract and bonds for project labeled Town Center Expansion

4. COUNCIL ACTION: Approve/Deny

5. INITIATOR: Justin Battles, Assistant City Manager

6. BACKGROUND:

In June of 2017 the City of Mustang and Red Prairie Design Group published a notice to bidders for project labeled Town Center Expansion. This project was included in the Sales Tax Extension approved by voters on August 23, 2016. Bids were received until August 3, 2017 at 2pm. A total of twelve bids were received and on August 15, 2017 Council voted to award the contract to the low bidder, AC Owen Construction.

7. FINANCIAL IMPACT: $3,041,000.00

8. STAFF'S COMMENTS: Staff recommends approval of contract and bonds and entering into agreement with the low bidder, AC Owen Construction. Construction will begin after the preconstruction meeting and a notice to proceed is issued to the contractor by the City of Mustang.

9. STAFF SOURCE: Justin Battles, Assistant City Manager

AIA® Document A101™ – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the Twenty-second day of August in the year Two thousand seventeen
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064
Telephone Number: 405 376-3411

and the Contractor:
(Name, legal status, address and other information)

AC Owen Construction
1376 Fretz Dr. Edmond, OK 73003
Telephone Number: 405 285-9333

for the following Project:
(Name, location and detailed description)

Mustang Town Center Renovation Expansion
1201 N. Mustang Road, Mustang, Oklahoma 73064
Renovation Expansion of Town Center to include expanded aerobics room of approximately 1,500 square feet; two gymnasiums with an upper level perimeter walking track of approximately 13,200 square feet; 35 additional parking spaces; entry canopy for senior center.

The Architect:
(Name, legal status, address and other information)

Red Prairie Design Group, Professional Limited Liability Company
4557 W. Memorial Rd.
Oklahoma, City, Oklahoma 73142
Telephone Number: 405 606-1023

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101™–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

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(Check one of the following boxes and complete the necessary information.)

[X] Not later than Three hundred sixty-five ( ) calendar days from the date of commencement of the Work.

[ ] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Three million forty-one thousand Dollars ($ 3041000), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
Alternate One	$95,000
Alternate Two	$26,000

4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
Owner Contingency	$60,000

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

§ 4.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

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ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the Twenty-Fifth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the Thirtieth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Forty-five (45) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and

.5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

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5 percent

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

5 % monthly

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

Architect

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§ 6.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction

[ ] Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Justin Battles
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

Email Address: jbattles@cityofmustang.org

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Aaron Owen
1376 Fretz Dr. Edmond, OK 73003
Telephone Number: 405 285-9333

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User Notes: (3B9ADA44)

Email Address: aaron@ac-owen.com

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
.2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
.3 AIA Document A201™–2017, General Conditions of the Contract for Construction
.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

.5 Drawings

Number	Title	Date
Full Set of Construction Documents issued for Bids		June 26, 2017

.6 Specifications

Section	Title	Date	Pages
Complete Project Manual issued for Bids		June 26, 2017	All

.7 Addenda, if any:

Number	Date	Pages
Addendum One	July 20, 2017	All
Addendum Two	July 27, 2017	All
Addendum Three	July 31, 2017	All
Addendum Four	August 2, 2017	All

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Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

[ ] The Sustainability Plan:

Title	Date	Pages

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	CONTRACTOR *(Signature)*
Jay Adams, Mayor	Aaron Owen
(Printed name and title)	*(Printed name and title)*

Init.
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Additions and Deletions Report for
AIA® Document A101™ – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the Twenty-second day of August in the year Two thousand seventeen

...

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064
Telephone Number: 405 376-3411

...

AC Owen Construction
1376 Fretz Dr. Edmond, OK 73003
Telephone Number: 405 285-9333

...

Mustang Town Center Renovation Expansion
1201 N. Mustang Road, Mustang, Oklahoma 73064
Renovation Expansion of Town Center to include expanded aerobics room of approximately 1,500 square feet; two gymnasiums with an upper level perimeter walking track of approximately 13,200 square feet; 35 additional parking spaces; entry canopy for senior center.

...

Red Prairie Design Group, Professional Limited Liability Company
4557 W. Memorial Rd.
Oklahoma, City, Oklahoma 73142
Telephone Number: 405 606-1023

PAGE 2

[X] A date set forth in a notice to proceed issued by the Owner.

PAGE 3

[X] Not later than Three hundred sixty-five ( ) calendar days from the date of commencement of the Work.

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...

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...

Alternate One	$95,000
Alternate Two	$26,000

...

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

...

Owner Contingency	$60,000

PAGE 4

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the Twenty-Fifth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the Thirtieth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Forty-five (45) days after the Architect receives the Application for Payment.

PAGE 5

5 percent

...

5 % monthly

...

Architect

PAGE 6

[X] Litigation in a court of competent jurisdiction

...

Justin Battles
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

Email Address: jbattles@cityofmustang.org

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...

Aaron Owen
1376 Fretz Dr. Edmond, OK 73003
Telephone Number: 405 285-9333

Email Address: aaron@ac-owen.com

PAGE 7

Full Set of Construction Documents issued for Bids	June 26, 2017	

...

Complete Project Manual issued for Bids	June 26, 2017	All

...

Addendum One	July 20, 2017	All
Addendum Two	July 27, 2017	All
Addendum Three	July 31, 2017	All
Addendum Four	August 2, 2017	All

PAGE 8

Jay Adams, Mayor

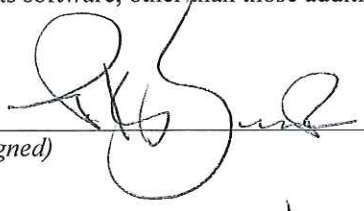
Aaron Owen

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Patrick K. Bumpas, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:48:58 on 08/16/2017 under Order No. 9689794009 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Architect

(Title)

8.17.17

(Dated)

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AIA® Document A101™ – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Twenty-second day of August in the year Two thousand seventeen *(In words, indicate day, month and year.)*

for the following **PROJECT**:
(Name and location or address)

Mustang Town Center Renovation Expansion
1201 N. Mustang Road, Mustang, Oklahoma 73064

THE OWNER:
(Name, legal status and address)

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

THE CONTRACTOR:
(Name, legal status and address)

AC Owen Construction
1376 Fretz Dr. Edmond, OK 73003

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201™–2017, General Conditions of the Contract for Construction. Article 11 of A201™–2017 contains additional insurance provisions.

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to

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the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance,** to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance,** for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance,** for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance,** to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance,** for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance,** for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance,** to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

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[ ] § A.2.5.2 Other Insurance

(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than Two million Dollars ($ 2000000) each occurrence, Four million Dollars ($ 4000000) general aggregate, and Four million Dollars ($ 4000000) aggregate for products-completed operations hazard, providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

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§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than Two million Dollars ($ 2000000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than Two million Dollars ($ 2000000) each accident, Two million Dollars ($ 2000000) each employee, and Four million Dollars ($ 4000000) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than Zero Dollars ($ 0) per claim and Zero Dollars ($ 0) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than Zero Dollars ($ 0) per claim and Zero Dollars ($ 0) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than Zero Dollars ($ 0) per claim and Zero Dollars ($ 0) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than Zero Dollars ($ 0) per claim and Zero Dollars ($ 0) in the aggregate.

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§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than Zero Dollars ($ 0) per claim and Zero Dollars ($ 0) in the aggregate.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.
(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[X] **§ A.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

Builders Risk Insurance for portions of building impacted by construction project

[ ] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[ ] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[X] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[X] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[ ] **§ A.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits

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§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	Comply with 61 OK Statute 113
Performance Bond	Comply with 61 OK Statute 113

ayment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

Statutory Bond Comply with 61 OK Statute 113
Defective Workmanship and Material Bond Comply with 61 OK Statute 113
Builders Risk 100% of contract sum plus 3%

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Additions and Deletions Report for
AIA® Document A101™ – 2017 Exhibit A

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Twenty-second day of August in the year Two thousand seventeen

...

Mustang Town Center Renovation Expansion
1201 N. Mustang Road, Mustang, Oklahoma 73064

...

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

...

AC Owen Construction
1376 Fretz Dr. Edmond, OK 73003

PAGE 4

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than Two million Dollars ($ 2000000) each occurrence, Four million Dollars ($ 4000000) general aggregate, and Four million Dollars ($ 4000000) aggregate for products-completed operations hazard, providing coverage for claims including

PAGE 5

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than Two million Dollars ($ 2000000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

...

§ A.3.2.6 Employers' Liability with policy limits not less than Two million Dollars ($ 2000000) each accident, Two million Dollars ($ 2000000) each employee, and Four million Dollars ($ 4000000) policy limit.

...

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§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than Zero Dollars ($ 0) per claim and Zero Dollars ($ 0) in the aggregate.

...

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than Zero Dollars ($ 0) per claim and Zero Dollars ($ 0) in the aggregate.

...

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than Zero Dollars ($ 0) per claim and Zero Dollars ($ 0) in the aggregate.

...

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than Zero Dollars ($ 0) per claim and Zero Dollars ($ 0) in the aggregate.

PAGE 6

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than Zero Dollars ($ 0) per claim and Zero Dollars ($ 0) in the aggregate.

...

[X] **§ A.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:

...

Builders Risk Insurance for portions of building impacted by construction project

...

[X] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

...

[X] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

PAGE 7

Payment Bond — Comply with 61 OK Statute 113

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Performance Bond Comply with 61 OK Statute 113

...

~~Payment~~ ayment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

...

Statutory Bond Comply with 61 OK Statute 113
Defective Workmanship and Material Bond Comply with 61 OK Statute 113
Builders Risk 100% of contract sum plus 3%

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General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

Mustang Town Center Renovation Expansion
1201 N. Mustang Road, Mustang, Oklahoma 73064

THE OWNER:
(Name, legal status and address)

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

THE ARCHITECT:
(Name, legal status and address)

Red Prairie Design Group, Professional Limited Liability Company
4557 W. Memorial Rd.
Oklahoma, City, Oklahoma 73142

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 OWNER

3 CONTRACTOR

4 ARCHITECT

5 SUBCONTRACTORS

6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

7 CHANGES IN THE WORK

8 TIME

9 PAYMENTS AND COMPLETION

10 PROTECTION OF PERSONS AND PROPERTY

11 INSURANCE AND BONDS

12 UNCOVERING AND CORRECTION OF WORK

13 MISCELLANEOUS PROVISIONS

14 TERMINATION OR SUSPENSION OF THE CONTRACT

ADDITIONS AND DELETIONS:
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For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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15 CLAIMS AND DISPUTES

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User Notes:
(3B9ADA37)

INDEX

(Topics and numbers in bold are Section headings.)

Acceptance of Nonconforming Work
9.6.6, 9.9.3, 12.3
Acceptance of Work
9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3
Access to Work
3.16, 6.2.1, 12.1
Accident Prevention
10
Acts and Omissions
3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5, 10.2.8, 13.3.2, 14.1, 15.1.2, 15.2
Addenda
1.1.1
Additional Costs, Claims for
3.7.4, 3.7.5, 10.3.2, 15.1.5
Additional Inspections and Testing
9.4.2, 9.8.3, 12.2.1, 13.4
Additional Time, Claims for
3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, 15.1.6
Administration of the Contract
3.1.3, 4.2, 9.4, 9.5
Advertisement or Invitation to Bid
1.1.1
Aesthetic Effect
4.2.13
Allowances
3.8
Applications for Payment
4.2.5, 7.3.9, 9.2, 9.3, 9.4, 9.5.1, 9.5.4, 9.6.3, 9.7, 9.10
Approvals
2.1.1, 2.3.1, 2.5, 3.1.3, 3.10.2, 3.12.8, 3.12.9, 3.12.10.1, 4.2.7, 9.3.2, 13.4.1
Arbitration
8.3.1, 15.3.2, 15.4
ARCHITECT
4
Architect, Definition of
4.1.1
Architect, Extent of Authority
2.5, 3.12.7, 4.1.2, 4.2, 5.2, 6.3, 7.1.2, 7.3.4, 7.4, 9.2, 9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1, 13.4.1, 13.4.2, 14.2.2, 14.2.4, 15.1.4, 15.2.1
Architect, Limitations of Authority and Responsibility
2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3, 4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2, 9.5.4, 9.6.4, 15.1.4, 15.2
Architect's Additional Services and Expenses
2.5, 12.2.1, 13.4.2, 13.4.3, 14.2.4
Architect's Administration of the Contract
3.1.3, 3.7.4, 15.2, 9.4.1, 9.5
Architect's Approvals
2.5, 3.1.3, 3.5, 3.10.2, 4.2.7
Architect's Authority to Reject Work
3.5, 4.2.6, 12.1.2, 12.2.1
Architect's Copyright
1.1.7, 1.5
Architect's Decisions
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1, 13.4.2, 15.2
Architect's Inspections
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.4
Architect's Instructions
3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.4.2
Architect's Interpretations
4.2.11, 4.2.12
Architect's Project Representative
4.2.10
Architect's Relationship with Contractor
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.2, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.3.2, 13.4, 15.2
Architect's Relationship with Subcontractors
1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3
Architect's Representations
9.4.2, 9.5.1, 9.10.1
Architect's Site Visits
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4
Asbestos
10.3.1
Attorneys' Fees
3.18.1, 9.6.8, 9.10.2, 10.3.3
Award of Separate Contracts
6.1.1, 6.1.2
Award of Subcontracts and Other Contracts for Portions of the Work
5.2
Basic Definitions
1.1
Bidding Requirements
1.1.1
Binding Dispute Resolution
8.3.1, 9.7, 11.5, 13.1, 15.1.2, 15.1.3, 15.2.1, 15.2.5, 15.2.6.1, 15.3.1, 15.3.2, 15.3.3, 15.4.1
Bonds, Lien
7.3.4.4, 9.6.8, 9.10.2, 9.10.3
Bonds, Performance, and Payment
7.3.4.4, 9.6.7, 9.10.3, 11.1.2, 11.1.3, 11.5
Building Information Models Use and Reliance
1.8
Building Permit
3.7.1
Capitalization
1.3
Certificate of Substantial Completion
9.8.3, 9.8.4, 9.8.5

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Certificates for Payment
4.2.1, 4.2.5, 4.2.9, 9.3.3, 9.4, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.4
Certificates of Inspection, Testing or Approval
13.4.4
Certificates of Insurance
9.10.2
Change Orders
1.1.1, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8, 5.2.3, 7.1.2, 7.1.3, 7.2, 7.3.2, 7.3.7, 7.3.9, 7.3.10, 8.3.1, 9.3.1.1, 9.10.3, 10.3.2, 11.2, 11.5, 12.1.2
Change Orders, Definition of
7.2.1
CHANGES IN THE WORK
2.2.2, 3.11, 4.2.8, 7, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1, 11.5
Claims, Definition of
15.1.1
Claims, Notice of
1.6.2, 15.1.3
CLAIMS AND DISPUTES
3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, 15, 15.4
Claims and Timely Assertion of Claims
15.4.1
Claims for Additional Cost
3.2.4, 3.3.1, 3.7.4, 7.3.9, 9.5.2, 10.2.5, 10.3.2, 15.1.5
Claims for Additional Time
3.2.4, 3.3.1, 3.7.4, 6.1.1, 8.3.2, 9.5.2, 10.3.2, 15.1.6
Concealed or Unknown Conditions, Claims for
3.7.4
Claims for Damages
3.2.4, 3.18, 8.3.3, 9.5.1, 9.6.7, 10.2.5, 10.3.3, 11.3, 11.3.2, 14.2.4, 15.1.7
Claims Subject to Arbitration
15.4.1
Cleaning Up
3.15, 6.3
Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3, 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.2, 15.1.5
Commencement of the Work, Definition of
8.1.2
Communications
3.9.1, 4.2.4
Completion, Conditions Relating to
3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1, 9.10, 12.2, 14.1.2, 15.1.2
COMPLETION, PAYMENTS AND
9
Completion, Substantial
3.10.1, 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2
Compliance with Laws
2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14.1.1, 14.2.1.3, 15.2.8, 15.4.2, 15.4.3
Concealed or Unknown Conditions
3.7.4, 4.2.8, 8.3.1, 10.3
Conditions of the Contract
1.1.1, 6.1.1, 6.1.4
Consent, Written
3.4.2, 3.14.2, 4.1.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 13.2, 15.4.4.2
Consolidation or Joinder
15.4.4
CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
1.1.4, 6
Construction Change Directive, Definition of
7.3.1
Construction Change Directives
1.1.1, 3.4.2, 3.11, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, 7.3, 9.3.1.1
Construction Schedules, Contractor's
3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2
Contingent Assignment of Subcontracts
5.4, 14.2.2.2
Continuing Contract Performance
15.1.4
Contract, Definition of
1.1.2
CONTRACT, TERMINATION OR SUSPENSION OF THE
5.4.1.1, 5.4.2, 11.5, 14
Contract Administration
3.1.3, 4, 9.4, 9.5
Contract Award and Execution, Conditions Relating to
3.7.1, 3.10, 5.2, 6.1
Contract Documents, Copies Furnished and Use of
1.5.2, 2.3.6, 5.3
Contract Documents, Definition of
1.1.1
Contract Sum
2.2.2, 2.2.4, 3.7.4, 3.7.5, 3.8, 3.10.2, 5.2.3, 7.3, 7.4, 9.1, 9.2, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.5, 12.1.2, 12.3, 14.2.4, 14.3.2, 15.1.4.2, 15.1.5, 15.2.5
Contract Sum, Definition of
9.1
Contract Time
1.1.4, 2.2.1, 2.2.2, 3.7.4, 3.7.5, 3.10.2, 5.2.3, 6.1.5, 7.2.1.3, 7.3.1, 7.3.5, 7.3.6, 7, 7, 7.3.10, 7.4, 8.1.1, 8.2.1, 8.2.3, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 12.1.2, 14.3.2, 15.1.4.2, 15.1.6.1, 15.2.5
Contract Time, Definition of
8.1.1
CONTRACTOR
3
Contractor, Definition of
3.1, 6.1.2
Contractor's Construction and Submittal Schedules
3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2
Contractor's Employees

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2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.3, 14.1, 14.2.1.1
Contractor's Liability Insurance
11.1
Contractor's Relationship with Separate Contractors and Owner's Forces
3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4
Contractor's Relationship with Subcontractors
1.2.2, 2.2.4, 3.3.2, 3.18.1, 3.18.2, 4.2.4, 5, 9.6.2, 9.6.7, 9.10.2, 11.2, 11.3, 11.4
Contractor's Relationship with the Architect
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5.1, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.4, 15.1.3, 15.2.1
Contractor's Representations
3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2
Contractor's Responsibility for Those Performing the Work
3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8
Contractor's Review of Contract Documents
3.2
Contractor's Right to Stop the Work
2.2.2, 9.7
Contractor's Right to Terminate the Contract
14.1
Contractor's Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2, 9.8.3, 9.9.1, 9.10.2, 9.10.3
Contractor's Superintendent
3.9, 10.2.6
Contractor's Supervision and Construction Procedures
1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 7.3.6, 8.2, 10, 12, 14, 15.1.4
Coordination and Correlation
1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1
Copies Furnished of Drawings and Specifications
1.5, 2.3.6, 3.11
Copyrights
1.5, 3.17
Correction of Work
2.5, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, 12.2, 12.3, 15.1.3.1, 15.1.3.2, 15.2.1
Correlation and Intent of the Contract Documents
1.2
Cost, Definition of
7.3.4
Costs
2.5, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.4, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.2, 12.1.2, 12.2.1, 12.2.4, 13.4, 14
Cutting and Patching
3.14, 6.2.5
Damage to Construction of Owner or Separate Contractors
3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4
Damage to the Work
3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4
Damages, Claims for
3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.3.2, 11.3, 14.2.4, 15.1.7
Damages for Delay
6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.3.2, 14.3.2
Date of Commencement of the Work, Definition of
8.1.2
Date of Substantial Completion, Definition of
8.1.3
Day, Definition of
8.1.4
Decisions of the Architect
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.4.2, 14.2.2, 14.2.4, 15.1, 15.2
Decisions to Withhold Certification
9.4.1, 9.5, 9.7, 14.1.1.3
Defective or Nonconforming Work, Acceptance, Rejection and Correction of
2.5, 3.5, 4.2.6, 6.2.3, 9.5.1, 9.5.3, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1
Definitions
1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1, 15.1.1
Delays and Extensions of Time
3.2, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5
Digital Data Use and Transmission
1.7
Disputes
6.3, 7.3.9, 15.1, 15.2
Documents and Samples at the Site
3.11
Drawings, Definition of
1.1.5
Drawings and Specifications, Use and Ownership of
3.11
Effective Date of Insurance
8.2.2
Emergencies
10.4, 14.1.1.2, 15.1.5
Employees, Contractor's
3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3.3, 11.3, 14.1, 14.2.1.1
Equipment, Labor, or Materials
1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2
Execution and Progress of the Work
1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1, 9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4
Extensions of Time
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2, 10.4, 14.3, 15.1.6, 15.2.5

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Failure of Payment
9.5.1.3, 9.7, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2
Faulty Work
(See Defective or Nonconforming Work)
Final Completion and Final Payment
4.2.1, 4.2.9, 9.8.2, 9.10, 12.3, 14.2.4, 14.4.3
Financial Arrangements, Owner's
2.2.1, 13.2.2, 14.1.1.4
GENERAL PROVISIONS
1
Governing Law
13.1
Guarantees (See Warranty)
Hazardous Materials and Substances
10.2.4, 10.3
Identification of Subcontractors and Suppliers
5.2.1
Indemnification
3.17, 3.18, 9.6.8, 9.10.2, 10.3.3, 11.3
Information and Services Required of the Owner
2.1.2, 2.2, 2.3, 3.2.2, 3.12.10.1, 6.1.3, 6.1.4, 6.2.5,
9.6.1, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2,
14.1.1.4, 14.1.4, 15.1.4
Initial Decision
15.2
Initial Decision Maker, Definition of
1.1.8
Initial Decision Maker, Decisions
14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
Initial Decision Maker, Extent of Authority
14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
Injury or Damage to Person or Property
10.2.8, 10.4
Inspections
3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,
9.9.2, 9.10.1, 12.2.1, 13.4
Instructions to Bidders
1.1.1
Instructions to the Contractor
3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.4.2
Instruments of Service, Definition of
1.1.7
Insurance
6.1.1, 7.3.4, 8.2.2, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 10.2.5,
11
Insurance, Notice of Cancellation or Expiration
11.1.4, 11.2.3
Insurance, Contractor's Liability
11.1
Insurance, Effective Date of
8.2.2, 14.4.2
Insurance, Owner's Liability
11.2
Insurance, Property
10.2.5, 11.2, 11.4, 11.5
Insurance, Stored Materials
9.3.2
INSURANCE AND BONDS
11
Insurance Companies, Consent to Partial Occupancy
9.9.1
Insured loss, Adjustment and Settlement of
11.5
Intent of the Contract Documents
1.2.1, 4.2.7, 4.2.12, 4.2.13
Interest
13.5
Interpretation
1.1.8, 1.2.3, 1.4, 4.1.1, 5.1, 6.1.2, 15.1.1
Interpretations, Written
4.2.11, 4.2.12
Judgment on Final Award
15.4.2
Labor and Materials, Equipment
1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,
5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1,
10.2.4, 14.2.1.1, 14.2.1.2
Labor Disputes
8.3.1
Laws and Regulations
1.5, 2.3.2, 3.2.3, 3.2.4, 3.6, 3.7, 3.12.10, 3.13, 9.6.4,
9.9.1, 10.2.2, 13.1, 13.3.1, 13.4.2, 13.5, 14, 15.2.8,
15.4
Liens
2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8
Limitations, Statutes of
12.2.5, 15.1.2, 15.4.1.1
Limitations of Liability
3.2.2, 3.5, 3.12.10, 3.12.10.1, 3.17, 3.18.1, 4.2.6,
4.2.7, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.6.8, 10.2.5, 10.3.3,
11.3, 12.2.5, 13.3.1
Limitations of Time
2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7,
5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,
9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15,
15.1.2, 15.1.3, 15.1.5
Materials, Hazardous
10.2.4, 10.3
Materials, Labor, Equipment and
1.1.3, 1.1.6, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,
5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2,
10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2
Means, Methods, Techniques, Sequences and
Procedures of Construction
3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2
Mechanic's Lien
2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8
Mediation
8.3.1, 15.1.3.2, 15.2.1, 15.2.5, 15.2.6, 15.3, 15.4.1,
15.4.1.1
Minor Changes in the Work
1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1, 7.4
MISCELLANEOUS PROVISIONS
13

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Modifications, Definition of
1.1.1
Modifications to the Contract
1.1.1, 1.1.2, 2.5, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7, 10.3.2
Mutual Responsibility
6.2
Nonconforming Work, Acceptance of
9.6.6, 9.9.3, 12.3
Nonconforming Work, Rejection and Correction of
2.4, 2.5, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4, 12.2
Notice
1.6, 1.6.1, 1.6.2, 2.1.2, 2.2.2., 2.2.3, 2.2.4, 2.5, 3.2.4, 3.3.1, 3.7.4, 3.7.5, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 7.4, 8.2.2 9.6.8, 9.7, 9.10.1, 10.2.8, 10.3.2, 11.5, 12.2.2.1, 13.4.1, 13.4.2, 14.1, 14.2.2, 14.4.2, 15.1.3, 15.1.5, 15.1.6, 15.4.1
Notice of Cancellation or Expiration of Insurance
11.1.4, 11.2.3
Notice of Claims
1.6.2, 2.1.2, 3.7.4, 9.6.8, 10.2.8, 15.1.3, 15.1.5, 15.1.6, 15.2.8, 15.3.2, 15.4.1
Notice of Testing and Inspections
13.4.1, 13.4.2
Observations, Contractor's
3.2, 3.7.4
Occupancy
2.3.1, 9.6.6, 9.8
Orders, Written
1.1.1, 2.4, 3.9.2, 7, 8.2.2, 11.5, 12.1, 12.2.2.1, 13.4.2, 14.3.1
OWNER
2
Owner, Definition of
2.1.1
Owner, Evidence of Financial Arrangements
2.2, 13.2.2, 14.1.1.4
Owner, Information and Services Required of the
2.1.2, 2.2, 2.3, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2, 14.1.1.4, 14.1.4, 15.1.4
Owner's Authority
1.5, 2.1.1, 2.3.32.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1, 7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2, 10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4, 15.2.7
Owner's Insurance
11.2
Owner's Relationship with Subcontractors
1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2
Owner's Right to Carry Out the Work
2.5, 14.2.2
Owner's Right to Clean Up
6.3
Owner's Right to Perform Construction and to Award Separate Contracts
6.1
Owner's Right to Stop the Work
2.4
Owner's Right to Suspend the Work
14.3
Owner's Right to Terminate the Contract
14.2, 14.4
Ownership and Use of Drawings, Specifications and Other Instruments of Service
1.1.1, 1.1.6, 1.1.7, 1.5, 2.3.6, 3.2.2, 3.11, 3.17, 4.2.12, 5.3
Partial Occupancy or Use
9.6.6, 9.9
Patching, Cutting and
3.14, 6.2.5
Patents
3.17
Payment, Applications for
4.2.5, 7.3.9, 9.2, 9.3, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1, 14.2.3, 14.2.4, 14.4.3
Payment, Certificates for
4.2.5, 4.2.9, 9.3.3, 9.4, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4
Payment, Failure of
9.5.1.3, 9.7, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2
Payment, Final
4.2.1, 4.2.9, 9.10, 12.3, 14.2.4, 14.4.3
Payment Bond, Performance Bond and
7.3.4.4, 9.6.7, 9.10.3, 11.1.2
Payments, Progress
9.3, 9.6, 9.8.5, 9.10.3, 14.2.3, 15.1.4
PAYMENTS AND COMPLETION
9
Payments to Subcontractors
5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2
PCB
10.3.1
Performance Bond and Payment Bond
7.3.4.4, 9.6.7, 9.10.3, 11.1.2
Permits, Fees, Notices and Compliance with Laws
2.3.1, 3.7, 3.13, 7.3.4.4, 10.2.2
PERSONS AND PROPERTY, PROTECTION OF
10
Polychlorinated Biphenyl
10.3.1
Product Data, Definition of
3.12.2
Product Data and Samples, Shop Drawings
3.11, 3.12, 4.2.7
Progress and Completion
4.2.2, 8.2, 9.8, 9.9.1, 14.1.4, 15.1.4
Progress Payments
9.3, 9.6, 9.8.5, 9.10.3, 14.2.3, 15.1.4
Project, Definition of
1.1.4
Project Representatives

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4.2.10
Property Insurance
10.2.5, 11.2
Proposal Requirements
1.1.1
PROTECTION OF PERSONS AND PROPERTY
10
Regulations and Laws
1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8, 15.4
Rejection of Work
4.2.6, 12.2.1
Releases and Waivers of Liens
9.3.1, 9.10.2
Representations
3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1
Representatives
2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1
Responsibility for Those Performing the Work
3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10
Retainage
9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3
Review of Contract Documents and Field Conditions by Contractor
3.2, 3.12.7, 6.1.3
Review of Contractor's Submittals by Owner and Architect
3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2
Review of Shop Drawings, Product Data and Samples by Contractor
3.12
Rights and Remedies
1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2, 12.2.4, 13.3, 14, 15.4
Royalties, Patents and Copyrights
3.17
Rules and Notices for Arbitration
15.4.1
Safety of Persons and Property
10.2, 10.4
Safety Precautions and Programs
3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4
Samples, Definition of
3.12.3
Samples, Shop Drawings, Product Data and
3.11, 3.12, 4.2.7
Samples at the Site, Documents and
3.11
Schedule of Values
9.2, 9.3.1
Schedules, Construction
3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2
Separate Contracts and Contractors
1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2
Separate Contractors, Definition of
6.1.1
Shop Drawings, Definition of
3.12.1
Shop Drawings, Product Data and Samples
3.11, 3.12, 4.2.7
Site, Use of
3.13, 6.1.1, 6.2.1
Site Inspections
3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4
Site Visits, Architect's
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4
Special Inspections and Testing
4.2.6, 12.2.1, 13.4
Specifications, Definition of
1.1.6
Specifications
1.1.1, 1.1.6, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.14
Statute of Limitations
15.1.2, 15.4.1.1
Stopping the Work
2.2.2, 2.4, 9.7, 10.3, 14.1
Stored Materials
6.2.1, 9.3.2, 10.2.1.2, 10.2.4
Subcontractor, Definition of
5.1.1
SUBCONTRACTORS
5
Subcontractors, Work by
1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, 9.6.7
Subcontractual Relations
5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1
Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3, 9.8, 9.9.1, 9.10.2, 9.10.3
Submittal Schedule
3.10.2, 3.12.5, 4.2.7
Subrogation, Waivers of
6.1.1, 11.3
Substances, Hazardous
10.3
Substantial Completion
4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2
Substantial Completion, Definition of
9.8.1
Substitution of Subcontractors
5.2.3, 5.2.4
Substitution of Architect
2.3.3
Substitutions of Materials
3.4.2, 3.5, 7.3.8
Sub-subcontractor, Definition of
5.1.2
Subsurface Conditions
3.7.4
Successors and Assigns

Init.
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13.2
Superintendent
3.9, 10.2.6
Supervision and Construction Procedures
1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4
Suppliers
1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6, 9.10.5, 14.2.1
Surety
5.4.1.2, 9.6.8, 9.8.5, 9.10.2, 9.10.3, 11.1.2, 14.2.2, 15.2.7
Surety, Consent of
9.8.5, 9.10.2, 9.10.3
Surveys
1.1.7, 2.3.4
Suspension by the Owner for Convenience
14.3
Suspension of the Work
3.7.5, 5.4.2, 14.3
Suspension or Termination of the Contract
5.4.1.1, 14
Taxes
3.6, 3.8.2.1, 7.3.4.4
Termination by the Contractor
14.1, 15.1.7
Termination by the Owner for Cause
5.4.1.1, 14.2, 15.1.7
Termination by the Owner for Convenience
14.4
Termination of the Architect
2.3.3
Termination of the Contractor Employment
14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT
14
Tests and Inspections
3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 10.3.2, 12.2.1, 13.4
TIME
8
Time, Delays and Extensions of
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5
Time Limits
2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15.1.2, 15.1.3, 15.4
Time Limits on Claims
3.7.4, 10.2.8, 15.1.2, 15.1.3
Title to Work
9.3.2, 9.3.3
UNCOVERING AND CORRECTION OF WORK
12
Uncovering of Work
12.1
Unforeseen Conditions, Concealed or Unknown
3.7.4, 8.3.1, 10.3
Unit Prices
7.3.3.2, 9.1.2
Use of Documents
1.1.1, 1.5, 2.3.6, 3.12.6, 5.3
Use of Site
3.13, 6.1.1, 6.2.1
Values, Schedule of
9.2, 9.3.1
Waiver of Claims by the Architect
13.3.2
Waiver of Claims by the Contractor
9.10.5, 13.3.2, 15.1.7
Waiver of Claims by the Owner
9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, 15.1.7
Waiver of Consequential Damages
14.2.4, 15.1.7
Waiver of Liens
9.3, 9.10.2, 9.10.4
Waivers of Subrogation
6.1.1, 11.3
Warranty
3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.2, 9.10.4, 12.2.2, 15.1.2
Weather Delays
8.3, 15.1.6.2
Work, Definition of
1.1.3
Written Consent
1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3, 13.2, 13.3.2, 15.4.4.2
Written Interpretations
4.2.11, 4.2.12
Written Orders
1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

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consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

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§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements,

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assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

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§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the

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Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

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§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the

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Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations

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and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor,

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prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work,

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promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- **.1** The change in the Work;
- **.2** The amount of the adjustment, if any, in the Contract Sum; and
- **.3** The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

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.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
.2 Unit prices stated in the Contract Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will

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affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and

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unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

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§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

.1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
.2 failure of the Work to comply with the requirements of the Contract Documents;
.3 terms of special warranties required by the Contract Documents; or
.4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

.1 employees on the Work and other persons who may be affected thereby;
.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

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§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

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ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

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§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to

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the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

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§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

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

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

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

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

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ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- **.1** repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers;
- **.3** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.4** otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance,

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the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

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§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the

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Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Additions and Deletions Report for
AIA® Document A201™ – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 12:45:42 on 08/09/2017.

PAGE 1

Mustang Town Center Renovation Expansion
1201 N. Mustang Road, Mustang, Oklahoma 73064

...

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

...

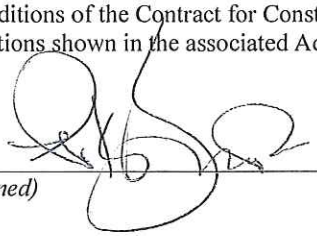
Red Prairie Design Group, Professional Limited Liability Company
4557 W. Memorial Rd.
Oklahoma, City, Oklahoma 73142

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User Notes: (3B9ADA37)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Patrick K. Bumpas, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:45:42 on 08/09/2017 under Order No. 9689794009 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Architect

(Title)

8.17.17

(Dated)

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User Notes: (3B9ADA37)

Bond #87C004054

Liberty Mutual SURETY

Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

Performance Bond

CONTRACTOR:
(Name, legal status and address)

A. C. Owen Construction, LLC
1376 Fretz Drive
Edmond, OK 73003

SURETY:
(Name, legal status and principal place of business)
The Ohio Casualty Insurance Company
62 Maple Avenue
Keene, New Hampshire 03431

OWNER:
(Name, legal status and address)
City of Mustang
1501 N. Mustang Rd.
Mustang, OK 73064

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification

Mailing Address for Notices
The Ohio Casualty Insurance Company

Attention: Surety Claims Department
1001 4th Avenue, Suite 1700
Seattle, WA 98154

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable

CONSTRUCTION CONTRACT
Date: August 22, 2017

Amount: $ 3,041,000.00

Description: Mustang Town Center Renovation Expansion - 1201 N. Mustang Road, Mustang, OK 73064
(Name and location)

BOND
Date: August 22, 2017
(Not earlier than Construction Contract Date)

Amount: $ 3,041,000.00

Modifications to this Bond: [X] None [ ] See Section 16

CONTRACTOR AS PRINCIPAL
Company: *(Corporate Seal)*
A. C. Owen Construction, LLC

Signature:
Name and Title: Aaron Owen, Managing Member

SURETY
Company: *(Corporate Seal)*
The Ohio Casualty Insurance Company

Signature: Vicki Wilson
Name and Title: Vicki Wilson, Attorney-in-fact

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:
Howell-Stone Insurance, Inc.
P. O. Box 5010
Edmond, OK 73083-5010
405-341-8330

OWNER'S REPRESENTATIVE:
(Architect, Engineer or other party:)
Red Prairie Design Group, Professional Limited Liability Company
4557 West Memorial Road
Oklahoma City, OK 73142

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

.1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

.2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

.3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
.2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL		SURETY	
Company:	*(Corporate Seal)*	Company:	*(Corporate Seal)*
Signature: _____		Signature: _____	
Name and Title:		Name and Title:	
Address		Address	

Liberty Mutual SURETY

Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

Payment Bond

CONTRACTOR:
(Name, legal status and address)
A. C. Owen Construction, LLC
1376 Fretz Drive
Edmond, OK 73003

SURETY:
(Name, legal status and principal place of business)
The Ohio Casualty Insurance Company
62 Maple Avenue
Keene, New Hampshire 03431

OWNER:
(Name, legal status and address)
City of Mustang
1501 N. Mustang Road
Mustang, OK 73064

Mailing Address for Notices
The Ohio Casualty Insurance Company

Attention: Surety Claims Department
1001 4th Avenue, Suite 1700
Seattle, WA 98154

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONSTRUCTION CONTRACT
Date: August 22, 2017

Amount: $ 3,041,000.00

Description: Mustang Town Center Renovation Expansion - 1201 N. Mustang Road, Mustang, OK 73064
(Name and location)

BOND
Date: August 22, 2017
(Not earlier than Construction Contract Date)

Amount: $ 3,041,000.00

Modifications to this Bond: [x] None [ ] See Section 18

CONTRACTOR AS PRINCIPAL
Company: *(Corporate Seal)*
A. C. Owen Construction, LLC

Signature:
Name and Title: Aaron Owen, Managing Member

SURETY
Company: *(Corporate Seal)*
The Ohio Casualty Insurance Company

Signature: Vicki Wilson
Name and Title: Vicki Wilson, Attorney-in-fact

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:
Howell-Stone Insurance, Inc.
P. O. Box 5010
Edmond, OK 73083-5010
405-341-8330

OWNER'S REPRESENTATIVE:
(Architect, Engineer or other party:)
Red Prairie Design Group, Professional Limited Liability Company
4557 West Memorial Road
Oklahoma City, OK 73142

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and

.2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

.1 the name of the Claimant;

.2 the name of the person for whom the labor was done, or materials or equipment furnished;

.3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;

.4 a brief description of the labor, materials or equipment furnished;

.5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;

.6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;

.7 the total amount of previous payments received by the Claimant; and

.8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanics's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL		SURETY	
Company:	*(Corporate Seal)*	Company:	*(Corporate Seal)*
Signature: _____		Signature: _____	
Name and Title:		Name and Title:	
Address		Address	

Statutory Defect Bond
61 O.S. 1991, Section 113 (B)(3)

KNOW ALL MEN BY THESE PRESENTS,

That A.C. Owen Construction, LLC, as Principal and The Ohio Casualty Insurance Company

a corporation organized under the laws of the State of New Hampshire and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound unto the City of Mustang in the penal sum of

Three Million Forty One Thousand & 00/100---------- Dollars ($ 3,041,000.00) in lawful money of the United States of America, said sum being equal to One Hundred percent (100%) of the Contract price, for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, executors, administrators, trustees, successors, and assigns, jointly and severally, firmly by these presents:

The condition of this obligation is such that:

WHEREAS, said Principal entered into a written contract with the City of Mustang, dated August 22nd, 2017, for

Mustang Town Center Renovation Expansion, 1201 N. Mustang Road, Mustang, OK 73064

all in compliance with the plans and specifications therefore, made a part of said contract and on file in the Red Prairie Design Group, Professional Limited Liability Company, 4557 West Memorial Road, Oklahoma City, OK 73142.

NOW, THEREFORE, if said Principal shall pay or cause to be paid to the City of Mustang all damage, loss, and expense which may result by reason of defective materials and/or workmanship in connection with said work, occurring within a period of one (1) year from and after the acceptance of said project by the City of Mustang; then this obligation shall be null and void, otherwise to be and remain in full force and effect.

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

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

DATED this 22nd day of August, 20 17 **PRINCIPAL:** A.C. Owen Construction, LLC

(Signature)

By: Aaron Owen
(Printed Name)

Managing Member
(Title)

(Seal)

ATTEST:

SURETY: The Ohio Casualty Insurance Company

(Attorney-in-Fact Signature)

By: Vicki Wilson
(Attorney-in-Fact Printed Name)

P. O. Box 5010
(Address)

Edmond, OK 73083-5010
(City, State, Zip)

405-341-8330
(Telephone)

(Seal)

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Certificate No. 7806944

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Austin K. Greenhaw; Clayton Howell; R. Brian Howell; Robert Jensen; Vicki Wilson; W. D. Howell, Jr.

all of the city of Edmond, state of OK each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 16th day of June, 2017.

The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

By: _____
David M. Carey, Assistant Secretary

STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 16th day of June, 2017, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: _____
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 22nd day of August, 20 17.

By: _____
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

ACOWENC-01 LCONWELL

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 08/22/2017

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

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

PRODUCER Howell-Stone Insurance, Inc. P.O. Box 5010 Edmond, OK 73083	CONTACT NAME: PHONE (A/C, No, Ext): (405) 341-8330 FAX (A/C, No): (405) 340-6784 E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Charter Oak Fire Ins Co	25615
INSURER B : Travelers Property & Cas Company of America	25674
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

A.C. Owen Construction, LLC.
1376 Fretz Drive
Edmond, OK 73003

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X		DT-CO-9E21428A-COF-17	08/23/2017	08/23/2018	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY	X		BA-9E21428A-17-CNS	08/23/2017	08/23/2018	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000	X		DTSM-CUP-9E21428A-TIL-17	08/23/2017	08/23/2018	EACH OCCURRENCE AGGREGATE Follow Form	$ 3,000,000 $ 3,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		DTJ-UB-5410B31-8-17	08/23/2017	08/23/2018	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Mustang Town Center Renovation Expansion - 1201 N. Mustang Rd. - Mustang, OK 73064
When required by written contract that is executed prior to loss, General Liability, Auto & Umbrella include Additional Insureds of: Owner, Architect, and Architects consultants. This coverage is primary and non-contributory.

CERTIFICATE HOLDER

City of Mustang
1501 N. Mustang Road
Mustang, OK 73064

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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LCONWELL

CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY): 08/22/2017

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

PRODUCER	CONTACT NAME:	
Howell-Stone Insurance, Inc. P.O. Box 5010 Edmond, OK 73083	PHONE (A/C, No, Ext): (405) 341-8330	FAX (A/C, No): (405) 340-6784
	E-MAIL ADDRESS:	
	PRODUCER CUSTOMER ID: ACOWENC-01	

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
A.C. Owen Construction, LLC; All Owners,Architects, Engineers, Contractors Sub-Contractors and Sub-Sub Contractors ATIMA 1376 Fretz Drive Edmond 73003	INSURER A : Phoenix Insurance Company	25623
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

LOCATION OF PREMISES / DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

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

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY	LIMITS
	[ ] PROPERTY CAUSES OF LOSS: [ ] BASIC [ ] BROAD [ ] SPECIAL [ ] EARTHQUAKE [ ] WIND [ ] FLOOD DEDUCTIBLES: BUILDING / CONTENTS				[ ] BUILDING [ ] PERSONAL PROPERTY [ ] BUSINESS INCOME [ ] EXTRA EXPENSE [ ] RENTAL VALUE [ ] BLANKET BUILDING [ ] BLANKET PERS PROP [ ] BLANKET BLDG & PP	$ $ $ $ $ $ $ $
A	[X] INLAND MARINE CAUSES OF LOSS [ ] NAMED PERILS [X] All Risk	TYPE OF POLICY: Builders Risk POLICY NUMBER: QT-660-4306B879-PHX-17	08/23/2017	08/23/2018	[X] See Below	$ $ $ $
	[ ] CRIME TYPE OF POLICY					$ $ $
	[ ] BOILER & MACHINERY / EQUIPMENT BREAKDOWN					$ $
						$ $

SPECIAL CONDITIONS / OTHER COVERAGES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Mustang Town Center Renovation Expansion - 1201 N. Mustang Road - Mustang, OK 73064
103% Contract Amount: $3,132,230.00

CERTIFICATE HOLDER

City of Mustang
1501 N. Mustang Road
Mustang, OK 73064

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CITY OF MUSTANG

AGENDA COMMENTARY

1. **ITEM**: H-6

2. **MEETING DATE**: September 5, 2017

3. **TITLE**: Approval of contract for project labeled Mustang Road Waterline Relocation

4. **COUNCIL ACTION**: Approve/Deny

5. **INITIATOR**: Justin Battles, Assistant City Manager

6. **BACKGROUND**:

The City of Mustang and Cowan Group Engineering published a notice to bidders for project labeled Mustang Road Waterline Relocation. This project is part of the South Mustang Road expansion and relocates the existing waterline. A total of 10 bids were accepted at the August 15 council meeting and motion was made to award to the lowest qualified bidder which is Southwest Water Works. Attached is the recommendation letter from Cowan Group as well as the contract and bonds for Southwest Water Works.

7. **FINANCIAL IMPACT**: $486,898.00

8. **STAFF'S COMMENTS:** Staff recommends approval.

9. **STAFF SOURCE:** Justin Battles, Assistant City Manager

COWANGROUP ENGINEERING
www.cowangroup.co

August 14, 2017

Tim Rooney, City Manager
Mustang Improvement Authority
1501 N. Mustang Road
Mustang, OK 73064

Reference: Mustang Road Waterline Relocation
Engineer's Recommendation for Award
Bid Number: MUS-WT17-001

Dear Mr. Rooney:

Pursuant to the bid opening held on August 10, 2017, attached please find the bid tabulation for the subject project. The bid consisted of ten (10) responsive bidders.

The apparent low bidder of $486,898.00 for the subject project is Southwest Water Works, LLC. Pursuant to the review of the bid package, bonds, and bid tabulation, the low bid is accurate and complete.

After careful review and consideration, Cowan Group Engineering recommends Mustang Improvement Authority award the subject contract to the low bidder, Southwest Water Works at $486.898.00.

Should you have any questions, please contact the undersigned at 405.463.3369.

Sincerely,

COWAN GROUP ENGINEERING, LLC

Michael Taylor

Michael Taylor, P.E.
Project Manager

cc: file

RICH & CARTMILL, INC.
INSURANCE · BONDS
Established in 1922.

August 17, 2017

Mustang Improvement Authority
1501 N. Mustang Road
Mustang, OK 73064

RE: Southwest Water Works, LLC
Bond #9262810
Mustang Road Waterline Relocation

Dear Sir/Madam:

Please let this letter serve as authorization to date the bonds and powers of attorney for the above-captioned bonds. This authority may be extended by you the owner, or to the architect, or their designated representatives.

Should you have any questions, please feel free to call.

Sincerely,

Shelli R. Samsel, Attorney-in-Fact for Fidelity and Deposit Company of Maryland

9401 Cedar Lake Avenue Oklahoma City, OK 73114-7810 405.418.8600 *toll free* 877.511.5959 *fax* 405.418.8641 rcins.com

CONTRACT AGREEMENT

THIS CONTRACT AND AGREEMENT, made and entered into this _____ day of _____, 20 _____ by and between the Mustang Improvement Authority, Mustang, Oklahoma, party of the first part, hereinafter termed "Owner", and Southwest Water Works, L.L.C., party of the second part, hereinafter termed "Contractor".

WITNESSETH:

WHEREAS, the Owner has caused to be prepared, in accordance with law, certain specifications, plans, and other bidding documents for the work hereinafter described and has approved and adopted all of said bidding documents and has received sealed proposals for furnishing materials, labor, and equipment for either of the indicated works.

This project consists of furnishing all required materials, supplies, equipment, tools, and plant to perform all necessary labor for the construction of Mustang Road Waterline Relocation.

The work shall be done in accordance with plans and specifications on file in the City Engineer's Office as outlined and set out in the bidding documents and in accordance with the terms, specifications, plans, and provisions of said Contract; and,

WHEREAS, Contractor, in response to request for bids, has submitted to the Mustang Improvement Authority in the manner and at the time specified, a sealed proposal in accordance with the terms of this Contract; and,

WHEREAS, the Mustang Improvement Authority, in the manner provided by law, has publicly opened, examined, and canvassed the proposals submitted and has determined and declared the above named Contractor to be the lowest responsible bidder on the above described project, and has duly awarded this Contract to said Contractor, for the sum named in the proposal to-wit:

$486,898.00

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

(1) That the Contractor hereby agrees to furnish all tools, equipment, materials, and labor, and to build and complete the above described project in accordance with the specifications therefore on file in the office of the City Clerk of Mustang, Oklahoma.

(2) That the Owner shall pay the Contractor for the work performed, as follows:

a. Payment for unit price items shall be at the unit price bid for actual construction quantities.

b. Construction items specified but not included as bid items shall be considered incidental and shall not be paid for directly, but shall be included in the bid price for any or all of the pay quantities.

c. At the end of each month the Engineer will make written estimates of the materials in place and accepted, and the amount of work performed in accordance with the contract during the current period of time between estimates and the value thereof computed at the contract unit prices. Payment to the Contractor shall be in the amount of the estimate minus the retainage as permitted by law.

d. Should any defective work or materials be discovered or should a reasonable doubt arise as to the quality of any work completed, there will be deducted from the next estimate an amount equal to the value of the defective or questionable work and shall not be paid until the defects are remedied.

e. And that the Contractor's bid is hereby made a part of this Agreement.

(3) That the Mustang Improvement Authority reserves the right to add to or subtract from the estimated quantities or amount of work to be performed. The work to be performed or deducted shall be at the unit price bid.

(4) That the Contractor will not undertake to furnish any materials or to perform any work not specifically authorized under the terms of this Agreement unless additional materials or work are authorized by written work directive change; and that in the event any additions are provided by the Contractor without such authorization, the Contractor shall not be entitled to any compensation therefor whatsoever.

(5) That if any additional work is performed or additional materials provided by the Contractor upon authorization by the Owner, the Contractor shall be compensated therefore at the unit price bid and as agreed to by both parties in the execution of the Change Order.

(6) That the Contractor shall perform the work and provide the materials strictly in accordance with the specifications as to quality and kind and all work and materials shall be subject to rejection by the Owner through its authorized representatives for failure to meet such requirements, and in the event of such rejection, the Contractor shall replace the work and materials without compensation therefore by the Owner.

(7) The Contractor shall complete the work in accordance with the terms of this Agreement within a period of time not to exceed **120 calendar days** following the issuance by the City Engineer of a Work Order authorizing the Contractor to commence work on the project.

(8) The Contractor shall furnish bonds and certificate of insurance as specified in the "Instructions to Bidders" and/or the "General Provisions", which must be approved by the Owner prior to issuance of the Work Order and commencement of the work on the project.

(9) On completion of the work, but prior to the acceptance thereof by the Mustang Improvement Authority, it shall be the duty of the City Engineer or other appropriate person to determine that said work has been completely and fully performed in accordance with said Contract Documents; and upon making such determination said official shall make his final certificate to the Mustang Improvement Authority.

(10) Liquidated damages shall be paid by the Contractor at the rate of **$500** per each and every **calendar** day required by him to complete the contract in excess of the contract time.

(11) APPROXIMATE QUANTITIES on all items which bids are to be received on a unit price basis; the quantities stated in the bid will not be used in establishing final payment due the contractor. The quantities stated, on which unit prices are invited, are approximate only and each bidder shall make his own estimate from the contract drawings of the quantities required on each

item and calculate his unit price bid for each item accordingly. Bids will be compared on the basis of number of units stated in the bidding schedule. Payment on the contract or unit price items will be based on the actual number of units installed in the completed work. No increases or decreases in the approximate quantities shall exceed twenty (20%) percent without approval of the City Engineer.

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

"OWNER" **MUSTANG IMPROVEMENT AUTHORITY**

By: _____

ATTEST

_____
City Clerk

APPROVED as to form and legality this _____ day of_____, 20_____.

_____
CITY ATTORNEY

APPROVED by the Mustang Improvement Authority this _____ day of _____, 20___.

"CONTRACTOR"

If an Individual: *(signature)*_____

doing business as: _____

If a Partnership: *(signature)*_____

By (*Printed Name and Title*): _____

Names of other partners: _____

If a Corporation: *(signature)* SOUTHWEST WATER WORKS L.L.C.

By (*Printed Name and Title*): PAUL MATTHEWS, MANAGING MEMBER

ATTEST:

Secretary

(CORPORATE SEAL)

SOUTHWEST WATER WORKS, L.L.C. LIMITED LIABILITY COMPANY SEAL OKLAHOMA

Business Address of Contractor

201 NW 132nd ST

OKC, OK

73114

WATER AND SEWER MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, Southwest Water Works, LLC, as Principal, and Fidelity and Deposit Company of Maryland as surety, are held and firmly bound unto the CITY OF MUSTANG, a Municipal Corporation, and City of the first class, or the State of Oklahoma, in the full and just sum of Five Hundred Thirty-Five Thousand, Five Hundred Eighty-Seven Dollars and Eighty Cents ($535,587.80), such sum being equal to 110% of the contract price, for a period of two (2) years, for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, and assigns, themselves, and its successors and assigns, jointly and severally, firmly by these presents.

Dated this 25th day of August, 2017. The conditions of this obligation are such that whereas, said Principal has constructed in the CITY OF MUSTANG: Mustang Road Waterline Relocation all in compliance with the plans and specifications therefore, made a part of said contract and on file at the City Of Mustang and to maintain the said improvement in the amount set forth against any failure due to workmanship or material for a period of 110% for two (2) years from the date of acceptance by the Council of the City of Mustang.

NOW, THEREFORE, if said Principal shall pay or cause to be paid to the City all damages, loss and expense which may result by reason of failure due to defective materials and/or workmanship in connection with said work occurring within a period of two (2) years from and after acceptance of said project by the City, then this obligation shall be null and void, otherwise, to be and remain in full force and effect.

It is further agreed that if the said Principal or Surety herein shall fail to maintain said improvements against any failure due to defective workmanship and/or material for a period of two (2) years and at any time repairs shall be necessary that the cost of making said repairs shall be determined by Council of the CITY OF MUSTANG, or some person or persons designated by them to ascertain the same, and if upon thirty (30) days' notice, that said amount ascertained shall not be paid by the Principal or Surety herein, or if the necessary repairs are not made, that said amount shall become due upon the expiration of thirty (30) days and suit may be maintained to recover the amount so determined in any court of competent jurisdiction. And that the amount so determined shall be conclusive upon the parties as to the amount due on this bond for the repair or repairs included therein, and that the cost of all repairs shall be so determined from time to time during the life of this bond as the condition of the improvements may require.

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

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

Attest:

Witness:

Vivian Dodson

Southwest Water Works, LLC
Principal

By:

Fidelity and Deposit Company of Maryland
Surety

By:
Attorney-in-Fact Shelli R. Samsel

Approved as to form this _____day of _____, 20_____.

City Attorney

REVIEWED AND APPROVED by the Mustang Improvement Authority this _____day of _____, 20_____

Attest:

Mayor

City Clerk

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That Southwest Water Works, LLC,

as Principal, and Fidelity and Deposit Company of Maryland,

a Corporation organized under the laws of the State of Maryland,

and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound

unto Mustang Improvement Authority

in the penal sum of Four Hundred Eighty-Six Thousand, Eight Hundred Ninety-Eight Dollars and no cents ($486,898.00) in lawful money of the United States of America, such sum being equal to the contract price for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, executors, administrators, trustees, successors, and assigns, jointly and severally, firmly by these presents.

DATED this 25th day of August, 2017.

The condition of this obligation is such that:

WHEREAS, said Principal entered into a written Contract with MUSTANG IMPROVEMENT AUTHORITY, dated September 5, 2017, for:

Mustang Road Waterline Relocation

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

NOW, THEREFORE, if said Principal shall, in all particulars, will truly and faithfully perform and abide by said Contract and each and every covenant, condition, and part thereof and shall fulfill all obligations resting upon said Principal by the terms of said Contract and said specifications; and if said Principal shall promptly pay, or cause to be paid, all labor materials and/or repairs and all bills for labor performed on said work, whether by subcontract or otherwise; and if said Principal shall protect and save harmless said Mustang Improvement Authority from all loss, damage, and expense to life or property suffered or sustained by any person, firm, or corporation caused by said Principal or his or its agents, servants, or employees in the construction of said work, or by or in consequence of any negligence, carelessness or misconduct in guarding and protecting the same, or from any act or omission of said Principal or his or its agents, servants, or employees, and if said Principal shall protect and save Mustang Improvement Authority harmless from all suits and claims in infringement or alleged infringement or patent rights or processes, then this obligation shall be null and void, otherwise to be and remain in full force and effect.

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

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

ATTEST:

PRINCIPAL:

Southwest Water Works, LLC

BY:

Surety:

Address of Surety or Agent:

1299 Zurich Way, 5th Floor

Fidelity and Deposit Company of Maryland

Schaumburg, IL 60196-1056

By:

Attorney-in-Fact Shelli R. Samsel

Telephone No. 847-605-6000

APPROVED as to form ~~and legality~~ this _____ day of _____, 20___.

CITY ATTORNEY

APPROVED by the Mustang Improvement Authority this _____ day of _____, 20_____.

ATTEST:

CITY CLERK

MAYOR

STATUTORY BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, Southwest Water Works, LLC, as Principal, and Fidelity and Deposit Company of Maryland, as Surety, authorized and, where required, licensed to transaction business in the State of Oklahoma, are held and firmly bound unto THE STATE OF OKLAHOMA, in the sum of Four Hundred Eighty-Six Thousand, Eight Hundred Ninety-Eight Dollars ($486,898.00), in lawful money of the United States of America, said sum being equal to One Hundred Percent (100%) of the contract price for the payment of which, well and truly to be made, we, and each of us, on behalf of ourselves and our heirs, executors, administrators, trustees, successors and assigns, jointly and severally, firmly by these presents:

The condition of this obligation is such that:

WHEREAS, said Principal entered into a written contract with the City of Mustang, State of Oklahoma, dated September 5, 2017, for Mustang Road Waterline Relocation (the "Contract"), for the erection and construction of said work and/or improvement, all in compliance with the plans and specifications therefore, made a part of said Contract and on file at the office of the City Clerk, City of Mustang, 1501 North Mustang Road, Mustang, Oklahoma 73064;

NOW, THEREFORE, if said Principal shall, in all particulars, properly and promptly complete the work and/or improvement in accordance with the Contract, pay all indebtedness the Principal incurs for the Principal's subcontractors and all suppliers of labor, material, rental of machinery or equipment, and pay for the repair of and parts for equipment the Contract requires the Principal to furnish, and protect and save harmless said City of Mustang, State of Oklahoma, from any pecuniary loss resulting from the breach of any of the covenants and conditions of said Contract resting upon said Principal, then this obligation shall be null and void, otherwise to be and remain in full force and effect. It is expressly agreed and understood by the parties hereto that no changes or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the surety, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, the said Principal has caused this Statutory Bond to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers, and the said Surety has caused this Bond to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact, duly authorized so to do, the day and year set forth below.

[Remainder of page intentionally left blank.]

Dated this 21st day of August, 20 17.

PRINCIPAL Southwest Water Works, LLC

ATTEST: _____
Secretary

By _____
Its Managing Member

SURETY

Fidelity and Deposit Company of Maryland

ATTEST: _____
~~Secretary~~ Witness - Vivian Dodson

By _____
It's Attorney-in-fact Shelli R. Samsel

REVIEWED and APPROVED by THE CITY OF MUSTANG this _____ day of _____, 20_____.

_____
MAYOR

ATTEST:

_____
City Clerk

Approved as to form this _____ day of _____, 20_____.

_____
Municipal Counselor

ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by **GERALD F. HALEY, Vice President,** in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **J. Kelly DEER, Travis E. BROWN, Jamie BURRIS, Vaughn P. GRAHAM, Stephen M. POLEMAN, Cindy M. REYNOLDS, Deborah L. RAPER, Dwight A. PILGRIM and Shelli R. SAMSEL, all of Tulsa, Oklahoma, EACH** its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings,** and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 31st day of March, A.D. 2017.

ATTEST:

ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By: _____
Assistant Secretary
Daniel Lutes

_____
Vice President
Gerald F. Haley

State of Maryland
County of Baltimore

On this 31st day of March, A.D. 2017, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **GERALD F. HALEY, Vice President, and DANIEL LUTES, Assistant Secretary,** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposeth and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

_____
Constance A. Dunn, Notary Public
My Commission Expires: July 9, 2019

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify of revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 21st day of August, 2017.

Michael Bond, Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT ALL REQUIRED INFORMATION TO:

Zurich American Insurance Co.
Attn: Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056

SOUTH62 OP ID: C7

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/16/2017

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

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

PRODUCER RICH & CARTMILL - OKC 9401 Cedar Lake Avenue Oklahoma City, OK 73114 Travis Brown	CONTACT NAME: Shirlene Chambers PHONE (A/C, No, Ext): 405-418-8606 FAX (A/C, No): 405-418-8641 E-MAIL ADDRESS: schambers@rcins.com
INSURED Southwest Water Works, LLC 201 NW 132nd St Oklahoma City, OK 73114	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: Valley Forge Ins Co — 20508 INSURER B: Continental Ins Co. — 35289 INSURER C: National Fire Ins Co of Hart — 20478 INSURER D: Continental Casualty Co — 20443 INSURER E: — INSURER F: —

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [ ] LOC OTHER:			5091051312	02/21/2017	02/21/2018	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS HIRED AUTOS SCHEDULED AUTOS NON-OWNED AUTOS			5091051326	02/21/2017	02/21/2018	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
D	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [X] RETENTION $ 10000			5091051309	02/21/2017	02/21/2018	EACH OCCURRENCE AGGREGATE	$ 4,000,000 $ 4,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [ ] N/A If yes, describe under DESCRIPTION OF OPERATIONS below			WC591051343	02/21/2017	02/21/2018	X PER STATUTE [ ] OTHER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Mustang Road Waterline Relocation

CERTIFICATE HOLDER

MUSTIM1

Mustang Improvement Authority
1501 N. Mustang Road
Mustang, OK 73064

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Travis E. Brown

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CITY OF MUSTANG

AGENDA COMMENTARY

1. ITEM: H-7

2. MEETING DATE: September 5, 2017

3. TITLE: Approval of resolution 18-013, participation with the State of Oklahoma Department of Transportation for the installation of traffic signals and intersection modification at State Highway 4 and Southwest 89th Street

4. COUNCIL ACTION: Approve/Deny

5. INITIATOR: Justin Battles, Assistant City Manager

6. BACKGROUND:

Design work is underway for improvements to Southwest 89th Street. During the process it was identified that a traffic signal at State Highway 4 and Southwest 89th was needed. The attached resolution would allow for installation of the traffic signal at this location and the City of Mustang to be responsible for 20% of the installation cost and 100% percent of the maintenance of the signal. The additional 80% installation cost would be funded by the Oklahoma Department of Transportation.

7. FINANCIAL IMPACT: $46,000

8. STAFF'S COMMENTS: Staff recommends approval. Project funding provided by Sales Tax Extension approved August 23, 2016.

9. STAFF SOURCE: Justin Battles, Assistant City Manager

RESOLUTION NO.18-013

A RESOLUTION APPROVING PARTICIPATION WITH THE STATE OF OKLAHOMA DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF TRAFFIC SIGNALS AND INTERSECTION MODIFICATION AT STATE HIGHWAY 4 AND SOUTHWEST 89TH STREET

WHEREAS, the Department of Transportation has performed studies for the intersection(s) of State Highway 4 and Southwest 89th Street in the City of Mustang, Oklahoma and said studies recommends that traffic signals be installed and that the intersection(s) be modified.

WHEREAS, the engineer's preliminary estimate of construction cost is $230,000.

WHEREAS, the Department of Transportation agrees that Federal-aid program project funds shall be used to provide 80% of the total preliminary engineer's construction cost estimate for the traffic signals in the amount of $184,000. The City of Mustang, herein after called the City, agrees that local funds shall be used to provide their obligation of 20% of a total preliminary estimated cost of the traffic signals in the amount of $46,000.

WHEREAS, the City further agrees to deposit with the Oklahoma Department of Transportation the matching funds required prior to the advertisement for bids.

WHEREAS, the City further agrees to provide any additional matching funds required to satisfy their agreed participation share of the project costs, based on the Contract Bid Costs.

WHEREAS, the City further agrees to provide any additional matching funds required to satisfy their agreed participation share of the final project costs, as outlined in the maintenance agreement between the City and the Department.

WHEREAS, the City further agrees to engage a competent Professional Engineer to provide the necessary plans for completion of the project in accordance with Department of Transportation policies, standards and specifications.

WHEREAS, the City further agrees to provide any additional right-of-way necessary for the construction.

WHEREAS, the City further agrees to pay all expenses associated with relocating utilities conflicting with the new construction in the proposed project area.

WHEREAS, the City further agrees to execute a maintenance agreement to maintain the traffic signal to a level of service acceptable to the Department of Transportation and pay all utility expenses associated with the operation of the traffic signal.

PASSED AND APPROVED at the regular meeting of the City Council of the City of Mustang and duly signed by the Mayor this_____day of _____, 2017.

THE CITY OF _____, OKLAHOMA

BY:_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form and legality this _____day of _____, 2006.

_____ CITY ATTORNEY

City of Mustang
City Council
Agenda Item Commentary

1. ITEM NO. H-8

2. MEETING DATE: September 5, 2017

3. TITLE: Resignation of Councilman Kevin Riley

4. COUNCIL ACTION: Formally Accept

5. INITIATOR: Timothy Rooney, City Manager

6. BACKGROUND: At the August 15, 2017 City Council meeting, Councilman Kevin Riley announced that he was resigning his position as Ward 1 Councilmember for the City of Mustang as he will be moving outside of Ward 1 and outside of the City of Mustang. The resignation would become effective September 30, 2017.

   The Council needs to "formally accept" the resignation of Councilor Riley.

7. FINANCIAL IMPACT: None

8. STAFF COMMENTS: None

9. STAFF SOURCE: Timothy Rooney, City Manager

10. RESOLUTION / ORDINANCE: None

11. ATTACHMENTS: None

City of Mustang
City Council
Agenda Item Commentary

1. ITEM NO. H-9

2. MEETING DATE: September 5, 2017

3. TITLE: Process for Appointment to Fill Ward 1 Vacancy

4. COUNCIL ACTION: Approve

5. INITIATOR: Timothy Rooney, City Manager

6. BACKGROUND: Councilman Kevin Riley has announced his resignation from the City Council effective September 30, 2017. There is an item prior to this one on the City Council agenda to formally accept that resignation.

   Section 2-9 of the Mustang Charter states "When a vacancy occurs in the office of a Councilmember, except the Mayor, the governing body shall appoint, by a majority vote of the remaining members, a person who resides in the ward of the vacant office to fill the vacancy until the next general municipal election, and until a successor is elected and qualifies. Any vacancy shall then be filled at the next general municipal election by election of a person to complete the balance of any unexpired term. If the vacancy has not been filled within sixty (60) days after it occurs, the governing body shall call for a special election for the purpose of filling the vacancy for the duration of the unexpired term, unless such vacancy occurs within one hundred twenty (120) days prior to the first day of a filing period for the next general municipal election."

   The Mustang Charter and the Mustang Code of Ordinances is quiet, however, on the process to make an appointment. With that in mind, staff is recommending the following process be adopted by the City Council for the appointment of a resident of Ward 1 to serve on the City Council:

   - Provide an advertisement in both local papers that notifies the public of the Ward 1 Vacancy. The advertisement would state that the City of Mustang City Council is accepting letters of interest from residents of Ward 1 that would be willing to serve and are interested in being appointed to the City Council. Letters would be accepted through 5 PM on October 10, 2017. A copy of the advertisement is attached for your information and review.
   - All letters received would be provided to the City Council as they are received for review. Upon receipt of the letters, Councilmembers may want to individually follow-up with the interested citizen with any questions you may have.
   - An item will be placed on the October 17, 2017 agenda for the appointment of a Ward 1 Councilmember.

   Staff recommends City Council adoption of the policy outlined above to be followed for appointment of a successor to Councilman Riley.

7. FINANCIAL IMPACT: Advertisement costs for both newspapers.

8. STAFF COMMENTS: None

9. STAFF SOURCE: Timothy Rooney, City Manager

10. RESOLUTION / ORDINANCE: None

11. ATTACHMENTS: Advertisement for Ward 1 Vacancy

NOTICE OF CITY COUNCIL VACANCY

The City of Mustang requests "letters of interest" from citizens interested in filling a vacancy on the City Council created by the resignation of the Ward 1 Councilmember. The person appointed by the Council to fill that vacancy must be a resident of Ward 1 of the City of Mustang for at least one (1) year prior to submitting their letter of interest. For a general description of the Ward 1 boundaries, see the Ward map located on the City of Mustang's website. The appointment shall be for a period of time until the next general City election for Ward 1. At that time, a Councilmember shall be elected to serve a full term.

Letters of interest shall contain information clearly indicating the address of the interested citizen, the satisfaction of the residency requirement, and other information the interested citizen should wish to include. All "letters of interest" will be accepted until October 10, 2017 at 5:00 PM. All letters must be mailed or delivered to:

City of Mustang
1501 N. Mustang Road
Mustang, OK 73064

Attn: Lisa Martin, City Clerk

The Mustang City Council expects to take action at the October 17, 2017 City Council meeting to fill the Ward 1 vacancy. Upon appointment by the City Council, the person selected shall immediately be administered the Oath of Office and seated as a member of the City Council.

MUSTANG IMPROVEMENT AUTHORITY
MUSTANG MUNICIPAL BUILDING
1501 N. MUSTANG ROAD
MUSTANG, OKLAHOMA 73064

SEPTEMBER 5, 2017
7:00 P.M.

AGENDA

A. CALL TO ORDER

B. ROLL CALL

C. NEW BUSINESS

D. CONSENT AGENDA

These items are considered on the Consent Agenda so that members of the Improvement Authority by unanimous consent can designate routine agenda items to be approved by one motion. If any item proposed on the Consent Agenda does not meet with approval of all Trustees that item will be removed and heard in regular order.

1. Approval of **08/01/2017** MIA Minutes
*2. Claims List for **FY 2017**
*3. Claims List for **FY 2018**
*4. Approval to Turn **Past Due Utility Accounts** over to the Collection Agency.

E. INFORMATION/REPORTS

1. Trustee Manager

2. Trustees

F. DISCUSSION ITEMS

*1. **Discussion, Consideration and Possible Action** regarding Approval of Contract for Public Safety Software Solution with Zuercher Technologies and authorizing the Mayor and City Staff to execute the contracts and other documents necessary to accomplish the same.

*2. **Discussion, Consideration and Possible Action** regarding Approval of Contract to Purchase Dispatch Consoles for Project labeled Public Safety Software Solution and authorizing the Mayor and City Staff to execute the contracts and other documents necessary to accomplish the same

*3. **Discussion, Consideration and Possible Action** regarding Approval of Contract and Bonds for Project labeled Mustang Road Waterline Relocation and authorizing the Mayor and City Staff to execute the contracts and other documents necessary to accomplish the same.

4. **Discussion, Consideration and Possible Action** regarding Approval of **Resolution Number 18-014**, a Resolution of the Trustees of the Mustang Improvement Authority (The "Authority") Setting Dates for Regular Meetings of the Board of Trustees Pursuant to Article VI(E) of that Certain Trust Indenture Dated the 4th Day of June, 1963, as Amended.

G. ADJOURNMENT

***Items Considered Concurrently on the City Council Agenda.**

MUSTANG IMPROVEMENT AUTHORITY
AUGUST 15, 2017

The Mustang Improvement Authority met in regular session on Tuesday, August 15, 2017, at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted on the Bulletin Board outside the Mustang Municipal Building on Friday, August 11, 2017, at 4:00 p.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

Chairman Adams called the meeting to order at **8:02 p.m.**

B. ROLL CALL

Trustees Present: **Adams**
Riley
Leete
Grider
Jones
Hagan
Schweinberg

Trustees Absent: **None**

C. NEW BUSINESS

None.

D. CONSENT AGENDA

1. Approval of **08/01/2017** MIA Minutes
*2. Claims List for **FY 2017**
*3. Claims List for **FY 2018**
4. Approval of **Resolution No. 18-012** making changes in the Mustang Improvement Authority Fund Budget by making a Supplemental Appropriation to Increase the 2017-2018 Fiscal Year Budget by $178,434.

MOTION was made by **Trustee Schweinberg**, seconded by **Trustee Grider**, to approve Items D-1 through D-4 of the Consent Agenda.

AYE: **Riley, Leete, Grider, Jones, Hagan, Schweinberg, Adams**
NAY: **None**

E. INFORMATION/REPORTS

1. Trustee Manager

None.

2. Trustees

None.

F. DISCUSSION ITEMS

None.

G. ADJOURNMENT

MOTION was made by **Trustee Grider**, seconded by **Trustee Riley**, to adjourn.

AYE: **Riley, Leete, Grider, Jones, Hagan, Schweinberg, Adams**
NAY: **None**

Meeting was adjourned at **8:03 p.m.**

_____
Jay Adams, Chairman

Attest:

_____
Lisa Martin, Secretary

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 72		WATER				
17-1980	01-00055	OG&E COMPANY	ELECTRIC SERVICE	6/2017	201708305998	94.53
					DEPARTMENT TOTAL:	94.53
					FUND TOTAL:	94.53
					GRAND TOTAL:	4,299.84

FUND: 66 - 2014A (2006) REVENUE NOTE SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 00		2014A NOTE PAYMENTS				
18-0560	01-C0281	MIA- 4TH PENNY EXCESS	TRANSFER INTEREST	8/2017	201708295924	32.13
					DEPARTMENT TOTAL:	32.13
					FUND TOTAL:	32.13

FUND: 68 - IMPROVEMENT AUTHORITY SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 68		GENERAL GOVERNMENT				
18-0003	01-B0024	BANCFIRST	2013 NOTE PAYMENT	9/2017	201708295939	94,053.92
18-0004	01-B0024	BANCFIRST	2009 OWRB LOAN PAYMENT	9/2017	201708295932	21,939.59
18-0037	01-B0024	BANCFIRST	2014B NOTE PAYMENT	9/2017	201708295940	17,930.42
18-0594	01-B0024	BANCFIRST	2016 NOTE PAYMENT	9/2017	201708295938	98,314.80
18-0091	01-E0043	EMERGENCY MEDICAL SERVICES	AMBULANCE ASSESSMENT	8/2017	201708295966	49,278.00
18-0664	01-H0132	HARDY CONTRUCTION	REFUND FOR WATER METER PE	8/2017	201708316003	70.00
18-0008	01-I0015	TYLER TECHNOLOGIES, INC	UB, COURT, ONLINE COMPONE	9/2017	025-199709A	192.00
18-0042	01-M0210	MUSTANG IMPROVEMENT AUTHORI	TRANSFER CIP FEE	9/2017	201708295937	31,000.00
18-0463	01-R0078	RED PRAIRIE DESIGN GROUP, P	DESIGN & CONSTRUCTION MGM	8/2017	201708316011	1,072.77
18-0017	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	9/2017	201708295942	8,333.34
18-0579	01-T0017	TERRACON	ENVIRONMENTAL STUDY FOR E	8/2017	201708295921	2,300.00
					DEPARTMENT TOTAL:	324,484.84
DEPARTMENT: 72		WATER				
18-0139	01-O0055	OG&E COMPANY	ELECTRIC SERVICE	8/2017	201708305997	25,618.48
					DEPARTMENT TOTAL:	25,618.48
DEPARTMENT: 75		SEWER				
18-0131	01-O0010	ONE GAS, INC.	GAS SERVICES	8/2017	201708295978	175.77
18-0139	01-O0055	OG&E COMPANY	ELECTRIC SERVICE	8/2017	201708305997	228.37
					DEPARTMENT TOTAL:	404.14
DEPARTMENT: 78		SANITATION				
18-0130	01-O0121	O.E.M.A.	SANITATION SERVICES	8/2017	84533	85,532.15
					DEPARTMENT TOTAL:	85,532.15
					FUND TOTAL:	436,039.61

City of Mustang
Mustang Improvement Authority
Agenda Item Commentary

1. ITEM NO. F(1) – Mustang Improvement Authority Regular Meeting Schedule

2. MEETING DATE: September 5, 2017

3. TITLE: DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING POSSIBLE APPROVAL OF A RESOLUTION NO. 18-014 OF THE TRUSTEES OF THE MUSTANG IMPROVEMENT AUTHORITY SETTING DATES FOR REGULAR MEETINGS OF THE BOARD OF TRUSTEES PURSUANT TO ARTICLE VI(E) OF THAT CERTAIN TRUST INDENTURE DATED THE 4TH DAY OF JUNE, 1963, AS AMENDED.

4. TRUSTEE ACTION: Approve/Deny

5. INITIATOR: City Manager

6. BACKGROUND: The City Council of the City of Mustang is considering reducing the number of regular meetings to one per month. The proposed Resolution for consideration by the Mustang Improvement Authority would reduce its regular meetings to one time per month.

7. FINANCIAL IMPACT: None

8. STAFF COMMENTS: Staff recommends approval.

9. STAFF SOURCE: City Attorney

10. RESOLUTION / ORDINANCE NO. 18-014

RESOLUTION NO. 18-014

A RESOLUTION OF THE TRUSTEES OF THE MUSTANG IMPROVEMENT AUTHORITY (THE "AUTHORITY") SETTING DATES FOR REGULAR MEETINGS OF THE BOARD OF TRUSTEES PURSUANT TO ARTICLE VI(E) OF THAT CERTAIN TRUST INDENTURE DATED THE 4TH DAY OF JUNE, 1963, AS AMENDED.

NOW, THEREFORE, BE IT RESOLVED BY THE TRUSTEES OF THE MUSTANG IMPROVEMENT AUTHORITY:

SECTION 1. DATES AND PLACE FOR REGULAR MEETINGS. Pursuant to Article VI(e) of that certain Trust Indenture dated the 4th day of June, 1963, as amended, the Board of Trustees of the Mustang Improvement Authority (the "Authority") shall hold regular meetings at 7:00 p.m. on the first Tuesday of every month immediately following the regular meeting of the Mustang City Council; provided that, if such a Tuesday falls on a holiday, the regular meeting shall be held at that time on the next day which is not a holiday.

Every meeting of the Authority shall be held in the council chamber in the municipal building, unless, in case of an emergency or special meeting, the chairman or the trustees calling a special meeting designate another place in the city for the holding of the special meeting; provided that any adjourned meeting may be held at any other place within the city designated by the Board of Trustees.

SECTION 2. EFFECTIVE DATE

This resolution shall take effect as of 12:01 a.m. on January 1, 2018.

PASSED AND ADOPTED THIS 5th DAY OF SEPTEMBER, 2017.

THE MUSTANG IMPROVEMENT AUTHORITY

_____
Chairman

ATTEST:

_____
Secretary

(SEAL)