

SAPULPA MUNICIPAL AUTHORITY MEETING

CITY HALL - 425 EAST DEWEY AVENUE

COUNCIL CHAMBERS, 2ND FLOOR

7:00 P.M., TUESDAY, JANUARY 21, 2020

MEETING PROCEDURE: Comments from the public are welcome at two different times during the course of the meeting. A Sign in Sheet is located at the back of the room. Those wishing to address the Municipal Authority are to sign in prior to the start of the meeting and identify the item(s) they wish to address. Comments concerning items scheduled on the Agenda will be heard immediately following the presentation by staff or petitioner and Comments concerning items not scheduled on the Agenda will only be heard under the Public Comments section. The Municipal Authority will act on an Item after all comments have been heard.

PLEASE COME TO THE PODIUM WHEN THE CHAIRMAN CALLS YOUR NAME

- AGENDA -

1. **CALL TO ORDER.**

2. **ROLL CALL.**

3. **MINUTES.**

- A. Consider approving the minutes of the January 6, 2020, regular municipal authority meeting.

4. **APPOINTMENTS, AWARDS, PRESENTATIONS, AND PROCLAMATIONS.**

5. **CONSENT ITEMS:** All matters under “Consent” are considered by the Municipal Authority to be routine and will be enacted by one motion. Any Municipal Authority Trustee may, however, remove an item from consent by request.

- A. Consider approving claims in the amount of \$485,115.53 (Refer to: Purchase Order Claims Register with City Agenda)

6. **PUBLIC HEARINGS.**

7. **ADMINISTRATION.**

- A. Discuss and consider submittal of Mixed Beverage License Application to ABLE Commission for the sale and consumption of alcoholic beverages at the City Golf Course.
- B. Discussion and possible action regarding the approval of a contract with CEC Corporation for on-call engineering.

8. **NEW BUSINESS.**

9. **INFORMATIONAL ITEMS FROM CHAIRMAN, BOARD OF TRUSTEES,
TRUST MANAGER, OR TRUST ATTORNEY.**

10. **PUBLIC COMMENTS:** The purpose of the Public Comments Section of the Agenda is for members of the public to speak to the Municipal Authority on any subject not scheduled on the Regular Agenda. The Municipal Authority shall make no decision or action, except to direct the Trust Manager to take action, or to schedule the matter for Municipal Authority discussion at a later date.

Please come to the podium when the Chairman calls your name and keep your comments as brief as possible.

11. **ADJOURNMENT.**

Posted this 17th day of January, 2020 at or before 5:30 p.m., at the Sapulpa City Hall, 425 East Dewey Avenue, Sapulpa, Oklahoma.

Name: *Mikaila Stepp*

Title: *Administrative Assistant*



AGENDA ITEM

Municipal Authority Regular

3. A.

Meeting Date: January 21, 2020

Submitted By: Shirley Burzio, City Clerk

Department: City Clerk

Presented By:

SUBJECT:

Consider approving the minutes of the January 6, 2020, regular municipal authority meeting.

BACKGROUND:

RECOMMENDATION:

Attachments

minutess.01-06-2020 sma

SAPULPA MUNICIPAL AUTHORITY
TRUST PROCEEDINGS
Meeting of January 6, 2020

The Board of Trustees of the Sapulpa Municipal Trust Authority met in regular session Monday, January 6, 2020, at 7:00 o'clock P.M. in the City Hall Council Chambers, 425 East Dewey Avenue, Sapulpa, Oklahoma.

Present: Reg Green, Chairman
Louis Martin, Jr., Vice-Chairman
John Anderson, Trustee
Bruce Bledsoe, Trustee
Marty Cummins, Trustee
Wes Galloway, Trustee
Carla Gunn, Trustee
Craig Henderson, Trustee
Hugo Naifeh, Trustee
John Suggs, Trustee

Staff Present: Trust Manager Joan Riley; Trust Treasurer Pam Vann;
Trust Attorney David Widdoes; Secretary Shirley Burzio

1. MINUTES, CONSENT ITEMS AND ADMINISTRATION

- A.** Consider approving the minutes of the December 16, 2019, regular municipal authority meeting.
- B.** Consider approving claims in the amount of \$123,898.41
- C.** Discuss and consider a Resolution of the City of Sapulpa, Oklahoma and the Sapulpa Municipal Authority, Sapulpa, Oklahoma amending the FY 2019-2020 annual budget by increasing appropriations by a total of \$627,190.00 to provide additional funding for the North Hickory Street and Canyon Road Projects. (Resolution No. 4601)
- D.** Discuss and consider a Resolution of the City of Sapulpa, Oklahoma and the Sapulpa Municipal Authority amending the FY 2019-2020 annual budget by increasing revenue and appropriations in the Water and Sewer Improvements Sales Tax Fund in the amount of \$8,610.00 to recognize reimbursements for damage to manholes and fence. (Resolution No. 4602)
- E.** Discuss and consider award of bid to Cherokee Pride Construction, Inc., in the amount of \$1,739,809.50, for paving improvements to Canyon Road from Freedom Road to 57th West Avenue, and authorize Chairman to execute all contract documents related thereto.

- F. Discuss and consider award of bid to Cherokee Pride Construction, Inc., in the amount of \$771,697.00, for paving improvements to Hickory Street from Line Avenue to West Muskogee, and authorize Chairman to execute all contract documents related thereto.

Motion was made by Louis Martin, Jr., seconded by Marty Cummins to approve Items A, B, C, D, E, F.

ROLL CALL: AYE: Reg Green, Louis Martin, Jr., John Anderson, Bruce Bledsoe, Marty Cummins, Wes Galloway, Carla Gunn, Craig Henderson, Hugo Naifeh, John Suggs

10 - 0 MOTION CARRIED

2. PUBLIC COMMENTS:

There were no comments made to the board.

3. ADJOURNMENT.

Motion was made by Louis Martin, Jr., seconded by Craig Henderson to adjourn the meeting.

ROLL CALL: AYE: Reg Green, Louis Martin, Jr., John Anderson, Bruce Bledsoe, Marty Cummins, Wes Galloway, Carla Gunn, Craig Henderson, Hugo Naifeh, John Suggs

10 - 0 MOTION CARRIED

Chairman

Attest:

Secretary



Consent Agenda 5. A.

Municipal Authority Regular

Meeting Date: January 21, 2020

Submitted For: Hailey Sharp, Accounts Payable Clerk

Submitted By: Amber Fisher, Accounts Payable Clerk

SUBJECT:

Consider approving claims in the amount of \$485,115.53 (Refer to: Purchase Order Claims Register with City Agenda)



AGENDA ITEM

Administration 7. A.

Municipal Authority Regular

Meeting Date: January 21, 2020

Submitted For: David Widdoes, City Attorney

Submitted By: Amy Hoehner, Legal Assistant

Department: Legal

Presented By: David Widdoes

SUBJECT:

Discuss and consider submittal of Mixed Beverage License Application to ABLE Commission for the sale and consumption of alcoholic beverages at the City Golf Course.

BACKGROUND:

The most effective way control and provide for the sale of alcoholic beverages at the Golf Course is for the City trust hold the required license from ABLE. The attached form is the required application which has been used and approved by ABLE to license other municipal golf courses in the state.

RECOMMENDATION:

Staff recommends the Trust approve and submit the application as stated.

Attachments

ABLE Commission Application



**ALCOHOLIC BEVERAGE LAWS
ENFORCEMENT COMMISSION**

3812 N. SANTA FE, SUITE 200
OKLAHOMA CITY, OK 73118
(405) 521-3484

MIXED BEVERAGE LICENSE APPLICATION CHECKLIST

Before completing the application packet read the information below:

- The building location must be completely constructed or within 60 days of completion of construction in order to apply for a license.
- **Both the application pages and additional items required must all be completed and provided for filing or the application will not be accepted (only exception; the certificate of compliance can be provided prior to license issuance).**
- The application will be reviewed and under investigation upon filing of application.
- The license fee is due upon filing the application. We accept cash, credit card, business check, money order, or cashier's check for walk-in customers. Mail-in customers can submit the license fee by money order, cashier's check, or business check only.
- File the completed application in person or by mail at the ABLE Commission, 3812 N. Santa Fe Avenue, Suite 200, Oklahoma City, OK 73118, Monday thru Friday 7:30 am to 4:30 pm.
- Contact the ABLE Commission office at (405) 521-3484 or visit our website at www.able.ok.gov for questions or general information.

Additional items an individual sole proprietor must provide:

- A Certificate of Liability Insurance showing coverage for both bodily injury and property damage.
- A deed, lease, management agreement, or sales contract in the individual's name.
- A Certificate of Compliance from the city or county where the business is located stating all building codes for zoning, fire, safety, and health are in compliance or are not required.
- A Tax Statement from the County Treasurer's office stating no real or personal property taxes are owed for the individual.

**ADDITIONAL ITEMS FOR CORPORATIONS, LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND TRIBES OR TRIBAL CORPORATIONS ARE LISTED UNDER THEIR
RESPECTIVE SECTIONS IN THE FOLLOWING APPLICATION.**



ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION

3812 N. SANTA FE, SUITE 200
OKLAHOMA CITY, OK 73118
(405) 521-3484

MIXED BEVERAGE LICENSE APPLICATION

Please complete the entire form. No licenses will be issued unless the ABLE Commission is able to verify the information provided. The ABLE Commission may request additional information not requested on this application. Additional information may be required prior to the issuance of any license.

MIXED BEVERAGE LICENSES AND FEES

Mixed Beverage License - \$1530

1. Primary Business at this Location			
<input type="checkbox"/> Restaurant			<input type="checkbox"/> Casino
<input type="checkbox"/> Bar/Club			<input type="checkbox"/> Entertainment Venue
<input type="checkbox"/> Motion Picture Theater			<input type="checkbox"/> Golf & Country Club
<input type="checkbox"/> Event Center			<input type="checkbox"/> Other _____
2. DBA Name of Location			
3. Location Address			
City	County	State	Zip
4. Mailing Address			
City	County	State	Zip
5. Business Phone Number	6. Alternate Phone Number	7. E-mail Address	

BUSINESS OWNERSHIP INFORMATION

8. Type of Owner	
<input type="checkbox"/> Individual	<input type="checkbox"/> Limited Liability Company
<input type="checkbox"/> Partnership	<input type="checkbox"/> Tribe
<input type="checkbox"/> Limited Partnership	<input type="checkbox"/> Tribal Corporation/Entity
<input type="checkbox"/> General Partnership	<input type="checkbox"/> Other _____
<input type="checkbox"/> Corporation	
9a. Name of Individual/Sole Proprietor (if owned by an individual)	9b. Social Security Number
10a. Name of Business Entity (if Partnership, Corp., LLC or Tribe)	10b. Federal Employer Identification #

BUSINESS OWNERSHIP INFORMATION

11. Was Premises Previously Licensed by the Commission

Yes No

If Yes, to Whom?

Type of License

12. Application Contact Person

Application Contact Address

Application Contact Phone Number

Application Contact E-Mail Address

13. Name of General Manager Onsite

General Manager Phone Number

14. Is your business located within 300 feet of a church or public school?

Yes No

15a. Where did your funding for this business originate? *Check and list all that apply.*

INVESTMENT TYPE	AMOUNT	INVESTMENT TYPE	AMOUNT
<input type="checkbox"/> Ongoing Business Funds	\$	<input type="checkbox"/> Cash/Personal Funds	\$
<input type="checkbox"/> Promissory Note	\$	<input type="checkbox"/> Services	\$
<input type="checkbox"/> Loan	\$	<input type="checkbox"/> Equipment	\$
<input type="checkbox"/> Gift	\$	<input type="checkbox"/> Operating Capital	\$
<input type="checkbox"/> Other	\$		

15b. Whom or where did the initial investment come from? *ex. Bank, family owned operation, line of credit, investment type, etc.*

I, _____, being duly sworn upon oath deposes and says: That he/she is the applicant who makes the above and foregoing application, that he/she has read and signed the same; knows the contents thereof and that all statements therein contained are true. Applicant(s) certifies that the statements and representations made herein are true and correct and consents that if any statements and representations herein are found to be false or omitted, that the Director may refuse to issue said license or may cause such license to be revoked forthwith at any time. He/She further agrees that he/she has filed all appropriate property with the County Assessor and that all ad valorem taxes assessed on his/her property, both real and personal, and wherever situated in the state of Oklahoma, have been paid.

Signature of Applicant(s)

CORPORATION / NON PROFIT ORGANIZATION

Corporations must complete this section and provide the following items:

- A Certificate of Good Standing from the Oklahoma Secretary of State. Contact (405) 521-4211
- A Certificate of Incorporation from the Secretary of State.
- A copy of Minutes Electing Corporate Officers, Directors, Stockholders, and applying for a license with ABLE.
- A Certificate of Liability Insurance showing coverage for both bodily injury and property damage.
- A deed, lease, management agreement, or sales contract in the name of the Corporation.
- A Certificate of Compliance from the city or county where the business is located stating all building codes for zoning, fire, safety, and health are in compliance or not required.
- A Tax Statement from the County Treasurer's office stating no real or personal property taxes are owed for the Corporation.
- *Not for profit & 501(c)(3) organizations are only required to list Officers, not Directors or Stockholders.*
- *Only Stockholders owning 15% or more are required to be reported for Corporations.*

1. Federal Employer Identification Number		
2. Business Entity Name		
3. No. of Shares Authorized to Issue	No. of Shares Issued	No. of Shares Unissued
4. Service Agent		Service Agent Address

CORPORATE OWNERSHIP INFORMATION

<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Stockholder <input type="checkbox"/> Trustee/Beneficiary			
First Name or Entity Name	MI	Last Name	Title
SSN or FEI #	Drivers License No./State	Birthdate (mm/dd/yyyy)	No. of Shares
<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Stockholder <input type="checkbox"/> Trustee/Beneficiary			
First Name or Entity Name	MI	Last Name	Title
SSN or FEI #	Drivers License No./State	Birthdate (mm/dd/yyyy)	No. of Shares
<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Stockholder <input type="checkbox"/> Trustee/Beneficiary			
First Name or Entity Name	MI	Last Name	Title
SSN or FEI #	Drivers License No./State	Birthdate (mm/dd/yyyy)	No. of Shares

CORPORATE OWNERSHIP INFORMATION (continued)

<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Stockholder <input type="checkbox"/> Trustee/Beneficiary			
First Name or Entity Name	MI	Last Name	Title
SSN or FEI #	Drivers License No./State	Birthdate (mm/dd/yyyy)	No. of Shares
<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Stockholder <input type="checkbox"/> Trustee/Beneficiary			
First Name or Entity Name	MI	Last Name	Title
SSN or FEI #	Drivers License No./State	Birthdate (mm/dd/yyyy)	No. of Shares
<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Stockholder <input type="checkbox"/> Trustee/Beneficiary			
First Name or Entity Name	MI	Last Name	Title
SSN or FEI #	Drivers License No./State	Birthdate (mm/dd/yyyy)	No. of Shares
<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Stockholder <input type="checkbox"/> Trustee/Beneficiary			
First Name or Entity Name	MI	Last Name	Title
SSN or FEI #	Drivers License No./State	Birthdate (mm/dd/yyyy)	No. of Shares
<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Stockholder <input type="checkbox"/> Trustee/Beneficiary			
First Name or Entity Name	MI	Last Name	Title
SSN or FEI #	Drivers License No./State	Birthdate (mm/dd/yyyy)	No. of Shares
<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Stockholder <input type="checkbox"/> Trustee/Beneficiary			
First Name or Entity Name	MI	Last Name	Title
SSN or FEI #	Drivers License No./State	Birthdate (mm/dd/yyyy)	No. of Shares
<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Stockholder <input type="checkbox"/> Trustee/Beneficiary			
First Name or Entity Name	MI	Last Name	Title
SSN or FEI #	Drivers License No./State	Birthdate (mm/dd/yyyy)	No. of Shares

IF YOU NEED MORE SPACE USE ADDITIONAL COPIES OF THIS PAGE

INDIVIDUAL PERSONAL HISTORY

MUST BE COMPLETED BY ALL APPLICANTS:

Individuals, partners, corporate officers, directors, stockholders, LLC managers, LLC members, tribal members, trustees, etc.

- Please complete all fields and answer all questions.
- Any false statement will disqualify you and subject you to prosecution under Oklahoma State law.

APPLICANT

1. First Name		2. MI	3. Last Name		4. Birthdate (mm/dd/yyyy)
5. Social Security Number		6. Drivers License No. / State		7. Place of Birth (City, State, Country)	
8. Sex	9. Height	10. Weight		11. Hair Color	12. Eye Color
13. Home Phone			14. Business Phone		
15. Email Address					

RESIDENTIAL ADDRESS

16. List residential addresses for the past (5) years starting with the current address. Attach a separate sheet if necessary.

NUMBER AND STREET	CITY, STATE, ZIP	FROM (mm/yyyy)	TO (mm/yyyy)

RESIDENT STATUS

17a. Are you a U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No	17b. If "Yes", answer the following <input type="checkbox"/> Native Born <input type="checkbox"/> Naturalized
17c. If "Naturalized" provide the "A" number?	17d. If "NO" what is your legal status in the U.S.?
17e. Provide all documents such as Visa, Resident Alien or Employment Authorization Documents	

CURRENT EMPLOYMENT

18a. Name of Employer	Employer's Address	
Title	From (mm/yyyy)	To (mm/yyyy)

INDIVIDUAL QUESTIONNAIRE

19a. Have you ever been convicted of, pled guilty to or nolo contendere to a felony?

Yes No

19b. Have you been convicted of any crime, violation or infraction of any law?

Yes No

19c. Are there presently pending against you any criminal charges?

Yes No

19d. Have you ever been convicted of a violation of any state or federal law relating to alcoholic beverages, or forfeited any bond while any such charge was pending against you?

Yes No

19e. If you have answered "Yes" to 19a through 19d, list below

OFFENSE	DATE	CITY/COUNTY STATE	DISPOSITION (fine, probation, incarceration)

20. Are you presently or have you been licensed or employed in the liquor business?

Yes No

LICENSE TYPE	LICENSE NUMBER	WHEN	LOCATION

21. Have you ever received a warning, a notice of violation, suspension, fine or revocation as a licensee?

Yes No

WHEN	LOCATION

22. Have you ever been refused a license to sell, serve or dispense alcoholic beverages?

Yes No

WHEN	LOCATION

23. Have you ever held or do you hold any financial interest in any liquor enterprise (manufacturing, importing, wholesale or retail)?

Yes No

WHEN	LOCATION

24a. Is your spouse or any family member(s) working in any area of the liquor industry?

Yes No

24b. If yes, for whom?

25a. Are you a member of any board or commission, or an agent or an employee of the state of Oklahoma or any political subdivision thereof? (County, City, Town or School District)

Yes No

25b. If yes, explain

INDIVIDUAL QUESTIONNAIRE (continued)

26a. Do you individually, or the legal entity to be licensed, have any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business of any ABLE Commission License?

Yes

No

26b. If yes, explain

27a. Does your interest result in exercise of control over, or participation in the management of the manufacture or wholesaler's business or business decisions?

Yes

No

27b. If yes, explain

28a. Are you a law enforcement official, a peace officer engaging in law enforcement activities or a person who appoints law enforcement officials?

Yes

No

28b. If yes, explain

29. Are you an employee of or related to any member of the ABLE Commission or to the Director or Assistant Director by affinity or consanguinity within the third degree?

Yes

No

30. Are you a judge, district attorney or public official who sits in a judicial capacity with jurisdiction over the Oklahoma Alcoholic Beverage Control Act?

Yes

No

31. Are you an employee of the Oklahoma Tax Commission engaging in auditing, enforcing or collecting of alcoholic beverage taxes?

Yes

No

I, _____, under penalty of law, swear that I have read all information provided in this document and any attachments and the information is true and correct. I also understand any false statement or representation in this application can result in my application being denied and/or criminal charges being filed against me. I also authorize the ABLE Commission to use all legal means to verify the information provided. I authorize any person or organization listed in this application to provide information about me to an Agent of the Oklahoma Alcoholic Beverage Law Enforcement Commission on a confidential basis, including bank and financial records, criminal history records, driving records, tax records and any other information relating to character or fitness for a liquor license. I will immediately notify the ABLE Commission if a Licensee-Wholesaler connection as described in the questionnaire above exists or is contemplated in my business.

Signature of Applicant

Title

LOCATION DIAGRAM

Draw or attach a diagram of the licensed premises. The diagram should include the following: outside dimensions, rooms, doorways, bars and liquor storage areas. **DO NOT SUBMIT BLUEPRINTS**

NOTICE OF INTENTION TO APPLY FOR AN ALCOHOLIC BEVERAGE LICENSE

1. Complete in detail
2. Copy to newspaper for publication
3. Said notice shall be published in not less than 2 column inches in a legal newspaper of general circulation in the county in which licensed premises are to be located.
4. The notice will be twice published, once every eight (8) days for two (2) successive weeks.
5. Submit original with application.

In accordance with Title 37, Section 522 and Title 37A, Section 2-141

name and address of individual, partners, limited partnership, corporation, limited liability company, tribe or tribal corporation

a/an _____ hereby publishes
individual, partnership, limited partnership, corporation, limited liability company, tribe or tribal corporation

notice of _____ intention to apply within sixty days from this date to the Oklahoma Alcoholic
his, her, its, their

Beverage Laws Enforcement Commission for a Mixed Beverage License under
authority of and in compliance with the said Act: That _____ intend(s), if granted
he, she, it, they

such license to operate as a Mixed Beverage establishment with business premises
located at _____

in _____, _____, Oklahoma under the business name of
city county

Dated this _____ day of _____, 20_____

Signature of applicant(s): if partnership, all partners must sign. If corporation, an officer of the corporation must sign. If limited liability company, a manager must sign. If tribe, a tribal member must sign.

County of _____, State of _____

Before me, the undersigned notary public, personally appeared:

to me known to be the person(s) described in and who executed the foregoing application and
acknowledged that _____ executed the same as _____ free act and deed.
he, she, they his, her, their

Notary Public

My commission expires

PROOF OF PUBLICATION

1. Attach a copy of each run of the publication.
2. Submit original completed proof of publication with application.
3. You may submit the publisher's affidavit form in place of the above affidavit.

I do hereby declare, under penalty of perjury, that _____
Name of legal newspaperdid cause to be published in a legal newspaper of general circulation in the county of _____ located in the city of _____, Oklahoma by causing the same to be published on the _____ day of _____, 20____ and on the _____ day of _____, 20____, a notice of intention to apply for an ABLE Commission License, and that a true copy of said notice is attached and made a part hereof.

Legal representative of the newspaper

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My commission expires



AGENDA ITEM

Administration 7. B.

Municipal Authority Regular

Meeting Date: January 21, 2020

Submitted For: Steve Hardt, Public Works Director

Submitted By: Shirley Burzio, City Clerk

Department: Public Works

Presented By: Steve Hardt

SUBJECT:

Discussion and possible action regarding the approval of a contract with CEC Corporation for on-call engineering.

BACKGROUND:

This agreement will provide for on-call engineering services from CEC Corporation.

RECOMMENDATION:

Staff recommends approval of the agreement and authorize the chairman to execute same.

Attachments

contract

**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

TASK ORDER EDITION

THIS IS AN AGREEMENT effective as of _____ (“Effective Date of the Agreement”) between
_____ (“Owner”) and
_____ (“Engineer”).
The City of Sapulpa, P.O. Box 1130, Sapulpa, OK 74067
CEC Corporation, 4555 W. Memorial Road, Oklahoma City, OK 73142

Other terms used in this Agreement are defined in Article 7.

From time to time Owner may request that Engineer provide professional services for Specific Projects. Each engagement will be documented by a Task Order. This Agreement sets forth the general terms and conditions which shall apply to all Task Orders duly executed under this Agreement.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

- A. Engineer’s services will be detailed in a duly executed Task Order for each Specific Project. The general format of a Task Order is shown in Attachment 1 to this Agreement. Each Task Order will indicate the specific services to be performed and deliverables to be provided.
- B. This Agreement is not a commitment by Owner to Engineer to issue any Task Orders.
- C. Engineer shall not be obligated to perform any prospective Task Order unless and until Owner and Engineer agree as to the particulars of the Specific Project, including the scope of Engineer’s services, time for performance, Engineer’s compensation, and all other appropriate matters.

1.02 *Task Order Procedure*

- A. Owner and Engineer shall agree on the scope, time for performance, and basis of compensation for each Task Order. With respect to the scope of Engineer’s services, each specific Task Order shall either 1) be accompanied by and incorporate a customized Exhibit A, “Engineer’s Services for Task Order,” prepared for the Specific Project, 2) state the scope of services in the Task Order document itself, or 3) incorporate by reference all or portions of Exhibit A, “Engineer’s Services for Task Order,” as attached to this Agreement. Each duly executed Task Order shall be subject to the terms and conditions of this Agreement.
- B. Engineer will commence performance as set forth in the Task Order.
- C. Engineer shall provide, or cause to be provided, the services set forth in the Task Order.

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth in this Agreement; in Exhibit B, "Owner's Responsibilities"; and in each Task Order.
- B. Owner shall pay Engineer as set forth in each Task Order, pursuant to the applicable terms of Article 4 and Exhibit C.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement; such responsibility extends to requirements, instructions, programs, reports, data, and other information furnished by Owner pursuant to any Task Order. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of: 1) any development that affects the scope or time of performance of Engineer’s services; 2) the presence at the Site of any Constituent of Concern; or 3) any relevant, material defect or nonconformance in Engineer’s services, the Work, the performance of any Constructor, or in Owner’s performance of its responsibilities under this Agreement.

ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES

3.01 *Term*

- A. This Agreement shall be effective and applicable to Task Orders issued hereunder for one (1) year from the Effective Date of the Agreement.
- B. The parties may extend or renew this Agreement, with or without changes, by written instrument establishing a new term.

3.02 *Times for Rendering Services*

- A. The Effective Date of the Task Order and the times for completing services or providing deliverables will be stated in each Task Order. Engineer is authorized to begin rendering services under a Task Order as of the Effective Date of the Task Order.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer’s services is impaired, or Engineer’s services are delayed or suspended, then the time for completion of Engineer’s services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Specific Project, or Engineer’s services, then the time for completion of Engineer’s services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.

- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.
- F. With respect to each Task Order, the number of Construction Contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established shall be identified in the Task Order. If the Work designed or specified by Engineer under a Task Order is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), then the Task Order will state the schedule for performance of Engineer's services in order to sequence and properly coordinate such services as are applicable to the Work under the Construction Contracts. If the Task Order does not address such sequencing and coordination, then Owner and Engineer shall jointly develop a schedule for sequencing and coordination of services prior to commencement of final design services; this schedule is to be prepared and included in or become an amendment to the authorizing Task Order whether or not the work under such contracts is to proceed concurrently.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices, the terms of Exhibit C, and the specific Task Order. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
 - 2. Engineer may, after giving seven days written notice to Owner, suspend services under any Task Order issued until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- D. *Sales or Use Taxes:* If after the Effective Date of a Task Order any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under the Task Order, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement

shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C and the specific Task Order.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs for a Specific Project shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures*
 1. Engineer and Owner shall comply with applicable Laws and Regulations.

2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
3. Each Task Order is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date of the Task Order. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date of the Task Order to Laws and Regulations;
 - b. the receipt by Engineer after the Effective Date of the Task Order of Owner-provided written policies and procedures;
 - c. changes after the Effective Date of the Task Order to Owner-provided policies or procedures.
- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain within its services for that Specific Project. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such document.
- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in the specific Task Order.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.
- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or for enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or

the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.

- N. While at a Site, Engineer, its Consultant, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. For each design performed or furnished, Engineer shall be responsible only for those Construction Phase services that have been expressly required of Engineer in the authorizing Task Order. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against Engineer that may be in any way connected to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in the authorizing Task Order.

6.03 *Use of Documents*

- A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Specific Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under the specific Task Order, then Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Specific Project. Engineer grants Owner a limited license to use the Documents on the Specific Project, extensions of the Specific Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and its Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Specific Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Specific Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Specific Project website, in accordance with a mutually agreeable protocol.
- B. If this Agreement or a Task Order does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

- A. Commencing with the Effective Date of the Agreement, Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer that is applicable to a Specific Project.
- B. Commencing with the Effective Date of the Agreement, Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability insurance policies carried by Owner, which are applicable to the Specific Project.
- C. Owner shall require Contractors to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Specific Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor.
- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished promptly after the Effective Date of the Agreement and at renewals thereafter during the life of this Agreement.
- E. All policies of property insurance relating to a Specific Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Specific Project. Owner and Engineer shall take appropriate measures in other Specific Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.

- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days' prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- G. Under the terms of any Task Order, or after commencement of performance of a Task Order, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner.

6.06 *Suspension and Termination*

A. *Suspension*

1. By Owner: Owner may suspend a Task Order for up to 90 days upon seven days written notice to Engineer.
2. By Engineer: Engineer may suspend services under a Task Order (a) if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or (b) in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.A.4.
3. A suspension on a specific Task Order, whether by Owner or Engineer, shall not affect the duty of the two parties to proceed with their obligations under other Task Orders.

B. *Termination for Cause—Task Order*: The obligation to provide further services under a specific Task Order may be terminated for cause:

1. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms of the specific Task Order or this Agreement, whose terms govern the specific Task Order, through no fault of the terminating party.
2. By Engineer:
 - a. upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - b. upon seven days written notice if the Engineer's services under a Task Order are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.A.5.
 - c. Engineer shall have no liability to Owner on account of such termination.
 - d. Notwithstanding the foregoing, neither this Agreement nor the Task Order will terminate under Paragraph 6.06.B.1 if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day

period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

- C. *Termination for Cause—Agreement:* In the case of a default by Owner in its obligation to pay Engineer for its services under more than one specific Task Order, Engineer may request immediate payment of all amounts invoiced on other Task Orders, and may invoice Owner for continued services on such Task Orders on a two-week billing cycle, with payment due within one week of an invoice. If Owner fails to make such payments, then upon seven days' notice Engineer may terminate this Agreement, including Engineer's services under all Task Orders.
- D. *Termination for Convenience by Owner:* Owner may terminate a Task Order or this Agreement for Owner's convenience, effective upon Engineer's receipt of notice from Owner.
- E. *Effective Date of Termination:* The terminating party under Paragraphs 6.06.B, C, and D may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Task Order materials in orderly files.
- F. *Payments Upon Termination:*
 - 1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with the specific Task Order and this Agreement, and for all expenses incurred through the effective date of termination, to the extent that the specific Task Order (or Task Orders) allows reimbursement for such expenses. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.
 - 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.F.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using the basis of compensation for Additional Services, as indicated in the specific Task Order.

6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws and Regulations of the Muscogee (Creek) Nation in which the Specific Project is located.

6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 - 3. The Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in any Construction Contract Documents prepared for any Specific Project under this Agreement.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.10 *Environmental Condition of Site*

- A. With respect to each specific Task Order, Specific Project, and Site (unless indicated otherwise in a specific Task Order):
 - 1. Owner represents to Engineer that as of the Effective Date of the Task Order, to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
 - 2. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (a) Owner and (b) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
 - 3. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
 - 4. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer

may, at its option and without liability for consequential or any other damages, immediately suspend performance of services on the portion of the Specific Project affected thereby until such portion of the Specific Project is no longer affected.

5. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under the specific Task Order, then the Engineer shall have the option of a) accepting an equitable adjustment in its compensation or in the time of completion, or both; or b) terminating the specific Task Order for cause on seven days' notice.
6. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under a specific Task Order or this Agreement.

6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to this Agreement, any Task Order, or any Specific Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. **This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."**
- B. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- C. *Percentage Share of Negligence:* To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- D. *Mutual Waiver:* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Task Order, or a Specific Project, from any cause or causes.

6.12 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims:* To the fullest extent permitted by Laws and Regulations, all causes of action arising under a Specific Project shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion of such Specific Project.
- F. *Applicability to Task Orders:* The terms and conditions set forth in this Agreement apply to each Task Order as if set forth in the Task Order, unless specifically modified. In the event of conflicts between this Agreement and a Task Order, the conflicting provisions of the Task Order shall take precedence for that Task Order. The provisions of this Agreement shall be modified only by a written instrument. Such amendments shall be applicable to all Task Orders issued after the effective date of the amendment if not otherwise set forth in the amendment.
- G. *Non-Exclusive Agreement:* Nothing herein shall establish an exclusive relationship between Owner and Engineer. Owner may enter into similar agreements with other professionals for the same or different types of services contemplated hereunder, and Engineer may enter into similar or different agreements with other project owners for the same or different services contemplated hereunder.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto and any Task Order) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits or Task Order, or in the following definitions:
 - 1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 - 2. *Additional Services*—Services to be performed for or furnished to Owner by Engineer in accordance with a Task Order, but which are not included in Basic Services for that Task Order.
 - 3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Article 8.

4. *Application for Payment*—The form acceptable to Engineer which is to be used by a Contractor in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with a specific Task Order, as specified in the Task Order (but not including Additional Services performed or furnished pursuant to an amendment to the specific Task Order).
6. *Change Order*—A document which is signed by a Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal*—A written request by a Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
9. *Construction Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
10. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
12. *Construction Contract Times*—The numbers of days or the dates by which a Contractor shall: a) achieve milestones, if any, in the Construction Contract; b) achieve Substantial Completion, and c) complete the Work.
13. *Construction Cost*—The cost to Owner of the construction of those portions of an entire Specific Project designed or specified by or for Engineer under this Agreement and the specific Task Order, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for

damage to property; Owner's costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with a Specific Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.

14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Specific Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and their employees, agents, and representatives.
15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to a Specific Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.
16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by a Contractor.
19. *Effective Date of the Agreement*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
20. *Effective Date of the Task Order*—The date indicated in the Task Order on which it becomes effective, but if no such date is indicated, it means the date on which the Task Order is signed and delivered by the last of the two parties to sign and deliver.
21. *Engineer*—The individual or entity named as such in this Agreement.
22. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Owner*—The individual or entity with which Engineer has entered into this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning Specific Projects.
25. *Record Drawings*—Drawings depicting the completed Specific Project, or a specific portion of the completed Specific Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change

Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.

26. *Resident Project Representative*—The authorized representative, if any, of Engineer assigned to assist Engineer at the Site of a Specific Project during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of the RPR. The duties and responsibilities of the RPR will be as set forth in each Task Order.
27. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
28. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for a Contractor and submitted by a Contractor to Engineer to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
29. *Site*—Lands or areas indicated in the Construction Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for use of a Contractor.
30. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
31. *Specific Project*—The total specific undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under a specific Task Order are a part.
32. *Subcontractor*—An individual or entity having a direct contract with a Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with a Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
35. *Task Order*—A document executed by Owner and Engineer, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services and other relevant information for a Specific Project.

36. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Specific Project, including Construction Cost and all other Specific Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, the total costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Specific Project, and the cost of other services to be provided by others to Owner.
37. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents for a Specific Project. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning; all as required by such Construction Contract Documents.
38. *Work Change Directive*—A written directive to a Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. *Day*: The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Suggested Form of Task Order*

- A. The Suggested Form of Task Order is attached as Attachment 1, and shall be used as the basis for preparing a specific Task Order for each Specific Project under this Agreement.

8.02 *Exhibits Included:*

- A. Exhibit A, Engineer's Services for Task Order. Services, tasks, and terms in Exhibit A as included with this Agreement are for reference in preparing the scope of services for specific Task Orders, and are contractually binding only to the extent expressly incorporated in a specific Task Order.
- B. Exhibit B, Owner's Responsibilities. This Exhibit applies to all Task Orders.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses. The terms of Exhibit C that will be applicable to and govern compensation under a specific Task Order will be determined by the selection of compensation methods made in Paragraph 6, "Payments to Engineer," of the specific Task Order.
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative. This Exhibit is not contractually binding except when expressly incorporated in a specific Task Order. **NOT APPLICABLE**
- E. Exhibit E, Notice of Acceptability of Work. Engineer shall use this Notice of Acceptability of Work form at the conclusion of construction on a Specific Project if 1) the form is expressly incorporated by reference in a specific Task Order, and Engineer's scope of services in the specific Task Order includes providing such a notice to Owner and Contractor, and 2) the Work is in fact acceptable pursuant to applicable requirements, subject to the terms of the notice. **NOT APPLICABLE**

- F. Exhibit F, Construction Cost Limit. This Exhibit is contractually binding only with respect to those specific Task Orders that 1) expressly incorporate Exhibit F by reference in the Task Order, Paragraph 2, "Services of Engineer," and 2) expressly state a specific Construction Cost Limit and contingency for the Specific Project in Paragraph 2, "Services of Engineer," of the specific Task Order. **NOT APPLICABLE**
- G. Exhibit G, Insurance. This Exhibit is applicable to all Task Orders.
- H. Exhibit H, Dispute Resolution. This Exhibit is applicable to all Task Orders.
- I. Exhibit I, Limitations of Liability. This Exhibit is applicable to all Task Orders.
- J. Exhibit J, Special Provisions. This Exhibit is applicable to all Task Orders.
- K. Exhibit K, Amendment to Task Order. Owner and Engineer may use this form during a Specific Project to modify the specific Task Order.

8.03 *Total Agreement*

- A. This Agreement (together with the Exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties.
- B. An executed Task Order under this Agreement (including any incorporated exhibits or attachments) constitutes the entire agreement between Owner and Engineer with respect to the Specific Project, and supersedes all prior written or oral understandings. Such a Task Order may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments to such a Task Order should be based whenever possible on the format of Exhibit K to this Agreement.

8.04 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party that the individual represents. Each Task Order shall likewise designate representatives of the two parties with respect to that Task Order.

8.05 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.05:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or b) to deprive Owner of the benefits of free and open competition;

3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on Page 1.

OWNER: City of Sapulpa

ENGINEER: CEC Corporation

By:

Print Name: James R. Floyd

By:

Print Name: Craig Ireland

Title:

Date Signed:

Title:

Date Signed:

Chief Financial Officer

Engineer License or Firm's Certificate No. (if required):

State of:

Date Signed:

Date Signed:

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

P.O. Box 1130

4555 W. Memorial Road

Sapulpa, OK 74067

Oklahoma City, OK 73142-2013

DESIGNATED REPRESENTATIVE
(Paragraph 8.04):

DESIGNATED REPRESENTATIVE
(Paragraph 8.04):

Shannon Hanks

Title:

Phone Number:

E-Mail Address:

Title: Streets & Stormwater Team Coordinator

Phone Number: 918.663.9401

E-Mail Address: shannon.hanks@connectcec.com



ATTACHMENT 1 – SAMPLE TASK ORDER FORM

Date

TASK ORDER NO. _____

_____ Services Associated with
Name and Location of Project
CEC No. _____

SCOPE OF WORK:

Services shall be rendered in accordance to the attached Proposal of Services provided by CEC Corporation (CEC) to the City of Sapulpa (CLIENT). If additional services are required, they may be authorized in writing only and added to this agreement as an additional Task Orders.

ADDITIONAL REQUIREMENTS:

The fee shall be invoiced progressively to CEC. Invoices sent shall be included in CEC's current request for payment to the Owner. Invoices received after the fifth (5th) of the month will be included in CEC's next request for payment. CEC shall pay CLIENT within ten (10) days after receipt by CEC of funds from OWNER in payment for work performed by CLIENT for which CLIENT has submitted a proper invoice and for which CLIENT is entitled payment under this Task Order.

TOTAL PROJECT COST: \$ _____

THE CITY OF SAPULPA

CEC CORPORATION (CEC)

Name:
Title:
Date:

Name:
Title:
Date:

Task Order Form

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This is **EXHIBIT A**, consisting of [1] pages, referred to in and part of the **Task Order** dated Oct 1, 2019.

Engineer's Services for Task Order

Engineer's services include, but are not limited to the following:

Survey and Mapping – Property boundary, transportation route and utility, control, topographic, ALTA, LiDAR, alignment, construction and right-of-way staking, easement preparation, GIS services

Design – Transportation planning and design, site planning and design, permitting, structural design - vertical and bridge, mechanical-electrical-plumbing, traffic engineering, water/wastewater design, stormwater analysis and design, water distribution design and wastewater collection design

Construction services – Construction management, contract administration and inspection

Materials Testing – Soils, aggregates, asphalt, concrete, masonry

Specific scope(s) for requested services will be provided by Engineer and agreed upon by both parties in a Project Specific Task Order.

Exhibit A – Engineer's Services

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This is **EXHIBIT B**, consisting of [3] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated Oct 1, 2019.

Owner's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following responsibilities unless expressly stated otherwise in a Task Order.

B2.01 Specific Responsibilities

A. Owner shall:

1. Provide Engineer with all criteria and full information as to Owner's requirements for the Specific Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
2. Furnish to Engineer any other available information pertinent to the Specific Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site of the Specific Project.
3. Following Engineer's assessment of initially-available Specific Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - a. Property descriptions.
 - b. Zoning, deed, and other land use restrictions.
 - c. Utility and topographic mapping and surveys.
 - d. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 - e. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.

Exhibit B– Owner's Responsibilities

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- f. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Specific Project, the Site, and adjacent areas.
 - g. Data or consultations as required for the Project but not otherwise identified in this Agreement.
4. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
5. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
 - a. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 - b. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 - c. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
6. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
7. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
8. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
9. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
10. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, other work is to be performed at or adjacent to the Site by others or by employees of Owner, or if Owner arranges to have work performed at the Site by utility owners, then Owner shall coordinate such work unless Owner designates an individual or entity to have authority and responsibility for

Exhibit B– Owner's Responsibilities

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coordinating the activities among the various prime Contractors and others performing work. In such case Owner shall define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

11. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
12. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
13. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
14. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
15. Place and pay for advertisement for Bids in appropriate publications.
16. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
17. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
18. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.

This is **EXHIBIT C**, consisting of [3] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated Oct 1, 2019.

Payments to Engineer for Services and Reimbursable Expenses

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER'S RESPONSIBILITIES

C2.01 Basis of Compensation

- A. The bases of compensation (compensation methods) for Basic Services (including if applicable the bases of compensation for individual phases of Basic Services) and for Additional Services shall be identified in each specific Task Order (see Suggested Form of Task Order, Paragraph 6). Owner shall pay Engineer for services in accordance with the applicable basis of compensation.
- B. The two following bases of compensation are used for services under the Task Orders, as identified in each specific Task Order:
 1. Lump Sum (plus any expenses expressly eligible for reimbursement)
 2. Standard Hourly Rates (plus any expenses expressly eligible for reimbursement)

C2.02 Explanation of Compensation Methods

A. Lump Sum

1. Owner shall pay Engineer a Lump Sum amount for the specified category of services.
2. The Lump Sum will include compensation for Engineer's services and services of Consultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, Reimbursable Expenses, and Consultant charges.
3. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.

B. Standard Hourly Rates

1. For the specified category of services, the Owner shall pay Engineer an amount equal to the cumulative hours charged to the Specific Project by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class for all services performed on the Specific Project, plus Reimbursable Expenses and Consultant's charges, if any.

2. Standard Hourly Rates include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
3. Engineer's Standard Hourly Rates and Materials Testing Rates are attached to this Exhibit as Appendices 1 and 2.
4. The total estimated compensation for the specified category of services shall be stated in the Task Order. This total estimated compensation will incorporate all labor at Standard Hourly Rates, Reimbursable Expenses, and Consultants' charges, if any.
5. The amounts billed will be based on the percent complete milestones of the project and/or cumulative hours charged to the specified category of services on the Specific Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Consultant's charges, if any.
6. The Standard Hourly Rates and Reimbursable Expenses Schedule shall be adjusted annually (as of January 2018) to reflect equitable changes in the compensation payable to Engineer.

C2.03 *Reimbursable Expenses*

- A. Under the Lump Sum method basis of compensation to Engineer, unless expressly indicated otherwise the Lump Sum amount **includes** the following categories of expenses: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone services, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; and Consultant charges. These expenses are not reimbursable under the Lump Sum method, unless expressly indicated otherwise in C2.02.A.3 above.
- B. Expenses eligible for reimbursement under the Standard Hourly Rate method of compensation includes the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Task Order: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone services, and courier services; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; Consultant charges; and any other expenses identified in Appendix 1.
- C. The amounts payable to Engineer for reimbursable expenses will be the Project-specific internal expenses actually incurred or allocated by Engineer, plus all invoiced external reimbursable expenses allocable to the Specific Project, the latter multiplied by a factor of **1.03**.
- D. The external reimbursable expenses and Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

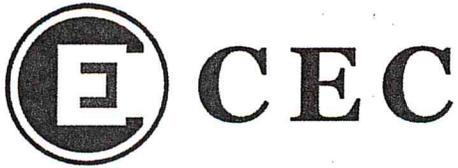
C2.04 *Serving as a Witness*

- A. For services performed by Engineer's employees as witnesses giving testimony in any litigation, arbitration or other legal or administrative proceeding under Paragraph A2.01.A.20, at a rate of x1.15 times the witness's standard hourly rate. Compensation for Consultants for such services will be by reimbursement of Consultants' reasonable charges to Engineer for such services.

C2.05 *Other Provisions Concerning Payment*

- A. *Extended Contract Times:* Should the Contract Times to complete the Work be extended beyond the period stated in the Task Order, payment for Engineer's services shall be continued based on the Standard Hourly Rates Method of Payment.
- B. *Estimated Compensation Amounts*
 - 1. Engineer's estimate of the amounts that will become payable for services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 - 2. When estimated compensation amounts have been stated in a Task Order and it subsequently becomes apparent to Engineer that a compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof. Promptly thereafter Owner and Engineer shall review the matter of services remaining to be performed and compensation for such services. Owner shall either agree to such compensation exceeding said estimated amount or Owner and Engineer shall agree to a reduction in the remaining services to be rendered by Engineer so that total compensation for such services will not exceed said estimated amount when such services are completed. If Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, the Engineer shall give written notice thereof to Owner and shall be paid for all services rendered thereafter.

This is **Appendix 1 to EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition**, dated Oct 1, 2019.



RATE SCHEDULE 2019

ENGINEERING SERVICES

Executive	\$271.00 per hour
Practice Leader	\$239.00 per hour
Market Leader	\$205.00 per hour
Department Manager	\$170.00 per hour
Client Manager	\$163.00 per hour
Project Coordinator	\$176.00 per hour
Senior Engineer (PE)	\$211.00 per hour
Project Engineer (PE)	\$173.00 per hour
Team Coordinator	\$123.00 per hour
Engineer Intern (EI)	\$94.00 per hour
Senior Design Technician	\$119.00 per hour
Design Technician	\$96.00 per hour
Technician	\$51.00 per hour
Professional Land Surveyor (PLS)	\$163.00 per hour
Senior Survey Technician	\$125.00 per hour
Survey Field Technician	\$73.00 per hour
Survey Office Technician	\$71.00 per hour
Executive Assistant	\$100.00 per hour
Senior Assistant	\$89.00 per hour
Administrative Assistant	\$69.00 per hour
Information Services System Administrator	\$123.00 per hour
Information Services Technician	\$73.00 per hour

INSPECTION SERVICES

Department Manager	\$170.00 per hour
Auditor	\$141.00 per hour
Project Coordinator	\$176.00 per hour
Inspector	\$102.00 per hour
Testing Specialist	\$105.00 per hour
Testing Field Technician	\$85.00 per hour
Testing Lab Technician	\$88.00 per hour
Technician	\$51.00 per hour

This is **Appendix 2 to EXHIBIT C**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated Oct 1, 2019.

Exhibit F – Construction Cost Limit

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Page 1



CEC

TESTING SERVICES FEE SCHEDULE

Soils

Laboratory Soil Resistivity (ASTM G57)	\$66.00
Field Soil Resistivity (To include 3 locations)	\$209.00
- Each Additional Location over 3 Locations	\$51.50
In Place Nuclear Density Test (ASTM D6938/AASHTO T310)	\$45.00
Sand Cone Density Test (ASTM D1556)	\$90.00
Standard Optimum Moisture-Density Relationship (ASTM D698/AASHTO T99)	Soil \$140.00; Soil Aggregate \$155.00
Modified Optimum Moisture-Density Relationship (ASTM D1557/AASHTO T180)	Soil \$155.00; Soil Aggregate \$170.00
Atterberg Limits (ASTM D4318/AASHTO T89 & T90)	\$75.00
California Bearing Ratio (ASTM D1883/AASHTO T193)	\$250.00
Sieve Analysis (ASTM D422/AASHTO T88)	Soil \$60.00; Soil Aggregate \$80.00
200 Wash Loss (ASTM C117/AASHTO T11)	\$30.00
Soluble Sulfate Content in Soil (OHD L-49)	\$33.00 with sieve analysis; \$88.00 if not
Natural Moisture Content (ASTM 2216/AASHTO T265)	\$8.00
PH of Soil (ASTM E29/AASHTO T289)	\$33.00
Organic Impurities (AASHTO T21/ASTM C40)	\$33.00
Stabilization Recommendation (CBR Method)	\$555.00
Stabilization Recommendation (Harvard Miniature Method)	\$2090.00
Soil Stabilization Depth Checks	\$17.00
Cement Treated Base Field Molded Specimens	\$125.00
Cement Treated Base Field Molded Specimens Compressive Strength	\$40.00
Unconfined Compressive Strength	\$85.00
Dynamic Cone Penetrometer	\$97.50/hour (2 Hr. Minimum)
- Engineering Time	\$150.00 (1 Hr. Minimum)

Aggregates

Sieve Analysis of Fine Aggregate (ASTM C125/AASHTO T27)	\$75.00
Sieve Analysis of Coarse Aggregate (ASTM C175/AASHTO T27)	\$125.00
Specific Gravity of Coarse Aggregate (AASHTO T85/ASTM C127)	\$110.00
Specific Gravity of Fine Aggregate (AASHTO T84/ASTM C128)	\$155.00
Sand Equivalent (AASHTO T176/ASTM D2419)	\$80.00/each
Uncompacted Voids (AASHTO T304/ASTM C1252)	\$80.00/each
Aggregate Durability Index, Coarse (AASHTO T210/ASTM D3744)	\$165.00/each
Aggregate Durability Index, Fine (AASHTO T210/ASTM D3744)	\$165.00/each



CEC

Asphalt

Super Pave Mix Design	\$3950.00/design
Conventional Design Marshall	\$1850.00/design
Marshall Mix Design	\$2000.00/design
Core Densities	\$25.00/core
- Same Day Turnaround	\$35.00/core
Extraction (AASHTO T308/ASTM D6307)	\$83.00/each
Gradation (AASHTO T30/ASTM D5444)	\$83.00/each
Rice Gravity (AASHTO T209/ASTM D2041)	\$83.00/each
Lab Molds (Superpave, Hveems, Marshall) (AASHTOT166/ASTM D2726)	\$138.00/set
Marshall Stability and Flow (AASHTOT 245/ASTM D6927)	\$110.00/set
Asphalt Drain Down (AASHTO T305/ASTM D6390)	\$83.00/each
TSR	\$400.00/each

Concrete

Fabrication of Concrete Strength Test Specimens (slump & air included) (AASHTO T23/ASTM C31)	\$72.00/set (up to 6 cylinders) \$10.00 for additional cylinders
Compressive Strength of Concrete Test Specimens (AAHTO T22/ASTM C39)	\$15.00 \$20.00 (if made by others)
Cylinder Trimming (If Needed)	\$11.00/end
Slump Test (ASTM C143/AASHTO T119)	\$22.00
Air Test (ASTM C138/AASHTO T152)	\$40.00
Concrete Temperature	\$6.00
Concrete Unit Weight	\$30.00/unit
Roadway Core Cutting Concrete/Asphalt	\$55.00
- Core Patching	\$17.00/each
- Core Trimming	\$11.00/end
Fabrication of Flexural Strength Test Specimens (AASHTO T23/ASTM C31)	\$150.00 (up to 6 beams)
Flexural Strength of Flexural Test Specimens (AASHTO T97/ASTM C78)	\$28.00/each
Core Measurement (9 Point Method)	\$25.00/each
Floor Flatness/Floor Levelness	\$0.10/sq. ft.
Concrete Floor Vapor Emission Rate	\$94.00/each

Masonry

Fabrication of Grout Specimens (ASTM C1019)	\$83.00 (set of 3)
Compressive Strength of Grout Specimens (ASTM C1019)	\$22.00/each
Fabrication of Mortar Specimens (ASTM C780)	\$94.00 (set of 3)
Compressive Strength of Mortar Specimens (ASTM C780)	\$11.00/each



CEC

Miscellaneous

*Trip Charge	\$30.00/trip (OKC/Tulsa/Duncan Metro Area) \$1.50/mile (Outside OKC/Tulsa/Duncan Metro Area)
**Outside Normal Business Hours	1.5 times base rate
***Technician Time	\$65.00/hour
****Standby Time	\$53.00/hour
Engineer Time	\$150.00/hour
P.E. Signature	\$28.00 per report
Construction Manager	\$121.00/hour

Special Inspections

Reinforcing Steel Inspection	\$65.00/Hr. (2 Hr. Min.)
Structural Steel Inspection	\$80.00/Hr. (4 Hr. Min.)
Fire Proofing Inspection	\$72.00/Hr. (2 Hr. Min.)
Paint Thickness/Adhesion Testing	\$72.00/Hr. (2 Hr. Min.)
Drilled Pier Inspection	\$65.00/Hr. (2 Hr. Min.)
Proof Roll Inspection	\$65.00/Hr. (2 Hr. Min.)
Masonry Inspection	\$65.00/Hr. (2 Hr. Min.)

*Trip charge includes vehicle expense and technician time to and from testing location.

**This charge is for work performed outside the normal business hours at CEC. Normal business hours are Monday - Friday, 7 a.m. - 5 p.m. and excludes weekends and holidays.

***This charge is for activities not specifically covered by tests with established rates. Technician time will be charged in 30 minute intervals with a 2 hour minimum.

****This charge is for the time during which the Technician is required to remain at job site for additional testing or schedule has been delayed. Standby time will be charged in 30 minute intervals. There will be no standby time for delays less than 30 minutes.



CEC

CONTACT INFORMATION

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This is **EXHIBIT G**, consisting of [1] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated Oct 1, 2019.

Insurance

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.05 *Insurance*

- A. The limits of liability for the insurance required by Paragraphs 6.05.A and 6.05.B of the Agreement are as follows, unless and except as specifically modified by a specific Task Order:

See attached **Exhibit G, Appendix 1** for CEC corporation Certificate of Insurance.

- B. Additional Insureds:

1. Engineer and the Consultants identified in the Task Order for a Specific Project shall be listed on Owner's general liability policies of insurance as additional insureds, and on any applicable property insurance policy as loss payees, as provided in Paragraph 6.05.B.

Exhibit G - Insurance

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This is **EXHIBIT H**, consisting of [1] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated Oct 1, 2019.

Dispute Resolution

Paragraph 6.09 of the Agreement is supplemented to include the following agreement of the parties:

H6.09 *Dispute Resolution*

- A. *Mediation*: Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement, including any Task Order, or the breach thereof ("Disputes") to mediation by a mutually agreed upon mediation service. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution method of their choice.

This is **EXHIBIT I**, consisting of [1] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated Oct 1, 2019.

Limitations of Liability

Paragraph 6.11 of the Agreement is supplemented to include the following agreement of the parties:

I6.11.A Limitation of Engineer's Liability

1. *Engineer's Liability Limited to Amount of Engineer's Compensation:* To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Specific Project or the specific Task Order from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants shall not exceed the total compensation received by Engineer under the specific Task Order.

2. *Exclusion of Special, Incidental, Indirect, and Consequential Damages:* To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, consistent with the terms of Paragraph 6.11, the Engineer and Engineer's officers, directors, members, partners, agents, Consultants, and employees shall not be liable to Owner or anyone claiming by, through, or under Owner for any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, the Task Order, or the Specific Project, from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty, express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees.