

SECTION 101 DEFINITION OF TERMS

Wherever the words, forms or phrases herein defined, or pronouns used in their stead occur in these specifications, in the contract or in the advertisement or any document or instrument herein contemplated or to which these specifications apply, the intent and meaning shall be interpreted as follows:

ADVERTISEMENT - All of the legal publications pertaining to the work contemplated or under contract.

ATTORNEY - The Attorney of the City of Duncan/Duncan Public Utilities Authority or his duly authorized assistants or agents.

AWARD - The decision of the Owner to accept the proposal of the lowest and best bidder for the work, subject to the execution and approval of a satisfactory contract and the required bonds therefor, and to such other conditions as may be specified or otherwise required by law.

AUTHORITY - Duncan Public Utilities Authority or the Economic Development Trust Authority, acting through its duly authorized representatives or agents.

AUDITOR - The Auditor of the City of Duncan/Duncan Public Utilities Authority of Duncan, Oklahoma or his duly authorized assistants or agents.

BIDDER - Any person or persons, partnership, company, firm or corporation acting directly or through a duly authorized representative, submitting a proposal for the work contemplated.

CHANGE ORDER - A written order issued by the Engineer to the Contractor providing for additions, deletions or revisions to the Work, or for an adjustment in the Contract Price or the Contract Time.

CITY - City of Duncan, a Municipal Corporation in the State of Oklahoma.

CLERK/TREASURER - The Clerk/Treasurer of the City of Duncan or his duly authorized assistants or agents.

CONTRACT - The written agreement covering the performance of the work. The contract includes the Advertisement and Notice to Contractors, Proposal, Bonds, Specifications, including special Provisions, Plans, or working drawings and any supplemental agreement pertaining to the work or materials therefore.

CONTRACTOR - The person or persons, partnership, company, firm or corporation entering into contract for the execution of the work, acting directly or through a duly authorized representative.

CONTRACT TIME - The number of calendar days stated in the Agreement to achieve completion of the Contract so that it is ready for final acceptance and final payment. When a calendar date of completion is shown in a proposal, the Contract Time shall be the number of days between the effective date of the Notice to Proceed and the specified Completion Date.

ENGINEER - City Engineer, City of Duncan/Duncan Public Utilities Authority, Oklahoma or his duly authorized agents, engineers, assistants, inspectors or superintendents, acting severally within the scope of the particular duties entrusted to them.

EXTRA WORK - Any work performed by the Contractor not provided for by the plans, specifications or special provisions.

FURNISH - To supply.

CITY MANAGER/GENERAL MANAGER - The Manager of the City of Duncan/Duncan Public Utilities Authority of Duncan, Oklahoma.

MAINTENANCE BOND - The approved form of security furnished by the Contractor and his Surety as a guarantee that he will maintain the work constructed by him in good condition for the period of time required.

OWNER - The City of Duncan, Duncan Public Utilities Authority or Economic Development Trust Authority, as listed in the Solicitation for Bids or Advertisement for Bids.

PERFORMANCE BOND - The approved form of security furnished by the Contractor and his Surety as a guarantee of good faith on the part of the Contractor to execute the work in accordance with the plans, specifications and terms of the contract.

PLAN OR PLANS - All of the drawings pertaining to the contract and made a part thereof, including such supplemental drawings as the Engineer may issue from time to time, in order to clarify or explain other drawings or for the purpose of showing changes in the work as authorized under the Section, "Changes and Alterations", or for showing details not shown thereon.

PROPOSAL – The written statement or statements duly filed with the Clerk/Treasure of the person or persons, partnership, company, firm or corporation proposing to do the work contemplated.

PROPOSAL FORM - The approved form on which the formal bids for the work are to be prepared and submitted.

PROPOSAL GUARANTY - The security, designated in the “proposal form” and in the Advertisement, to be furnished by the bidder as a guarantee of good faith to enter into a contract with the Owner and to execute the required bonds for the work contemplated after the work is awarded to him and as liquidated damages in event of failure to do so.

PROVIDE - To furnish and construct, erect or install.

PUBLIC WORKS DIRECTOR - Public Works Director of the City of Duncan/Duncan Public Utilities Authority, Oklahoma or his duly authorized agents, engineers, assistants, inspectors or superintendents, acting severally within the scope of the particular duties entrusted to them.

SPECIAL PROVISIONS - The special clauses setting forth conditions or requirements peculiar to the specific project involved, supplementing the Standard Specifications and taking precedent over any conditions or requirements of the Standard Specifications with which they are in conflict.

SPECIFICATIONS - The directions, provisions, and requirements contained herein, together with the “Special Provisions” supplemental hereto, pertaining to the method and manner of performing the work or to the kinds, quantities or qualities of materials to be furnished under the contract, and methods of measurement and basis of payment.

The Standard Specifications, referred to hereinafter, are the editions in effect on the date of the invitation for bids.

STATUTORY BOND - The approved form of Surety furnished by the Contractor and his Surety as a guarantee that he will pay, in full, all bills and accounts for material and labor used in the construction of the work, as provided by law.

SURETY OR SURETIES - The Corporate body which is bound by such bonds as are required with and for the Contractor, and engages to be responsible for the entire and satisfactory fulfillment of the contract and for any and all requirements as set out in the specifications, contract or plans.

THE WORK - All design and construction activities included within the scope of the plans and specifications, including the furnishing of labor, materials, tools, equipment and incidentals, to be performed by the Contractor and Consultant under the terms of the contract.

TREASURER – The Treasurer of the City of Duncan/Duncan Public Utilities Authority of Duncan, Oklahoma, or his duly authorized assistants or agents.

TRUSTEES - The Trustees of the Duncan Public Utilities Authority.

A.A.N.	American Association of Nurserymen
A.A.R.	Association of American Railroads
A.A.S.H.T.O.	American Association of State Highway and Transportation Officials
A.G.C	Associated General Contractors of America
A.I.A.	American Institute of Architects
A.I.S.C.	American Institute of Steel Construction
A.N.S.I.	American National Standards Institute (United States of American Standards Institute)
A.R.A.	American Railway Association
A.R.E.A.	American Railway Engineering Association
A.S.A.	American Standards Association
A.S.C.E.	American Society of Civil Engineers
A.S.L.A.	American Society of Landscape Architects
A.S.T.M.	American Society for Testing Materials
A.W.P.A.	American Wood Preservers Association
A.W.S.	American Welding Society
A.W.W.A.	American Water Works Association
F.A.A.	Federal Aviation Agency of the U.S. Department of Transportation Federal Highway Association
F.R.A.	Federal Rail Administration
F.S.S.	Federal Specifications and Standards (General Services Administration)
FM	Factory Mutual
I.E.S.	Illuminating Engineering Society
I.M.S.A.	International Municipal Signal Association
I.T.E.	Institute of Traffic Engineers
M.U.T.C.D.	Manual on Uniform Traffic Control Devices
N.E.C.	National Electrical Code
N.E.M.A.	National Electrical Manufacturers Association
N.S.F.	National Sanitary Foundation
O.A.C.	Oklahoma Aeronautics Commission
O.D.E.Q.	Oklahoma Department of Environmental Quality
O.D.O.T.	Oklahoma Department of Transportation
O.S.D.H.	Oklahoma State Department of Health
O.S.H.A	Occupational Safety and Health Association
O.W.R.B.	Oklahoma Water Resources Board
S.A.E.	Society of Automotive Engineers
S.S.P.C.	Steel Structures Paint Council
U.L.	Underwriter's Laboratory

SECTION 102 PROPOSAL REQUIREMENTS AND CONDITIONS

102.01 CONTENTS OF PROPOSAL FORM. The Owner will furnish bidders with proposal forms which will state the general location and description of the contemplated work and which will contain a list of the items of work to be completed or materials to be furnished and upon which bid prices are requested. The proposal form will state the time limits for commencing and for completing the work and will provide for entering the amount of the proposal guaranty. The proposal form will contain a non-collusion affidavit.

102.02 INTERPRETATION OF PLANS AND SPECIFICATIONS. If any person contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of the plans, specifications or other proposed contract documents, he shall submit to the Engineer a written request for an interpretation thereof. The person submitting such request will be responsible for its prompt delivery. An interpretation of the proposed documents will be made only by Addendum duly issued and a copy of such Addendum will be mailed or delivered to each person receiving a set of such documents. The Owner will not be responsible for any other explanations or interpretations of the proposed documents.

102.03 EXAMINATION OF DOCUMENTS AND SITE OF THE WORK. Bidders are advised that the plans and specifications on file with the Clerk/Treasurer shall constitute all the information which the Owner will furnish. No other information given by the Owner or any official thereof prior to the execution of the contract shall ever become a part of or change the contract, plans or specifications or be binding on the Owner. Bidders are required, prior to submitting any proposal, to read carefully the specifications, the proposal, contract and bond forms; to examine carefully all plans on file with the Clerk/Treasurer; to visit the site of the work; to examine carefully local conditions; to inform themselves by their independent research of the difficulties to be encountered and judge for themselves of the accessibility of the work and all attending circumstances affecting the cost of doing the work or the time required for its completion and obtain all information required to make an intelligent proposal. Bidders shall rely exclusively upon their own estimates, investigations and other data, which are necessary for full information upon which the proposal may be based. It is mutually agreed that submission of a proposal will be evidence that the bidder has made the examination and investigations required herein.

102.04 PREPARATION OF PROPOSAL. The bidder shall submit his proposal in single copy on the forms furnished by the Owner. All blank spaces in the proposal forms shall be correctly filled in and the bidder shall state the prices, written in ink, both in words and numerals, for which he proposes to do the work contemplated or furnish the materials required.

Such prices shall be written distinctly legible, in case of conflict between words and numerals, the words will govern. If an individual submits the proposal, he must sign his name or his duly authorized agent and his mailing address listed. If the proposal is submitted by a firm or partnership, the name and mailing address of the firm or partnership must be listed and the proposal signed by a member of the firm or partnership as a person duly authorized. If the proposal is made by a company or corporation, the company or corporate name and the state under the laws of which said company, or corporation is chartered and the business address must be listed and the proposal signed by an official or agent duly authorized. Powers of Attorney, authorizing agents or others to sign proposals must be properly certified and must be in writing on file with the Clerk/Treasurer.

102.05 NON-COLLUSION AFFIDAVIT. Each proposal or copy thereof shall be accompanied by a sworn statement in writing that the person signing the proposal executed said proposal on behalf of the bidder therein named and that he had lawful authority to do so and that said bidder has not directly or indirectly entered into any agreement, expressed or implied, with any other bidder or bidders having for its object the controlling of the amount of such bid or any bids, the limiting of the bid or bidders, the parceling or farming out to any bidder or bidders or other persons of any part of the contract or any bid or the subject matter of the bid or of the profits thereof, and that he had not and will not divulge said sealed bid to any person whatever except those having a partnership or other financial interest with him in said bid, until after the said sealed bids are opened.

102.06 PROPOSAL GUARANTY. Proposals will not be considered unless the original filed with the Clerk/Treasurer is accompanied by a certified or cashier's check, bank money order, or bidder's bond, in the required amount, made payable to the Owner. The proposal guaranty shall be in an amount of not less than five percent (5%) of the total amount of the bid unless otherwise provided in the Advertisement or Special Provisions. The proposal guaranty is required as evidence of good faith and as a guarantee that if awarded the contract, the bidder will execute the contract and furnish the required bonds within the required time and as liquidated damages in event of failure to do so.

102.07 FILING OF PROPOSALS. No proposals will be considered by the Owner unless they are filed in sealed envelopes with the Clerk/Treasurer in his office in the City Hall, Duncan, Oklahoma, within the time limit for receiving proposals, as stated in the advertisement. Each proposal shall be plainly marked on the envelope with the word "Proposal", the name of the project, and the date and hour of opening.

102.08 WITHDRAWAL OF PROPOSALS. Permission will not be granted to withdraw or modify any proposal after it has been filed.

102.09 OPENING OF PROPOSALS. The proposals filed with the Clerk/Treasurer will be opened in public at the time and place stated in the advertisement.

Bidders are invited to attend the bid opening at the time and place set forth in the advertisement.

102.10 IRREGULAR PROPOSALS. Proposals may be considered irregular if they show any omissions, alterations of forms, additions or conditions not requested unauthorized alternate bids or irregularities of any kind. However, the Owner reserves the right to waive technicalities as to changes, alterations or reservations and make the award in the best interest of the Owner.

102.11 REJECTION OF PROPOSALS. The Owner reserves the right to reject any or all proposals, and all proposals submitted are subject to this reservation. Proposals may be rejected for any of the following specific reasons:

- (a) Proposal received after the time limit for receiving proposals as stated in the advertisement;
- (b) Proposal prices obviously unbalanced;
- (c) Summation of proposal prices on any one project above the Engineers estimate of cost for such project;
- (d) Proposal containing any irregularities.

102.12 DISQUALIFICATION OF BIDDERS. Bidders may be disqualified and their proposals not considered for any of the following specific reasons:

- (a) Where more than one proposal for an individual, firm, partnership or corporation is filed under the same or different names and where such proposals are not identical in every respect;
- (b) Reasonable grounds for believing that any bidder is interested in more than one proposal for the work contemplated or materials to be furnished;
- (c) Reason for believing that collusion exists among bidders;
- (d) The bidder being in arrears on any existing contracts, interested in any litigation against the Owner or having defaulted on a previous contract;
- (e) Incomplete work which, in the judgment of the Owner, will hinder or prevent the prompt completion of additional work, if awarded.

SECTION 103
AWARD AND EXECUTION OF CONTRACT

103.01 CONSIDERATION OF PROPOSALS. After the proposals are opened, those proposals containing unit prices will be tabulated for comparison on the basis of the quantities shown in the approximate estimate. Until the final award of the contract, the Owner reserves the right to reject any or all proposals, to waive technicalities and to advertise for new proposals or proceed to do the work otherwise when the best interests of the Owner will be promoted thereby.

Projects advertised as all parts tied: Bidder shall submit a bid for each part. Tied bid projects will be considered on the basis of the total dollar amount bid for all tied parts.

Projects advertised as parts not tied: Bidder may submit a bid for an individual part, or multiple parts, as either tied or separate. Bidder shall clearly indicate the intent of his bids. Bids submitted as tied bids will be considered on the basis of the total dollar amount bid for all tied parts. Bids submitted as separate parts may be considered on the basis of the dollar amount for each part, or the total dollar amount of any combination of parts, when it appears to be in the best interest of the Owner.

103.02 AWARD OF CONTRACT. The Owner reserves the right to withhold the award of the contract for a reasonable period of time from the date of opening the proposals and no award will be made until the necessary investigations are made as to the responsibility of the low bidder. The awarding of the contract shall give the bidder no right of action of claim against the Owner upon such contract until the execution of the contract shall have been completed and the contract delivered to the Contractor. The Owner reserves the right to award all or any portion or portions of the work.

103.03 RETURN OF PROPOSAL GUARANTY. As soon as the proposal prices have been compared, the Owner may, at its discretion, return the proposal guaranties accompanying proposals which in its judgment would not be considered in making the award.

103.04 SURETY BONDS. With the execution and delivery of the contract, the Contractor shall furnish and file with the Owner in the amounts herein required, the following surety bonds:

- (a) A good and sufficient Performance Bond in an amount equal to one hundred percent (100%) of the approximate total amount of the contract, guaranteeing the full and faithful execution of the work and performance of the contract and for the protection of the Owner and all property owners interested against any damage by reason of the negligence of the Contractor, or the improper execution of the work or the use of inferior materials;

- (b) A good and sufficient Statutory Payment Bond in an amount equal to one hundred percent (100%) of the approximate total amount of the contract, guaranteeing payment for all labor, materials and equipment used in the construction of the improvement.
- (c) A good and sufficient Maintenance Bond in an amount equal to one hundred percent (100%) of the contract price, conditioned for the maintenance in good condition of the improvement for a period of one (1) year from the time of acceptance by the Owner, or as otherwise specified in the Advertisement and Proposal.
- (d) No surety will be accepted who is now in default or delinquent on any bond or who is interested in any litigation against the Owner. AD bonds shall be made on forms acceptable to the Owner and shall be executed by surety companies licensed to do business in the State of Oklahoma and acceptable to the Owner. Each bond shall be executed by the Contractor and the Surety.

Should any surety on the contract be determined unsatisfactory at any time by the Owner, notice will be given to the Contractor to that effect and the Contractor shall forthwith substitute a new Surety or Sureties satisfactory to the Owner. No payment will be made under the contract until the new surety or sureties, as required, have qualified and been accepted by the Owner. The contract shall not be operative nor shall any payments be due until approval of the bonds has been made by the Owner.

103.05 EXECUTION OF CONTRACT. The person(s), partnership, company, firm or corporation to whom a contract is awarded shall within ten (10) business days after such award sign the necessary agreements entering into the required contract with the Owner and execute and deliver the required bonds.

No contract shall be binding on the Owner until it has been approved by the Attorney, executed by the Owner and delivered to the Contractor.

103.06 FAILURE TO EXECUTE CONTRACT. Upon failure of the bidder to execute the required bonds or to sign the required contract within ten (10) business days after the contract is awarded, he will be considered to have abandoned his proposal and the Owner may annul the award. By reason of the uncertainty of market prices of the materials and labor and it being impracticable and extremely difficult to fix the amount of damages to which the Owner would be put by reason of said bidder's failure to execute said bonds and contract within ten (10) business days, the proposal guaranty accompanying the proposal shall be the agreed amount of damages which the Owner will suffer by reason of such failure on the part of the bidder and shall thereupon be retained by the Owner as liquidated damages. The filing of a proposal will be considered as an acceptance of this provision.

103.07 PRE-WORK CONFERENCE. The Contractor and Consultant shall attend a Pre-Work Conference, scheduled by the Engineer, to clarify the intent of the work and to present the Contractor's work plan, including progress schedule as provided by Section 107.04, prior to starting work on the project.

SECTION 104 SCOPE OF WORK

104.01 INTENT OF PLANS AND SPECIFICATIONS. The intent of the plans and specifications is to prescribe a complete work or improvement which the Contractor undertakes to provide, in full compliance with the plans, specifications, special provisions, proposal and contract. The Contractor shall provide all work as specified in the plans, special provisions, specifications, proposal and contract, except that specifically shown to be provided by the Owner or others, and shall provide such additional extra and incidental work as may be considered necessary to complete the work in a satisfactory and acceptable manner. He shall furnish all labor, materials, tools, equipment and incidentals necessary to the prosecution of the work.

104.02 SPECIAL PROVISIONS. Should any work or any conditions which are not thoroughly or satisfactorily stipulated or covered by the general or standard specifications be anticipated on any proposed work "Special Provisions" for such work may be prepared and shall be considered as a part of the specifications and contract.

104.03 INCREASED OR DECREASED QUANTITIES OF WORK. The Owner reserves the right to alter the quantities of the work to be performed or to extend or shorten the improvement any time when and as found necessary, by means of change orders, and the Contractor shall perform the work as altered, increased or decreased. No allowance will be made for any change in anticipated profits nor shall such changes be considered as waiving or invalidating any condition or provision of the contract.

104.04 ALTERATIONS OF PLANS AND SPECIFICATIONS. The Owner reserves the right to make such changes in the plans and in the character of the work as may be necessary or desirable to insure completion of the work in the most satisfactory manner, provided such changes do not materially alter the original plans and specifications or change the general nature of the work as a whole. Such changes shall not be considered as waiving or invalidating any condition or provision of the contract.

104.05 EXTRA WORK. When any work is necessary to the proper completion of the project for which no prices are provided in the proposal or contract, the Contractor shall do such work, but only when and as ordered in writing by the Engineer and with the prior approval of the Owner.

Payment for extra work will be made as hereinafter provided.

104.06 FINAL CLEANUP. Upon completion of the work and before acceptance and final payment will be made, the Contractor shall clean and remove from the site of the work surplus and discarded materials, temporary structures, stumps or portions of trees and debris of any kind. He shall leave the site of the work in as good or better than condition as prior to work.

SECTION 105 CONTROL OF THE WORK AND MATERIALS

105.01 AUTHORITY OF ENGINEER. All work shall be provided to the satisfaction of the Engineer. He shall decide all questions which arise as to the quality and acceptability of materials furnished, work performed, manner of performance, rate of progress of the work, interpretation of the plans and specifications, acceptable fulfillment of the contract, compensation, mutual rights between contractors under these specifications and suspension of work. He shall determine the amount and quality of work performed and materials furnished and his decisions and estimates shall be final. His estimate in such event shall be a condition precedent to the right of the Contractor to receive money due him under the contract.

The authority of the Engineer shall not be construed to include the authority to waive, revise or modify specifications as herein set forth either as to kind, type or quality of materials or manner or quality of construction, unless an appropriate Change Order is executed.

Neither the Engineer, nor his designated representatives, shall act as supervisor of the work, nor shall the Contractor rely on any such supervision.

105.02 DETAIL SHOP AND WORKING DRAWINGS FURNISHED BY CONTRACTOR. The Contractor shall submit to the Engineer for approval, such additional shop and working drawings of structures or equipment as may be required, and, prior to the approval of such drawings by the Engineer, any work done or materials ordered shall be at the Contractor's risk. The contract price shall include the cost of furnishing such drawings.

105.03 CONFORMITY WITH PLANS. ALLOWABLE DEVIATIONS. All work shall conform to the lines, grades, cross-sections and dimensions shown on the plans. All deviations from the plans will be accomplished by Change Orders prepared by the Engineer. All Change Orders shall be in writing, and shall, except in case of emergency, be approved by the governing body of the Owner before the work is commenced. Where an actual emergency exists, wherein the delay caused by submitting the Change Order to the governing body of the Owner for approval would jeopardize the interest of the Owner or the public, the Engineer may approve the change in writing. However, Change Orders approved by the Engineer under the circumstances outlined above shall be submitted to the governing body of the Owner for consideration at the next regular meeting. Two (2) copies shall be furnished to the Owner and two (2) copies shall be furnished to the Contractor of all Change Orders approved by the Engineer. Change Orders submitted to the governing body of the Owner for approval shall bear the approval of the Engineer and shall be prepared in four (4) copies, distribution as follows: 2 copies to the Contractor; and 2 copies to the Engineer.

Change Orders shall include the following:

- (a) Complete detail of the work contemplated.
- (b) Estimated cost of the work as originally planned and as contemplated by the Change Order.
- (c) Complete justification.
- (d) Statement as to whether the prices shown are contract bid prices or agreed prices.
- (e) Statement by the Contractor that he agrees to perform the work at the prices shown.

105.04 EXISTING STRUCTURES NOT SHOWN ON PLANS. The plans show the location of certain existing surface and subsurface structures. The Owner assumes no responsibility for failure to show any or all structures on the plans or to show them in their exact location. It is mutually agreed such failure will not be considered sufficient basis for claims for extra work or for increasing the pay quantities in any manner whatsoever, unless the obstruction encountered is such as to necessitate substantial changes in the lines or grades or requires the building of a special structure, provision for which is not made in the plans, in which case the provisions in these specifications for "Extra Work" will apply.

105.05 COORDINATION OF PLANS, SPECIFICATIONS, PROPOSAL AND SPECIAL PROVISIONS. The plans, these specifications, the proposal, Special Provisions and all supplementary documents are intended to describe a complete work and are essential parts of the contract. A requirement occurring in any of them is binding. In case of discrepancies, figured dimensions shall govern over scaled dimensions; plans shall govern over specifications; Special Provisions shall govern over the plans and over both General and Standard Specifications, and the quantities shown on the plans shall govern over those shown in the proposal. The Contractor shall take no advantage of any apparent error or omission in the plans and specifications, and the Engineer shall be permitted to make such corrections or interpretations as may be deemed necessary for the fulfillment of the plans and specifications. In the event the Contractor discovers any apparent error or discrepancy, he shall immediately call such error or discrepancy to the attention of the Engineer.

105.06 COOPERATION OF CONTRACTOR. Three sets of plans and specifications will be furnished the Contractor as follows: One office copy, one for the Field Superintendent, and one copy for job use. The Contractor, however, shall have a set of plans and specifications available at all points where a separate construction crew is working.

The Contractor shall give the work the consistent attention necessary to facilitate the progress thereof, and he shall cooperate with the Engineer and his inspectors and with other contractors in every way possible. The Contractor shall provide a competent Superintendent on the work at all times who is fully authorized as his agent on the work. Such Superintendent shall be capable of reading and thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the Engineer or his representative.

The Contractor and his Superintendent shall provide all reasonable facilities to enable the Engineer and his inspectors to inspect the workmanship and materials entering the work.

105.07 CONSTRUCTION STAKING. The Contractor shall furnish, place and maintain construction layout stakes necessary for the proper prosecution and inspection of the work under the contract in accordance with these Specifications.

The Owner will locate and reference the centerline of construction and will establish bench marks and set sufficient right-of-way stakes to define right-of-way limits. The Owner will set stakes to mark centerline and establish bench marks for bridges and special structures as may be considered necessary. The Owner's stakes and benchmarks shall constitute field control staking.

The Contractor shall exercise care in the preservation of stakes and bench marks and shall have them reset at his expense when any are damaged, lost, displaced or removed. The Contractor shall use competent personnel and suitable equipment for the layout of the work required. The Contractor shall not engage the services of any person or persons in the employment of the Owner or its equipment for the performance of any of this work.

The Contractor shall provide field forces and shall set all additional stakes needed, such as offset stakes, reference point stakes, slope stakes, pavement and curb line and grade stakes, stakes for bridges, sewers, roadway drainage, pipe underdrains, paved gutter, fence, culverts or other structures, and any other horizontal or vertical controls necessary to secure a correct layout of the work. Stakes for line and grade shall be adequate to maintain the specified tolerances for the operation being performed. The station number and the distance from the centerline of construction shall be marked on all grade stakes.

The Contractor shall furnish the original of his survey records to the Owner for the Owner's permanent file. These records shall be furnished as they are completed during the progress of the work. These records shall be in permanently bound field books and/or level books and formatted in a manner commonly accepted by the surveying profession. The Engineer may at any time check the correctness of the Contractor's staking work by using spot check method. When significant errors occur, the Contractor shall resurvey to the satisfaction of the Engineer. The Contractor shall furnish, at his expense, platforms and equipment necessary for proper and safe access for checking his staking. Any inspection or checking of the Contractor's layout by the Engineer and the acceptance of all or any part of it shall not relieve the Contractor of his responsibility to secure the proper dimensions, grades, and elevation of the several parts of the work. Deviations resulting from plan errors will be resolved by the Owner.

Contractor construction staking will not be paid as a separate item, but all associated costs shall be included in the price bid for other items of work.

105.08 MEASUREMENTS. Before ordering any material or doing any work, the Contractor shall verify all measurements involved and shall be responsible for the correctness of same. No extra charge or compensation will be allowed on account of difference between actual dimensions and the measurements indicated on the drawings, and any difference which may be found shall be submitted to the Engineer for consideration before proceeding with the work.

105.09 SOURCE OF SUPPLY AND QUALITY OF MATERIALS. The Contractor shall not start delivery of materials until the Engineer has approved the source of supply. Only materials conforming to the requirements of these specifications shall be used in the work and such materials shall be used only after written the Engineer has given approval and only so long as the quality of said material remains equal to the requirements of the specifications. The

Contractor shall furnish approved materials from other sources, if, for any reason, the product from any source at any time before commencing or during the prosecution of the work proves unacceptable. After approval, any material which has become mixed with or coated by dirt or any other foreign substances during its delivery and handling shall not be used in the work.

105.10 MATERIALS AND WORKMANSHIP. The Contractor shall submit samples of materials, finish, appliances, etc., when required by the Engineer, and all such samples must be approved by the Engineer in writing before the work is executed and all work shall conform in all respects to the approved samples. Any work which does not conform to the approved samples will be rejected, and shall be removed and replaced by work that does so conform.

105.11 SAMPLES AND TESTS OF MATERIALS. Where, in the opinion of the Engineer or called for in the specifications, tests of materials are necessary, such tests shall be made by, and at the expense of the Contractor, unless otherwise provided. Tests, unless otherwise specified, are to be made in accordance with the latest standard methods of the American Society for Testing Materials. The Contractor shall provide such facilities as the Engineer may require for collecting and forwarding samples and shall not use the materials represented by the samples until test results have been approved by the Engineer.

The Contractor in all cases shall furnish the required samples without charge.

105.12 CONTRACTOR'S QUALITY CONTROL

- (a) Contractor shall be responsible for all Quality Control necessary to ensure compliance with these specifications and any manufacturer's requirements. Contractor's Quality Control shall include testing, documentation, and daily diaries, with copies to the Engineer. All associated costs for Contractor's Quality Control shall be included in the price bid for other items.
- (b) The Contractor must show proof that all employees associated with this project shall have been employed by the Contractor for a period not less than six (6) months, unless waived by the Engineer.

105.13 STORAGE OF MATERIALS. Materials shall be stored so as to insure the preservation of their quality and fitness for the work. They shall be placed on wooden platforms or other hard, clean surfaces and not on the ground, and shall be placed under cover when directed. Stored materials shall be located so as to facilitate prompt inspection.

105.14 INSPECTION. The Contractor shall furnish the Engineer with every reasonable facility for ascertaining whether or not the work as performed is in accordance with the requirements and intent of the plans and specifications. If the Engineer requires, the Contractor shall at any time before acceptance of the work, remove and uncover such portions of the finished work as may be directed, for inspection. After inspection, the Contractor shall restore said portions of the work to the condition required by the specifications.

Should the work thus exposed on examination prove acceptable the cost of uncovering or removing and the replacing of the covering or making good the parts removed will be paid for as "Extra Work". Should the work so exposed or examined prove unacceptable, the cost of covering or removing and the replacing of the covering or making good of the parts removed shall be at the Contractor's expense. When ample notice of the intention to complete or cover up the work was not given by the Contractor to the Engineer, then the cost of the uncovering or

removing and the replacing of the covering or making good of the parts removed shall be borne by the Contractor regardless of whether or not the work examined proved acceptable or unacceptable. Any work provided or materials used without suitable supervision or inspection by the Engineer may be ordered removed and replaced at the Contractor's expense.

105.15 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK All work which has been rejected or condemned shall be repaired, or, if it cannot be satisfactorily repaired, it shall be removed and replaced at the Contractor's expense. Defective materials shall be removed immediately from the site of the work.

Work provided without lines and grades having been given, work provided beyond the lines or not in conformity with the grades shown on the plans or as given, save as herein provided; work provided without written authority and prior agreement in writing as to prices, will be provided at the Contractor's risk and will be considered unauthorized, and, at the option of the Engineer may not be measured and paid for and may be ordered removed at the Contractor's expense.

Upon the failure of the Contractor to satisfactorily repair or to remove and replace, if so directed, any rejected, unauthorized or condemned work or materials immediately after receiving notice from the Engineer, the Engineer shall, after giving written notice to the Contractor, have the authority to cause unauthorized work to be removed and to deduct the cost thereof from any compensation to become due to the Contractor. If the Engineer and Owner deem it inexpedient to correct work injured or done not in accordance with the contract, an equitable deduction from the contract price may be made therefor.

105.16 CORRECTION OF WORK AFTER FINAL PAYMENT. Neither the final certificate nor payment nor any provision in the Contract Documents shall relieve the Contractor of responsibility for faulty materials or workmanship and, unless otherwise specified, he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of substantial completion. The Owner shall give notice of observed defects with reasonable promptness.

105.17 FINAL INSPECTION. The Engineer shall make final inspection of all work included in the contract or any portion thereof as soon as practicable after the work is completed and ready for acceptance. If the work is not acceptable to the Engineer at the time of such inspection, he shall inform the Contractor as to the particular defects to be remedied before the final acceptance can be made.

SECTION 106
LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

106.01 LAWS TO BE OBSERVED. The Contractor shall, at all times, observe and comply with all Federal and State laws and City ordinances and regulations which in any manner affect the conduct of the work and shall observe and comply with all orders and decrees which exist at the present or which may be enacted later, of bodies or tribunals having jurisdiction or authority over the work, and no plea of misunderstanding or ignorance thereof will be considered. The Contractor and his surety shall defend, indemnify and save harmless the City and all its officers, agents, employees and servants against any claims or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by himself or his employees.

106.02 PERMITS AND LICENSES. The Contractor shall procure all permits and licenses, pay all charges or fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

106.03 PATENTED DEVICES, MATERIALS AND PROCESSES. If the Contractor is required or desires to use any design, device, material or process covered by letters patent or copyright, he shall provide for such use by suitable legal agreement with the patentee or owner. It is mutually understood and agreed that without exception the contract prices shall include all royalties or costs arising from patents, trademarks and rights in any way involved in the work. The Contractor and Surety shall defend, indemnify and save harmless the Owner and all its officers, agents and employees from all suits, actions or claims of any character, name and description brought for or on account of infringement or alleged infringement by reason of the use of any such patented design, device, material or process or any trademark or copyright used in connection with the work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense or damage which it may be obliged to pay by reason of any action or actions, suit or suits which may be commenced against the Owner for any such infringement or alleged infringement at any time during the execution or after the completion of the work contracted for herein, It is mutually agreed that the Owner may give written notice of any such suit to the Contractor, and thereafter the Contractor shall attend to the defense of the same and save and keep harmless the Owner from all expense, counsel fees, cost liabilities, disbursements, recoveries, judgments and executions in any manner growing out of, pertaining to or connected therewith.

106.04 SANITARY PROVISIONS. The Contractor shall establish and enforce among his employees such regulations in regard to cleanliness and disposal of garbage and waste as will tend to prevent the inception and spread of contagious or infectious diseases and to effectively prevent the creation of a nuisance about the work or any property, either public or private and such regulations as are required by the Engineer shall be put into effect immediately by the Contractor. Contractor shall strictly comply with all sanitary laws and regulations of the Owner and the State of Oklahoma.

106.05 PUBLIC CONVENIENCE AND SAFETY. Materials stored about the work shall be so placed and the work shall at all times be so conducted as to cause no greater obstruction of the traveling public than is considered necessary by the Engineer. The Contractor shall make arrangements satisfactory to the Engineer for handling traffic. Sidewalks must not be obstructed unless by special permission of the Engineer. Neither the materials excavated nor the construction materials or plant used in the construction of the work shall be

placed so as to endanger the work or prevent free access to all fire hydrants, water valves, gas valves, manholes for electric, telephone, telegraph or traffic signal conduits, sewers or fire alarm or police call boxes in the vicinity. The Owner reserves the right to remedy any neglect on the part of the Contractor as regards the public convenience and safety which may come to its attention, after twenty-four (24) hours notice in writing to the Contractor, save in cases of emergency when it shall have the right to remedy any neglect without notice and, in either case, the cost of such work done by the Owner shall be deducted from monies due or to become due the Contractor. The Contractor shall notify the Public Works Director a minimum of 24 hours before any street is closed or obstructed and shall keep any street or streets in condition for unobstructed use by fire and other emergency apparatus, as much as is practical.

Where the Contractor is required to construct temporary culverts or bridges or make other arrangements for crossings over ditches or streams, his responsibility for accidents shall include the roadway approaches as well as the structures of such crossings.

Contractor shall give written notice to all residents/occupants/businesses that may be affected by the work (e.g. water disruption, street closure, sewer jet cleaning). Said written notice shall be delivered no less than 48 hours, nor more than 2 weeks prior to the start time of the disruption.

The written form may be “door hangars”, but in any event shall be submitted to and approved by the Engineer prior to use. At a minimum the form shall contain:

- Project Identification
- Contractor Name, address, Telephone Number
- Type of Construction
- Reason for affecting or disrupting service and duration of such

106.06 PRIVILEGES OF CONTRACTOR IN STREETS, ALLEYS, OR RIGHTS-OF-WAY. For the performance of the contract, the Contractor will be permitted to occupy such portions of streets or alleys, other public places or other rights-of-way as provided for in the ordinances of the City, as shown on the plans or as permitted by the Engineer. A reasonable amount of tools, materials and equipment for construction may be stored in such space but not more than is necessary to avoid delay in the construction. Excavated and waste materials shall be piled or stacked in such a way as not to interfere with spaces that may be designated to be left free and unobstructed, nor inconvenience occupants of adjoining property. Other contractors of the Owner may, for all purposes required by their contracts, enter upon the work and premises used by the Contractor, and the Contractor shall give to other contractors of the Owner, all reasonable facilities and assistance for the completion of the adjoining work. Any additional grounds desired by the Contractor for his use shall be provided by him at his own expense.

106.07 RAILWAY CROSSINGS. When the work encroaches upon the right-of-way of any railway, the Owner will secure for the Contractor, all the necessary contracts, easements or authority to enter upon such right-of-way for the prosecution and completion of the work. Where railway tracks are to be crossed, the railway company, if it elects to do so, may construct the necessary bridges, trestles, cribs or other structures for the safe operation of trains or cars across any excavation during the time of construction of the work, and the cost of construction of such bridges, trestles, cribs or other structures shall be paid to the railway company by the Contractor together with the necessary cost of any supervision or other incidental expenses which may be required by the railway company while the work is in progress on the right-of-way of the railway company, and all such costs shall be taken into

consideration by the Contractor in submitting proposals. The Contractor shall take such special precautions for the safety of the work and the traveling public as may be necessary by sheeting, bracing and thoroughly supporting the sides of any excavation and supporting and protecting any adjacent structures.

106.08 BARRICADES AND WARNING SIGNS. Where work is carried on, in or adjacent to any street, alley, or public place, the Contractor shall furnish and erect such barricades, fences, lights, signs and other appurtenances in accordance with the MUTCD and OSHA requirements. The Contractor shall take such precautionary measures for the protection of persons or property and of the work as are necessary. Failure to comply with this requirement may result in the Engineer discontinuing or suspending the work until the Contractor shall have provided the necessary protection.

The Contractor's responsibility for the maintenance of barricades, signs and lights and protection of the work shall not cease until the project shall have been accepted by the Owner.

106.09 USE OF EXPLOSIVES. Should the Contractor elect to use explosives to loosen rock or for any other purpose in the prosecution of the work, he shall obtain the required permits and the written permission of the Engineer before any blasting is done, but neither the issuance of said permits, the granting of said permission nor any other act, requirement or condition contained in the specifications, nor any order, direction or approval given by the Engineer or any other official or employee of the Owner shall be construed as requiring or directing the use of any explosives or as accepting any liability for any injury or damage to persons or property resulting from such usage. No blasting shall be done unless an Inspector is present and the Contractor shall notify the City Code Enforcement Division when he is ready to begin any blasting work. All necessary precautions shall be taken by the Contractor as required by the ordinances of the City or the laws of the State of Oklahoma relative to blasting and the necessary provisions shall be made for the protection of the new work and all blasting shall be so conducted as not to endanger persons or property. Only sufficient quantity of explosives necessary for the immediate day's work shall be kept on hand by the Contractor. Storage of caps, exploders and explosives shall be done strictly in compliance with the orders of the Engineer and the ordinances of the City. The Contractor shall be responsible for and shall make good any damage caused by blasting or accidental explosions.

The Contractor shall notify the proper representatives of any public service corporation, any company or individual, not less than forty-eight (48) hours in advance of any blasting which might cause damage to their or his property along or adjacent to the work. Wherever explosives are stored, they shall be kept in a safe, secure manner and all storage places shall be plainly marked "Dangerous Explosives", and shall be under the care of a competent watchman at all times.

106.10 PROTECTION AND RESTORATION OF PROPERTY. The Contractor shall not enter upon private property for any purpose without first obtaining permission and he shall be responsible for the preservation of and shall use every precaution necessary to prevent damage to all trees, fences, culverts, bridges, pavements, driveways, sidewalks, etc., to all water, sewer, gas or electric lines or appurtenances thereof and to all other public or private property along or adjacent to the work. The Contractor shall notify the proper representatives of any public service corporation, and company or any individual, not less than twenty-four (24) hours in advance of any work which might damage or interfere with the operation of their or his property, along or adjacent to the work. He shall be responsible for all damage or injury to property of any character resulting from any act, omission, neglect, or misconduct in the

manner or method of executing the work or due to his non-execution of the work, or at any time due to defective work or materials, and said responsibility shall not be released until the work shall have been completed and accepted. When any direct or indirect damage or injury is done to public or private property on account of any act, omission, neglect or misconduct in the execution of the work or in consequence of the non-execution thereof on the part of the Contractor, he shall restore at his expense such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring, or he shall make good such damage for injury in an acceptable manner.

In case of the failure on the part of the Contractor to restore such property or make good such damage or injury, the Owner may, upon forty-eight (48) hours written notice, under ordinary circumstances, and without notice when a nuisance or hazardous condition results, proceed to repair, rebuild or otherwise restore such property as may be determined necessary and the cost thereof will be deducted from any monies due or to become due the Contractor under his contract.

106.11 PROTECTION AND PRESERVATION OF LAND MONUMENTS AND PROPERTY-LINE MARKS. The Contractor shall protect carefully from disturbance or damage all land monuments and iron pins or other markers which establish property lines, provided that where such monuments or markers must, of necessity, be disturbed or removed in the performance of the contract, the Contractor shall first give ample notice to the Engineer, so that he may witness or reference in such monuments or markers. Should the Contractor disturb, remove or damage any established land monument or property line mark without first giving the Engineer ample notice, the Engineer may, at his option deduct the cost of re-establishing such monuments or markers from any monies due to become due the Contractor.

106.12 RESPONSIBILITY FOR DAMAGE CLAIMS. The Contractor and his surety shall defend, indemnify and save harmless the Owner and all its officers, agents and employees from all suits, actions or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property by or from the said Contractor or his employees or by or in consequence of any negligence in safeguarding the work or through the use of unacceptable materials in constructing the work or by or on account of any act or omission, neglect or misconduct of said Contractor or by or on account of any claim or amounts arising or recovered under the Workmen's Compensation Law or any other law, ordinance, order or decree, and so much of the money due the said Contractor under and by virtue of his contract as shall be considered necessary by the Owner may be retained for the use of the Owner, or in case no money is due, his surety shall be held until such suit or suits, action or actions, claim or claims for injury or damages as aforesaid shall have been settled and satisfactory evidence to the effect furnished to the Owner.

106.13 CONTRACTOR'S CLAIM FOR DAMAGES. Should the Contractor claim compensation for any alleged damage by reason of the acts or omissions of the Owner, he shall within ten (10) days after the sustaining of such damage, make a written statement to the Engineer, setting out in detail the nature of the alleged damage. On or before the 25th day of the month succeeding that in which any such damage is claimed to have been sustained, the Contractor shall file with the Engineer an itemized statement of the details and amount of such damage, and upon request shall give the Engineer access to all books of accounts, receipts, vouchers, bills of lading and other books or papers containing any evidence as to the amount of such damage. Unless such statement shall be filed as thus required, the Contractor's claim for compensation shall be waived and he shall not be entitled to payment on account of any such damage.

106.14 PUBLIC UTILITIES AND PUBLIC PROPERTY. In the event it is necessary to change or move the property of any owner of a public utility, such owner will, upon proper application by the Contractor, be notified by the Engineer to change or move such property within a specified time, and the Contractor shall not interfere with such property until ordered to do so by the Engineer. The right is reserved to the owner of public utilities to enter upon the limits of the contract for the purpose of making such repairs or changes of their property that may be necessary by performance of the contract. The Owner shall have the privilege of entering upon the limits of the contract for the purpose of repairing or relaying sewer and water lines and appurtenances, repairing culverts or storm drains, and for making other repairs, changes or extensions to any utilities.

The Contractor shall provide all notices to the ONE-OKIE system prior to excavating, in accordance with State law.

106.15 TEMPORARY SEWER AND DRAIN CONNECTIONS. When existing sewers have to be taken up or removed, the Contractor at his own expense shall provide and maintain temporary outlets and connections for all private or public drains, sewers or sewer, inlets. He shall also take care of all sewage and drainage which will be received from these drains, sewers and sewer inlets, and for this purpose he shall provide and maintain at his own expense adequate pumping facilities and temporary outlets or diversions. He shall construct such troughs, pipes or other structures necessary and be prepared at all times to dispose of drainage and sewage received from these temporary connections until such time as the permanent connections are built and in service. The existing sewers and connections shall be kept in service and maintained under the contract, save where specified or ordered to be abandoned by the Engineer. All water or sewage shall be disposed of in a satisfactory manner so that no nuisance is created and that the work under construction will be adequately protected.

106.16 ARRANGEMENT AND CHARGE FOR POTABLE WATER FURNISHED BY THE OWNER. If the Contractor desires to use Owner water he shall pay the rate established by City ordinances for such service and he shall make complete and satisfactory arrangements with the Water Department for so doing. Meters will be used and the Contractor shall deposit the cost of the water meter with the Water Department and will pay for all repairs and maintenance of the meter for the period which he has the meter in use or in his possession.

106.17 USE OF FIRE HYDRANTS. The Contractor or his employees shall not open, turn off, interfere with, attach pipe or hose to or connect anything with any fire hydrant, stop valve or stop cock or tap any water main belonging to the Owner, unless duly authorized to do so by the Water Department.

106.18 USE OF A SECTION OR PORTION OF THE WORK. Whenever in the opinion of the Engineer any portion of the work or any structure is in suitable condition it may be put into use by the written order of the Engineer and such usage shall not be held to be in any way acceptance of said work or structure or any part thereof or as a waiver of any of the provisions of these specifications or contract. Pending final completion and acceptance of the work, all necessary repairs and renewals on any section of the work so put into use, due to defective material or workmanship, to natural causes other than ordinary wear and tear or to the operations of the Contractor shall be performed by and at the expense of the Contractor.

106.19 CONTRACTOR'S RESPONSIBILITY FOR THE WORK. Until issuance of written acceptance by the Engineer as provided for in these specifications, the work shall be under the charge and care of the Contractor, and he shall take every necessary precaution to prevent injury or damage to the work or any part thereof by the action of the elements or from any other cause whatsoever, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good, at his own expense, all injuries or damage to any portion of the work occasioned by any of the above causes before acceptance.

106.20 PERSONAL RESPONSIBILITY OF PUBLIC OFFICIALS. In carrying out any of the provisions contained herein or in exercising any power or authority granted to him by the contract, there shall be no liability upon the Engineer or his authorized assistants, either personal or as officials of the Owner, it being understood that in such matters he acts as the agent and representative of the Owner.

106.21 WAIVER OF LEGAL RIGHTS. Inspection by the Engineer or by any of his duly authorized representatives, any order, measurement, or certificate by the Engineer, any order by the Owner for the payment of money, any payment for or acceptance of any work or any extension of time or any possession taken by the Owner, shall not operate as a waiver of any provision of the contract or any power therein provided. Any waiver of any breach of contract shall not be held to be a waiver of any other or subsequent breach. The Owner reserves the right to correct any error that may be discovered in any estimate that may have been paid and to adjust the same to meet the requirements of the contract and specifications. The Owner reserves the right to claim and recover by process of law sums as may be sufficient to correct any error or errors or make good any deficiency in the work resulting from such error or deficiency, dishonesty or collusion discovered in the work after the final payment has been made.

106.22 CONTRACTOR'S INSURANCE. The Contractor shall not commence work under this contract until he has obtained all insurance required under this specification and such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required for the subcontractor has been so obtained and approved.

(a) WORKMEN'S COMPENSATION AND DEATH LIABILITY INSURANCE. The Contractor shall secure and maintain during the life of this contract Workmen's Compensation Insurance as prescribed by the laws of the State of Oklahoma for all his employees employed at the site of the project. The Contractor shall require any subcontractor similarly to provide Workmen's Compensation and Employer's Death Liability insurance for all the latter's employees, unless such employees are covered by the protection afforded by the Contractor.

(b) PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE. The Contractor shall secure and maintain during the life of this contract such Public Liability and Property Damage Insurance as will protect the Owner, himself, and any subcontractor performing work covered by this contract, from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by either of them.

- (c) Contractor shall provide to the City a certificate of public liability insurance, a certificate of worker's compensation insurance, and automobile public liability insurance as follows:

Comprehensive Public Liability and Property Damage

Bodily Injury	\$ 125,000 per individual
	\$1,000,000 in the aggregate per occurrence;
Property Damage	\$ 25,000 per occurrence
	\$ 125,000 in the aggregate

Worker's Compensation Insurance. Statutory limits as required by the laws of the State of Oklahoma, including employer's liability insurance with \$500,000 limit.

Automobile Public Liability Insurance

Bodily Injury	\$ 125,000 per individual
	\$1,000,000 in the aggregate per occurrence

Public Liability Insurance in the amount of not less than fifty thousand dollars(\$50.000) for injuries, including accidental death, or one hundred thousand dollars(\$100.000) for one accident.

106.23 LIENS. Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the Owner a complete release of all liens arising out of this Contract, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as he has knowledge or information the releases and receipts include all the labor and material for which a lien could be filed; but the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Owner, to indemnify him against any lien. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

**SECTION 107
PROSECUTION AND PROGRESS**

107.01 SUBLETTING OF WORK. If the Contractor sublets the whole or any part of the work to be done under this contract, he will not under any circumstances be relieved of his responsibility and obligations. All transactions of the Engineer shall be with the Contractor. Subcontractors will be considered only in the capacity of employees or workmen and shall be subject to the same requirements as to character and competency. The Contractor shall at all times when work is in operation, be represented either in person or by a qualified superintendent or qualified designated representative.

The Contractor shall submit the name and address of any proposed subcontractor to the Engineer in writing prior to said subcontractor performing any of the work. The Contractor shall clearly list the types and amounts of work of the subcontractor.

107.02 ASSIGNMENT OF CONTRACT. The Contractor shall not assign, transfer, convey or otherwise dispose of the contract or his right, title, or interest in or to the same or any part thereof without the previous consent of the Engineer in writing, approved by the governing body of the Owner and concurred in by the Surety. If the Contractor does, without such previous consent, assign, transfer, convey, or otherwise dispose of the contract or of his right, title or interest therein or any part thereof to any person or persons, partnership, company, firm or corporation or by bankruptcy, voluntary or involuntary, or by assignment under the insolvency laws of any state, attempt to dispose of the contract or make default in or abandon said contract, then the contract may, at the option of the Owner, be revoked and annulled unless the Surety shall successfully complete said contract and any monies due or to become due under said contract shall be retained by the Owner as liquidated damages for the reason that it would be impractical and extremely difficult to determine the actual damages.

107.03 PROSECUTION OF WORK. The Contractor shall begin the work to be performed under the contract within the time limit stated in the advertisement, proposal and contract, and shall conduct the work in such a manner and with sufficient equipment, materials and labor as is necessary to insure its completion within the time limit set forth in the proposal and contract. Should the prosecution of the work for any reason be discontinued by the Contractor for an extended period of time, he shall notify the Engineer at least twenty-four (24) hours in advance of resuming operations.

107.04 PROJECT SCHEDULES. Within ten days after the effective date of the agreement, the Contractor shall submit to the Engineer for review a progress schedule indicating the times (number of days or dates) for starting and completing the various stages of the Work, including any milestones specified in the contract documents.

No progress payment shall be made to the Contractor until the schedules are submitted to and acceptable to the Engineer as provided below. The progress schedule will be acceptable to the Engineer as providing an orderly progression of the work to completion within any specified milestones and the contract times, but such acceptance will neither impose on the Engineer responsibility for the sequencing, scheduling or progress of the work nor interfere with or relieve the Contractor from the Contractor's full responsibility therefor. The Contractor's schedule of Shop Drawing(s) and Sample submissions will be acceptable to the Engineer as providing a workable arrangement for reviewing and processing the required submittals.

107.05 LIMITATION OF OPERATIONS. The Contractor shall conduct his work so as to create a minimum amount of inconvenience to the public. At any time when in the judgment of the Engineer the Contractor has obstructed or closed or is carrying on operations on a greater portion of the site or public way than is necessary for the proper execution of the work, the Engineer may require the Contractor to finish sections on which work is in progress before work is started on any additional section.

107.06 CHARACTER OF WORKMEN AND EQUIPMENT. The Contractor shall employ such superintendents, foremen and workmen as are careful and competent, and the Engineer may require removal from the project of any person or persons employed by the Contractor, in, about or on the work who shall misconduct himself or be incompetent or negligent in the proper performance of his or their duties or neglect or refuse to comply with the directions of the Engineer, and such person or persons shall not be employed again thereon without the written consent of the Engineer. The Engineer may withhold all payments which are or may become due or may suspend the work until such orders are fulfilled.

All workmen shall have sufficient skill and experience to properly perform the work assigned them. All workmen engaged on special work or skilled work or in any trade shall have sufficient experience in such work to properly and satisfactorily perform it and operate the equipment involved, and shall make due and proper effort to execute the work in the manner prescribed in these specifications.

In the employment of labor, preference shall be given, other conditions being equal, to bona fide residents of the Owner or the area, but no other preference or discrimination among citizens of the United States shall be made.

The Contractor shall furnish such equipment as is considered necessary for the prosecution of the work in an acceptable manner and at a satisfactory rate of progress. All equipment, tools and machinery used for handling materials and executing any part of the work shall be operated and maintained in a satisfactory working condition in accordance with the equipment manufacturers' recommendations. Equipment on any portion of the work shall be such that no injury to the work or adjacent property will result from its use.

107.07 DAYS WORK WORKING HOURS. Work shall be performed only during regular and commonly accepted and prescribed working hours. No work shall be performed nights, Sundays or during City holidays unless authorized in writing.

107.08 TIME OF COMMENCEMENT AND COMPLETION. The Contractor shall commence work within the time specified in the advertisement, proposal and contract and the rate of progress shall be such that the whole work will be performed and the premises cleaned up in accordance with the contract, plans and specifications within the time limit, as stated in the contract, unless an extension of time is granted in the manner hereinafter specified.

107.09 EXTENSION OF TIME OF COMPLETION. If the Contractor finds it impossible, for reasons beyond his control, to complete the work within the Contract time as specified or as extended in accordance with the provisions of this Subsection, he may, at any time prior to the expiration of the Contract time as extended, make a written request to the Engineer for an extension of time setting forth therein the reasons which he believes will justify the granting of his request. The Contractor's plea that insufficient time was specified in the Proposal and the Contract or that previously unprotested time charges were incorrect shall not be grounds for an extension of time. If the Engineer finds that the work was delayed because of conditions

beyond the control and without the fault of the Contractor, the Engineer may extend the time for completion in such amounts as the conditions justify. The extended time for completion shall be in full force and effect the same as though it were the original time for completion. Daily time charges will cease when the project is completed.

In adjusting the contract time for the completion of the project, all strikes, lockouts, unusual delays in transportation or any condition over which the Contractor has no control and also any suspensions ordered by the Engineer for causes not the fault of the Contractor shall be excluded from the computation of the contract time for completion of the work. If the satisfactory execution and completion of the contract should require work or materials in greater amounts or quantities than those set forth in the contract, then the contract time shall be increased in the same proportion as the cost of the original work. No allowance shall be made for delays or suspension of the prosecution of the work due to the fault of the Contractor.

107.10 FAILURE TO COMPLETE WORK ON TIME. It is mutually agreed by Owner and Contractor that time is of the essence of this Contract and that Owner will suffer financial loss if the Work is not substantially complete within the time specified in the Contract, plus any extensions thereof allowed in accordance with Section 107.09 of these General Conditions. They also recognize the delays, expense and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not substantially complete on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner the amount set forth in the Special Provisions, until the work is substantially complete.

107.11 TEMPORARY SUSPENSIONS. The Engineer shall have the authority to suspend the work wholly or in part for such period or periods, as he may deem necessary, due to unsuitable weather or such other conditions as are considered favorable for the suitable prosecution of the work.

If it should be necessary to stop work for an indefinite period, the Contractor shall store all materials in such manner that they will not obstruct or impede the traveling public unnecessarily nor become damaged in any way, and he shall take every precaution to prevent damage or deterioration of the work performed, and shall provide suitable drainage of the work.

107.12 SUSPENSION OF WORK AND ANNULMENT OF CONTRACT. The work or any portion of the work under contract may be suspended on written order of the Engineer or the Owner, with copy of such notice to be served upon the Contractor's Surety, or the contract may be annulled by the Owner, for any good cause or causes, said causes including but not limited to the following:

- (a) Failure of the Contractor to start the work within the time limit specified;
- (b) Substantial evidence that the progress being made by the Contractor is insufficient to complete the work within the specified time;
- (c) Failure of the Contractor to provide sufficient and proper equipment for properly executing the work;

- (d) Deliberate failure on the part of the Contractor to observe any requirements of these specifications or to comply with any orders given by the Engineer, as provided for in these specifications;
- (e) Failure of the Contractor to promptly make good any defects in materials or workmanship or any defects of any other nature, the correction of which had been directed in writing by the Engineer.
- (f) Substantial evidence of collusion for the purpose of illegally procuring a contract or perpetrating fraud on the Owner in the construction of work under contract.

When work is suspended for any one of the causes itemized above, or for any other cause or causes, the Contractor shall discontinue the work or such part thereof as the Owner shall designate, whereupon the Surety may, at its option, assume the contract or that portion thereof which the Owner has ordered the Contractor to discontinue and may perform the same or may, with the written consent of the Engineer, approved by the Owner, sublet the work or portion of the work so assumed; provided, however, that the Surety shall exercise its option, if at all, within two (2) weeks after the written notice to discontinue work has been served upon the Contractor and upon the Surety or its authorized agent The Surety, in such event shall assume the Contractor's place in all respects and shall be paid by the Owner for all work performed by it in accordance with the terms of the contract and, if the Surety, under the provisions hereof, shall assume said entitled contract, all monies remaining due the Contractor at the time of his default shall thereupon become due and payable to the Surety as the work progresses, subject to all the terms of the contract.

In the event that the Surety does not within the time hereinbefore specified, exercise its right and option to assume the contract, or that portion thereof which the Owner has ordered the Contractor to discontinue, then the Owner shall have the power to complete, by contract or otherwise as it may determine, the work herein described, or such part thereof as it may deem necessary, and the Contractor hereby agrees that the Owner shall have the right to take possession of and use any of the materials, tools, equipment, supplies and property of every kind provided by the Contractor for the purpose of his work and to procure other tools, equipment and materials for the completion of the same, and to charge to the account of the Contractor the expense of said contract for labor, materials, tools,, equipment and expenses incident thereto. The expense so charged shall be deducted by the Owner out of such monies as may be due or may at any time thereafter become due to the Contractor under and by virtue of the contract or any part thereof. The Owner shall not be required to obtain the lowest bid for the work of completing the contract but the expense to be deducted shall be the actual cost of such work. In case such expense is less than the same which would have been payable under the contract, if the same had been completed by the Contractor, the balance shall operate as liquidated damages, as herein above set forth. In case such expense shall exceed the amount which would, have been payable under the contract, if the same had been completed by the Contractor, then the Contractor and his Surety shall pay the excess as due and payable. When, any particular part of the work is being carried out by the Owner by contract or otherwise under the provisions of this Section, the Contractor shall continue the remainder of the work in conformity with the terms of the contract and in such manner as not to hinder or interfere with the performance of workmen employed as above provided by the Owner.

107.13 TERMINATION OF CONTRACT. The Contract will be considered fulfilled save as provided in any bond or bonds or by law, when all the work has been completed, the final inspection made by the Engineer, and final acceptance and final payment made by the Owner.

SECTION 108
MEASUREMENT AND PAYMENT

108.01 MEASUREMENT OF QUANTITIES. The determination of quantities of work accepted and completed under the terms of the contract or as directed by the Engineer, in writing, will be made by the Engineer, based on measurements taken by him or his assistants, or at the sole discretion of the Engineer determination of quantities may be based on measurements taken by the Contractor. These measurements will be taken according to the United States Standard Measurements. When materials are measured in the vehicle, the measurement will be taken at the point of delivery. The capacity of all vehicles shall be plainly marked on each vehicle and the capacity or markings shall not be changed without permission of the Engineer.

108.02 SCHEDULE OF VALUES. (For Lump Sum Items or Contracts Only) Prior to work commencing, Engineer and Contractor shall determine and agree to payments based on a percentage of the Lump Sum amount, to correlate to completion of respective phases of the work.

108.03 SCOPE OF PAYMENT. The Contractor shall receive and accept the compensation as herein provided as full payment for furnishing all labor, materials, tools, equipment and incidentals; for performing all work contemplated and embraced under the contract; for all loss or damage arising out of the nature of the work or from the action of the elements; for any unforeseen defects or obstructions which may arise or be encountered during the prosecution of the work and before its final acceptance by the Engineer; for all risks of every description connected with the prosecution of the work; for all expenses incurred by or in consequence of suspension or discontinuance of such prosecution of the work as herein specified; for any infringement of patents, trademarks or copyrights and for completing the work in an acceptable manner according to the plans and specifications.

The payment of any current or partial estimate prior to final acceptance of the work by the Owner shall in no way constitute an acknowledgment of the acceptance of the work nor in any way prejudice or affect the obligation of the Contractor to repair, correct, renew, or replace at his expense any defects or imperfections in the construction or in the strength or quality of the materials used in or about the construction of the work under the contract and its appurtenances nor any damage due to or attributable to such defects, which defects, imperfections or damage shall have been discovered on or before the final inspection and acceptance of the work. The Engineer shall be the sole judge of such defects, imperfections or damage and the Contractor shall be liable to the Owner for failure to correct the same as provided herein.

108.04 PAYMENT FOR EXTRA WORK. Extra work provided by the Contractor, as authorized and approved by the Engineer and the Owner, will be paid for in the manner hereinafter described and the compensation thus provided shall be accepted by the Contractor as payment in full for all labor, materials, tools, equipment and incidentals, and all superintendents' and timekeepers' services, all insurance and all other overhead expense incurred in the prosecution of the extra work. Payment for extra work will be made by one or more of the following methods:

- (a) Unit prices agreed upon by the Engineer and the Contractor and approved by the governing body of the Owner in writing, before said work is commenced, subject to all other conditions of the contract;
- (b) A lump sum price agreed upon by the Engineer and the Contractor and approved in writing by the governing body of the Owner before said work is commenced, subject to all other conditions of the contract;
- (c) The actual cost including labor, materials, tools, equipment and field supervision of such extra work plus fifteen percent (15%); said 15% understood and agreed to be full compensation for all overhead expenses and profits, when agreed upon by the Engineer and the Contractor, and approved in writing by the governing body of the Owner before said work is commenced; subject to all other conditions of the contract.

The Contractor shall, on or before the 10th day of the month succeeding that in which any extra work shall have been performed, file with the Engineer his claim and an account giving the itemized cost of such work and shall give the Engineer access to all accounts, bills and vouchers relating thereto.

108.05 PAYMENT PROCEDURES. The Contractor shall submit an Invoice or Application for Payment for work completed as of the date of the Invoice or Application. All payments made by the Owner are subject to procedures established for the governing body of the Owner to authorize payment at its regularly scheduled meetings.

Invoice or Application for Payment must be received in the Public Works Director's Office no less than ten (10) business days prior to the regular meeting at which authorization for payment is to be requested.

Retainage shall be withheld from all progressive payments in accordance with Oklahoma Statutes.

Upon final completion and acceptance of the work, including all submittals, the Owner shall pay the remainder of the Contract price, subject to the procedures as noted in this section.

It is understood that payments will be subject to correction in the payment rendered following discovery of an error in any previous payment and such payment shall not in any respect, be taken as an admission by the Owner of the amount of work done or of its quality or sufficiency nor as an acceptance of the work or the release of the Contractor of any of his responsibility under the contract.

108.06 PAYMENTS WITHHELD. The Engineer may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any payment to such extent as may be necessary to protect the Owner from loss on account of:

- (a) Defective work not remedied;
- (b) Claims filed or reasonable evidence indicating probable filing of claims;
- (c) Failure of the Contractor to make payments properly to subcontractors or for materials or labor;

- (d) A reasonable doubt that the contract can be completed for the balance then paid;
- (e) Damage to another Contractor.

When the above conditions are remedied, payment shall be made for amounts withheld as a result of such condition.

108.07 STATE TAX. The Contractor will be responsible for and bear the expense of all sales tax and other State tax pertaining to this project, the cost of such tax being included in his original bid.

108.08 ACCEPTANCE AND FINAL PAYMENT. Whenever the improvement provided for by the contract shall have been completely performed on the part of the Contractor, and all parts of the work have been approved by the Engineer and accepted by the Owner a final pay request showing the value of the work will be prepared by the Contractor as soon as the necessary measurements and computations can be made. All prior pay requests, upon which payments have been made, are subject to necessary corrections or revisions in the final payment. The amount of this pay request, less any sums that have been deducted or retained under the provisions of the contract, will be paid to the Contractor as soon as practicable after the final acceptance, provided the Contractor has furnished to the Owner satisfactory evidence that all sums of money due for any labor, materials, apparatus, fixtures or machinery furnished for the purpose of such improvement have been paid or that the person or persons to whom the same may respectively be due have consented to such final payment.

The acceptance by the Contractor of the last payment, as aforesaid, shall operate as and shall be a release to the Owner from all claims of liability under the contract for anything performed or furnished or relating to the work under the contract or for any act or neglect of Owner relating to the contract.

108.09 FINAL MEASUREMENT AND FINAL PAY REQUESTS. Final measurement will be taken and final pay requests compiled as soon as work has progressed to a point where the final measurements may be taken accurately.

108.10 This contract, and all documents incorporated herein by reference or executed in connection herewith, are intended solely to govern the relationship between the Contractor and the Owner and their mutual obligations in respect to the subject of the contract. To that end, no provision of this contract, or of any document mentioned above, shall be interpreted or given legal effect to create an obligation on the part of the Owner to third persons, including by way of illustration but not of exclusion, sureties upon performance bonds, payment bonds, or other bonds; assignees of the contractor; subcontractors; and persons performing labor, furnishing material, or in any other way contributing to or assisting in the performance of the obligations of the Contractor; nor shall any such provisions be interpreted or given legal effect to afford a defense against any obligation owed or assumed by such third person to the Owner or in any way to restrict the freedom of the Owner to exercise full discretion in its dealing with the Contractor.