

CONTRACT DOCUMENTS

FOR

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

IN

PONCA CITY, OKLAHOMA



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NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN that the Ponca City Utility Authority of Ponca City, Oklahoma, will receive sealed bids in the office of the City Clerk, Municipal Building, 516 East Grand Avenue, Ponca City, Oklahoma, 74601, until 3:00 p.m. **Thursday, June 2, 2022** for:

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

**Furnishing all tools, materials and labor and performing the work necessary to construct a new fence along the west property boundary of the Ponca City Landfill. Project includes the removal of an existing barbed wire and hog panel fence and the construction of 2,560 linear feet of new 6 foot tall, 9 gauge chain link fence with a security barbed wire top section.**

In order that the Owner may know to whom further information, addendums, and clarifications should be sent prior to the bid opening it is required that the plans and specifications shall be obtained from the Office of the City Clerk, 516 East Grand Avenue, Ponca City, Oklahoma, 74601 in order for a contractor to be eligible to bid on this project. Bids shall be made in accordance with the plans, specifications, and other bidding documents which are on file and available for examination at the Office of the City Clerk of Ponca City, Oklahoma. Prospective bidders may obtain a set of documents for a non-refundable deposit of \$35.00 for each set. No partial sets will be issued and no refund will be provided for sets that may be returned.

A pre-bid conference will be held on Tuesday, May 24, 2022 at 10:00 a.m. in the McFadden Room, 516 E. Grand Avenue, City Hall Building. Questions shall be answered for prospective bidders at the pre-bid conference by addendum to the contract. All bidders are responsible for knowledge disseminated at said conference. Telephone messages should be directed to Tim McNew, Solid Waste Superintendent at (580) 767-0454.

The information for Bidders, Forms of Bids, Form of Contract, Plans, Specifications and Form of Bid Bond, Performance and Statutory Bond, and other contract documents may be examined at the Office of the City Clerk of Ponca City, Oklahoma. The successful bidder shall submit Certification of Insurance for Public Liability and Workers Compensation in the amounts prescribed by Statute with the City of Ponca City named as additional insured.

Bids filed as provided herein shall be publicly opened on the above-mentioned time, date and place. All bids shall remain on file at least forty-eight (48) hours thereafter before a contract shall be made and entered into thereon. Bids received more than ninety-six (96) hours, excluding Saturdays, Sundays and holidays, before the time set for the opening of bids, as well as bids received after the time set for opening of bids, shall not be considered and will be returned unopened. All bids submitted must include the word "BID", the name of the bid item or project, and the time and date of the bid opening on the face of the sealed envelope.

A cashier's check, a certified check or a security bond in the amount of five percent (5%) of the bid shall accompany the sealed proposal of each bidder. Deposits will be returned to unsuccessful bidders.

DATED \_\_\_\_\_

\_\_\_\_\_  
Holly Wallen - Deputy City Clerk

## INSTRUCTIONS TO BIDDERS

B-1. BIDS. Each bid shall be printed in ink or typewritten on the form provided in this bound copy of proposed contract documents. The written words shall govern over the figures if there is a difference between the two. No alterations, additions, or erasures shall be made on the Proposal Form. Erroneous entries shall be lined out, initialed by the bidder, and the correct entry inserted. The unit price bid must cover all expense for furnishing the labor, materials, tools, equipment, and apparatus of every description to construct, erect, and furnish all work required by and in conformance with the drawings and specifications.

Each bid shall be enclosed in a sealed envelope addressed to the City of Ponca City, City Clerk's Office, 516 E. Grand Avenue, Ponca City, Oklahoma, 74601. The date and time of the bid opening shall be shown on the envelope and it must be identified on the outside with the words:

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

and filed with the City Clerk, City Clerk's Office, City Hall.

All addenda to the contract documents, properly signed by the bidder, shall accompany the bid when submitted.

B-2. BID SECURITY. Each bid shall be accompanied by a cashier's check, a certified check, or a bidder's bond, for five percent (5%) of the total amount bid.

The bid security shall be made payable without condition to the City of Ponca City, Ponca City, Oklahoma, hereinafter referred to as the City. The bid security may be retained by and shall be forfeited to the City as liquidated damages if the bid is accepted and a contract based thereon is awarded and the bidder should fail to enter a contract in the form prescribed, with legally responsible sureties, within thirty (30) days after such award is made by the City.

B-3. RETURN OF BID SECURITY. The bid security of each unsuccessful bidder will be returned when his bid is rejected. The bid security of the bidder to whom the contract is awarded will be returned when he executes a contract and files satisfactory bonds. The bid security of the second lowest responsible bidder may be retained for not to exceed sixty (60) days pending the execution of the contract and bonds by the successful bidder.

B-4. WITHDRAWAL OF BIDS. No bidder may withdraw his bid for sixty (60) days after the date and hour set for the opening. A bidder may withdraw his bid any time prior to expiration of the period during which bids may be submitted by a written request signed in the same manner and by the same person who signed the Proposal.

B-5. REJECTION OF BIDS. Bids received more than ninety-six (96) hours, excluding Saturdays, Sundays, and Holidays, before the time set for opening bids, as well as bids received after the time set for opening of bids, will not be considered and will be returned unopened. The City of Ponca City reserves the right to reject any and all bids when such rejection is in the best interest of the City. All bids are received subject to this stipulation and the City reserves the right to decide which bidder shall be deemed lowest responsible bidder.

A violation of any of the following provisions by the bidder shall be sufficient reason for rejecting his bid, or shall make any contract between the City and the Contractor that is based on his bid, null and void; divulging the information in said sealed bid to any person, other than those having a financial interest with him in said bid, until after the bids have been opened; submission of a bid which is incomplete, unbalanced, obscure, incorrect, or which has conditional clauses, additions, or irregularities of any kind not in the original proposal form, or which is not in compliance with the Instruction to Bidders and published Notice to Bidders, or which is made in collusion with another bidder. The City shall have the right to waive any defects or irregularities in any bid received.

B-6. DISQUALIFICATION OF BIDDERS. No contract will be awarded to any person or persons, firm, partnership, company, or corporation in arrears to the City upon any debt of contract, or in default as surety or otherwise upon any obligation to the City.

B-7. SIGNATURE OF BIDDERS. Each bidder shall sign the Bid Form using his usual signature and giving his full business address. Bids by partnerships shall be signed with the partnership name followed by the signature and designation of one of the partners or other authorized representative. Bids by corporations shall bear the corporate seal and shall be signed with the name of the corporation followed by the signature and designation of the president, secretary, or other person authorized to bind the corporation. Bids by joint ventures shall be signed by each participant in the joint venture or by an authorized agent of each participant. The names of all persons signing should also be typed or printed below the signature. A bid by a person who affixes to his signature the word "president", "secretary", "agent", or other designation without disclosing his principal may be held to be the bid of the individual signing. When requested by the City, evidence of the authority of the person signing shall be furnished.

B-8. INTERPRETATION OF CONTRACT DOCUMENTS. If any person who contemplates submitting a bid is in doubt as to the true meaning of any part of the drawings, specifications, or other proposed contract documents he may submit to the Engineer a written request for an interpretation thereof. The person submitting the request shall be responsible for its prompt delivery. Interpretation of the proposed contract documents will be made only by addendum. A copy of each addendum will be mailed or delivered to each person obtaining a set of contract documents from the Engineer. The City will not be responsible for any other explanations or interpretations of the proposed contract documents.

B-9. LOCAL CONDITIONS AFFECTING WORK. Each bidder shall visit the site of the work and shall completely inform himself relative to construction hazards and procedure, labor, and all other conditions and factors, local and otherwise, which would affect prosecution and completion of the work and its cost. Such considerations shall include the arrangement and condition of existing structures and facilities, the procedure necessary for maintenance of uninterrupted operation of existing facilities, the availability and cost of labor, and facilities for transportation, handling, and storage of materials and equipment. All such factors shall be properly investigated and considered in the preparation of the bid. There will be no subsequent financial adjustment for lack of such prior information.

B-10. TIME OF COMPLETION. The time of completion is an essential part of the contract and it will be necessary for each bidder to satisfy the City of his ability to complete the work within the allowable time set forth in the Bid Form. In this connection, attention is directed to the provisions of the General Conditions and Special Conditions relative to delays, extensions of time, and liquidated damages.

B-11. TAXES AND PERMITS. Attention is directed to the requirements of the General Conditions regarding payment of taxes and obtaining permits.

B-12. OKLAHOMA LEGAL REQUIREMENTS. The Contractor must comply with the Oklahoma Scaffolding Law, 40 Oklahoma Statutes, Section 174 to 178, which covers erection and use of scaffolds, hoists, cranes, stays, ladders, supports, or other mechanical contrivances.

Any nonresident contractor, doing business in the State of Oklahoma, shall register with the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the State Industrial Court and the County Assessor of each county in which contract work will be performed. This must be done prior to commencing work under any contract.

B-13. BONDS. The bidder to whom a contract is awarded will be required to furnish bonds as follows:

a. Performance Bond. A Performance Bond to the City in an amount equal to one hundred percent (100%) of the contract price.

b. Statutory Bond. A Statutory Bond to the State of Oklahoma in an amount equal to one hundred percent (100%) of the contract price.

c. Maintenance Bond. A Maintenance Bond to the City in an amount equal to one hundred percent (100%) of the contract price.

The bonds shall be executed on the form included in the contract documents by a surety company authorized to do business in the State of Oklahoma and acceptable as Surety to the City.

Accompanying the bonds shall be a "Power-of-Attorney" authorizing the attorney-in-fact to bind the surety company and certified to include the dates of the bonds.

B-14. BOUND COPY OF CONTRACT DOCUMENTS. The Bid Form or other pages shall not be removed from the bound copy of contract documents. The copy of contract documents filed with each bid shall be complete and shall include all items listed in the Table of Contents and all addenda.

B-15. BASIS FOR AWARD OF CONTRACT. The City reserves the right to withhold the awarding of a contract a reasonable period of time from the date of opening of bids. The awarding of a contract upon a successful bid shall give the bidder no right of action or claim against the City upon such contract until the same shall have been reduced to writing and duly signed by the contracting parties. The letting of a contract will not be completed until the contract is duly executed and the necessary bonds and insurance approved.

B-16. TIME FOR AWARDING OF CONTRACT. The awarding of a contract to the lowest responsible bidder will be made within thirty (30) days after the opening of bids unless the City by formal recorded action and for good cause shown, provides for a reasonable extension of that period, which extension period shall not in any event exceed fifteen (15) days where only state or local funds are involved, or not to exceed ninety (90) days on any award of a contract for the construction of a public improvement where funds are utilized which are furnished by an agency of the United States Government.

B-17. SAFETY AND HEALTH REGULATIONS. Bidders should note that they are subject to "Safety and Health Regulations for Construction", Chapter XVII of Title 29, CFR, Part 1926 and that compliance, review and enforcement are the responsibility of the U. S. Department of Labor.

B-18. VENDOR AND SUBCONTRACTOR IDENTIFICATION. Where Vendor and Subcontractor Identification Questionnaires are included in the bid documents, each bidder shall submit the Questionnaire directly to the Engineer no later than 5:00 p.m. on the first working day following the bid opening. Failure to submit the questionnaire may render the bid unresponsive and not eligible for award. The award of the contract will be subject to the acceptability of the vendors and subcontractors listed. If an award is made, the vendors and subcontractors listed on the questionnaire shall be used on the project. No changes in the vendor and subcontractor list will be permitted unless prior consent is obtained through the Engineer.

PROPOSAL  
PONCA CITY UTILITY AUTHORITY

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

TO: PONCA CITY UTILITY AUTHORITY  
PONCA CITY, OKLAHOMA

DEAR PONCA CITY UTILITY AUTHORITY TRUSTEES:

THE UNDERSIGNED BIDDER, having carefully examined the drawings, specifications and other Contract Documents of the above project presently on file in the office of the City Clerk, City of Ponca City, Oklahoma:

CERTIFIES THAT he has inspected the site of the proposed work and has full knowledge of the extent and character of the work involved, construction difficulties that may be encountered, and materials necessary for construction, class and type of excavation, and all other factors affecting or which may be affected by the specified work; and

CERTIFIES THAT he has not entered into collusion with any other bidder or prospective bidder relative to the project and/or bid; and

HEREBY PROPOSES: to enter into a contract to provide all necessary, labor, materials, equipment and tools to completely construct and finish all the work required by the Contract Documents hereto attached and other documents referred to therein; to complete said work within 30 calendar days after the work order is issued and to accept in full payment therefore the amounts set forth below for all work actually performed as computed by the Engineer as set forth in the Contract.

Note: Item numbers omitted are not a part of this Contract.

See following page for bid items.



# BID SCHEDULE

Item No.	Description	Unit	Quantity
1	REMOVE EXISTING FENCE	LIN.FT	2560
Unit Price (words)		Dollars	\$ <u>                    </u> \$ <u>                    </u>
Unit Price (figures)		Unit Price (figures)	Extension (Figures)
2	6 FOOT CHAIN LINK FENCE, MATERIALS	LSUM	1
Unit Price (words)		Dollars	\$ <u>                    </u> \$ <u>                    </u>
Unit Price (figures)		Unit Price (figures)	Extension (Figures)
3	6 FOOT CHAIN LINK FENCE, INSTALLATION	LIN.FT	2560
Unit Price (words)		Dollars	\$ <u>                    </u> \$ <u>                    </u>
Unit Price (figures)		Unit Price (figures)	Extension (Figures)

**TOTAL BASE BID**

Words Dollars \$                       
Figures

Enclosed is a ( ) Bidder's Surety Bond, ( ) Certified Check, or ( ) Cashier's Check for \_\_\_\_\_  
Words (\$ \_\_\_\_\_),  
Figures

which the City of Ponca City may retain or recover as liquidated damages in the event that the undersigned fails to enter into contract for the work covered by this Proposal, provided the Contract is awarded to the undersigned within thirty (30) days, or within ninety (90) days if Federal funds are utilized, from the date fixed for opening of bids and the undersigned fails to execute said Contract and furnish the required bonds and other requirements as called for in these Contract Documents within thirty (30) days after award of the Contract.

Dated at Ponca City, Oklahoma, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Respectfully submitted,

\_\_\_\_\_  
(Complete legal name of Bidder)

BY: \_\_\_\_\_ ATTEST (S E A L)  
\_\_\_\_\_ Date \_\_\_\_\_ \_\_\_\_\_ Date \_\_\_\_\_  
Title: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Telephone Number

The undersigned acknowledges receipt of the following Addenda (give number and date of each): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signed

**BID BOND**

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WE, \_\_\_\_\_ as Principal (hereinafter "Contractor"), and \_\_\_\_\_, as Surety, are held and firmly bound unto the City of Ponca City, Oklahoma or Ponca City Utility Authority, (hereinafter "City") in the sum of \$\_\_\_\_\_ for payment of which in  
(5% of the total bid amount)

lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT, WHEREAS, Principal has submitted a Bid for the work described as follows:

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

NOW, THEREFORE, if Principal shall not withdraw said Bid within the time period specified after the Bid Deadline, as defined in the Bidding Documents, or within (60) days after the Bid Deadline if no time period be specified, and, if selected as the apparent lowest responsible Bidder, Principal shall, within the time period specified in the Bidding Documents, do the following:

- (1) Enter into a written agreement, in the prescribed form, in accordance with the Bid.
- (2) File two bonds with the City, one to guarantee faithful performance and the other to guarantee payment for labor and materials, as required by the Bidding Documents.
- (3) Furnish certificates of insurance and all other items as required by the Bidding Documents.

In the event of the withdrawal of said Bid within the time period specified, or within (60) days if no time period be specified, or the disqualification of said Bid due to failure of Principal to enter into such agreement and furnish such bonds, certificates of insurance, and all other items as required by the Bidding Documents, if Principal shall pay to City an amount equal to the difference, not to exceed the amount hereof, between the amount specified in said Bid and such larger amount for which City procures the required work covered by said Bid, if the latter be in excess of the former, then this obligation shall be null and void, otherwise to remain in full force and effect.

In the event suit is brought upon this bond by City, Surety shall pay reasonable attorneys' fees and costs incurred by City in such suit.

IN WITNESS WHEREOF, we have hereunto set our hands this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ .

Contractor \_\_\_\_\_  
(Name of Contractor)

Surety: \_\_\_\_\_  
(Name of Company)

By: \_\_\_\_\_  
(Signature of Contractor)

By: \_\_\_\_\_  
(Signature of Agent)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

Address for Notices:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTE: Notary acknowledgment for Surety and Surety's Power of Attorney must be attached.  
IMPORTANT- Surety companies executing bonds must be authorized to transact business in Oklahoma.









**CONTRACT**

**FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS**

THIS CONTRACT made and entered into the \_\_\_day of \_\_\_\_\_, 2022, by and between \_\_\_\_\_ herein called the CONTRACTOR, and the Ponca City Utility Authority, PONCA CITY, OKLAHOMA, herein called "City"

**WHEREAS**, the City has caused to be prepared the necessary Drawings, Specifications, and other Contract Documents for the public improvements herein described, and has invited bids for the construction thereof in accordance with the terms of this Contract, all of which is hereby designated as:

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

**Furnishing all tools, materials and labor and performing the work necessary to construct a new fence along the west property boundary of the Ponca City Landfill. Project includes the removal of an existing barbed wire and hog panel fence and the construction of 2,560 linear feet of new 6 foot tall, 9 gauge chain link fence with a security barbed wire top section.**

**WHEREAS**, the Contractor, in response to the Advertisement, has submitted to the City, in the manner and at the time specified, a sealed bid in accordance with the terms of this Contract; and,

**WHEREAS**, the City, in the manner prescribed by law, has publicly opened, examined, and canvassed the bids submitted, and has determined the above named Contractor to be the lowest responsible bidder for the work and has duly awarded to the said Contractor therefore, for the sum or sums named in the Contractor's bid, a copy of the Bid Form being attached to and made a part of this Contract;

**NOW, THEREFORE**, in consideration of the compensation to be paid to the Contractor and of the mutual agreements and covenants herein contained, the parties to this Contract have agreed and hereby agree, as follows:

**ARTICLE I.** that the Contractor shall (a) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified and required to be incorporated in and form a permanent part of the completed work; (c) provide and perform all necessary labor; and (d) in a good, substantial, and workmanlike manner and in accordance with the requirements, stipulations, provisions, and conditions of the Contract Documents as defined in the attached General Conditions, said documents forming the Contract and being as fully a part thereof as if repeated verbatim herein, perform, execute, construct, and complete all work included in and covered by the City's official award of this Contract to the said Contractor, such award being based on the acceptance by the City to the Contractor's bid, or part thereof, as follows:

**Furnishing all tools, materials and labor and performing the work necessary to construct a new fence along the west property boundary of the Ponca City Landfill. Project includes the removal of an existing barbed wire and hog panel fence and the construction of 2,560 linear feet of new 6 foot tall, 9 gauge chain link fence with a security barbed wire top section.**



**ARTICLE II.** That the City shall pay to the Contractor for performance of the work embraced in this Contract, and the Contractor will accept as full compensation therefore, the sum (subject to adjustment as provided by the Contract) of \_\_\_\_\_ Dollars, (\$ \_\_\_\_\_), for all work covered by and included in the Contract award and designated in the foregoing Article I; payment therefore to be made in cash or its equivalent, in the manner provided in the General Conditions.

**ARTICLE III.** That the Contractor shall start work within ten (10) days following the date stipulated in a written order from the City to proceed with the work to be performed hereunder, and shall complete the work within the number of consecutive calendar days after the authorized starting date, whereas the starting date is defined as the first day of the aforementioned ten (10) days, as stipulated below:

All Work Completed: 30 calendar days

**ARTICLE IV.** The sworn, notarized statement below shall be signed and notarized before this Contract will become effective.

**IN WITNESS WHEREOF,** the City and the Contractor have hereto set their hands and seals, respectively.

PONCA CITY UTILITY AUTHORITY

BY:	ATTEST:	(SEAL)
_____ Date _____	_____ Date _____	
HOMER NICHOLSON, CHAIRMAN	JOHN GONSALVES, SECRETARY	

\_\_\_\_\_  
CONTRACTOR

BY:	ATTEST:	(SEAL)
_____ Date _____	_____ Date _____	
Title	Title	

**APPROVED AS TO FORM:**

\_\_\_\_\_ Date \_\_\_\_\_  
Attorney for PCUA



**STATUTORY BOND**

(Payment of subcontractors, materialmen, laborers, etc.)

**KNOW ALL PERSONS BY THESE PRESENTS:**

**THAT WHEREAS,** The City of Ponca City or Ponca City Utility Authority/("City") has awarded to \_\_\_\_\_, as Principal (hereinafter "Contractor") a contract dated the \_\_\_\_ day of \_\_\_\_\_, 2022, (the "Contract"), which Contract is by this reference made a part hereof, for the work described as follows:

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

**AND WHEREAS,** Contractor is required to furnish a bond in connection with the Contract, guaranteeing the payment of subcontractors, laborers, mechanics, material suppliers and other persons provided by law;

**NOW, THEREFORE,** we, the undersigned Contractor and \_\_\_\_\_ as Surety are held and firmly bound unto the City in the sum \_\_\_\_\_ **Dollars** (**\$ \_\_\_\_\_**), for which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH,** that if Contractor, or its heirs, executors administrators, successors, or assigns approved by the City, shall fail to pay any of its subcontractors, and all materialmen for such labor, material, rental of machinery or equipment, and repair of parts for equipment as are used or consumed in the performance of the Contract, within 30 days of the date payment is due, that surety will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall become and be null and void.

This bond shall inure to the benefit of any of the persons above named as to give a right of action to such persons or their assigns in any suit brought upon this bond.

No extension of time, change, alteration, modification, addition, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract or the work required to be performed thereunder, shall in any way affect the obligation of this bond or release or exonerate Surety on this bond or in any way affect the obligation of this bond; and Surety does hereby waive notice of any such extension of time, change, alteration, modification, addition or to the work to be performed thereunder.

Surety's obligations hereunder are independent of the obligations of any other surety for the payment of claims of laborers, mechanics, material suppliers, and other persons in connection with the Contract; and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing the City's or other beneficiaries' hereof rights against the other.

Any suit under this bond must be instituted before the expiration of two years from the date on which Contractor last furnished labor or materials on the project. In the event suit is brought upon this bond, Surety shall pay reasonable attorney's fees and costs incurred by the City in such suit.

Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

**IN WITNESS WHEREOF**, we have hereunto set our hands this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Contractor: \_\_\_\_\_  
(Name of Contractor)

Surety: \_\_\_\_\_  
(Name of Company)

By: \_\_\_\_\_  
(Signature of Contractor)

By: \_\_\_\_\_  
(Signature of Agent)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

Address for Notices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTE: Notary acknowledgment for Surety and Surety's Power of Attorney must be attached.  
**IMPORTANT**- Surety companies executing bonds must be authorized to transact business in Oklahoma.

**PERFORMANCE BOND**

**KNOW ALL PERSONS BY THESE PRESENTS:**

**THAT WHEREAS,** The City of Ponca City or Ponca City Utility Authority/("City") has awarded to \_\_\_\_\_, as Principal (hereinafter "Contractor") a contract dated the day of \_\_\_\_\_, 2022, (the "Contract"), which Contract is by this reference made a part hereof, for the work described as follows:

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

**AND WHEREAS,** Contractor is required to furnish a bond in connection with the Contract, guaranteeing the faithful performance thereof;

**NOW, THEREFORE,** we, the undersigned Contractor and \_\_\_\_\_ as Surety are held and firmly bound unto the City in the sum of \_\_\_\_\_ **Dollars (\$ \_\_\_\_\_)**, to be paid to the City or its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

1. If the Contractor performs the City Contract, in accordance with the terms and conditions of the City Contract, the Surety and the Contractor shall have no further obligation under this Performance Bond.
2. The Surety's obligation under this Performance Bond shall arise after the City has declared a Contractor Default as defined below, formally terminated the City Contract or the Contractor's right to complete the City Contract, and notified the Surety of the City's claim under this Performance Bond.
3. No extension of time, change, alteration, modification, addition, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract or the work required to be performed thereunder, shall in any way affect the obligation of this bond or release or exonerate Surety on this bond or in any way affect the obligation of this bond; and Surety does hereby waive notice of any such extension of time, change, alteration, modification, or addition to the work to be performed thereunder.
4. When the City has satisfied the conditions of Paragraph 2 above, the Surety shall, at the Surety's sole cost and expense, undertake one or more of the following actions:
  - a. Arrange for the Contractor to perform and complete the City Contract, provided, however, that the Surety may not proceed with this option, except upon the express written consent of the City, which consent may be withheld by the City for any reason; or
  - b. Perform and complete the City Contract itself, through qualified contractors who are acceptable to the City, through a contract between the Surety and qualified contractors, which performance and completion shall be undertaken in strict accordance with the terms and conditions of the City Contract; or
  - c. Tender payment to the City in the amount of all losses incurred by the City as a result of the Contractor Default and as determined by the City for which the Surety is liable to the City, including all costs of completion of the City Contract and all consequential losses, costs, and expenses incurred by the City as a result of the Contractor Default, and including all unpaid fees or payments owed to the City by the Contractor under the City Contract, except that Surety's payment under this option shall in no event exceed the limit of the Bond Amount. The Surety may not proceed with this option, in lieu of the options set forth in subparagraphs (a) or (b) above, except upon the express written consent of the city, which consent may be withheld by the City for any reason.
5. The Surety shall proceed under Paragraph 4 above within fifteen (15) business days after notice from the City to the Surety of the Contractor Default, formal termination of the Contract or the Contractor's right to complete the City Contract, except that the Surety shall proceed within twenty-four (24) hours after notice, where the notice states that immediate action by the Surety is necessary to safeguard life or property.
6. If the Surety fails to proceed in accordance with Paragraphs 4 and 5 above, then the Surety shall be

deemed to be in default on this Performance Bond. Thereafter, if notice to the Surety is without effect, the City shall be entitled to enforce any legal or equitable remedy available to the City. If the Surety has denied liability, in whole or in part, the City shall be entitled without further notice to Surety to enforce any legal or equitable remedies available to the City.

7. After the City has terminated the City Contract or the Contractor's right to complete the City Contract, and if the Surety is proceeding under subparagraphs 4(a) or 4(b) the Surety shall be obligated, without duplication, for:

a. The responsibilities of the Contractor for correction of defective or unsuitable work and performance and completion of the City Contract;

b. Additional legal, design professional, and delay costs incurred by the City as a result of the Contractor's Default, and as a result of the Surety's actions or failures to act under Paragraph 5 above;

c. Liquidated damages as specified in the City Contract, or, if no liquidated damages are specified in the City Contract, actual damages and consequential damages incurred by the City as a result of delayed performance or non-performance of City Contract by the Contractor or the Surety; and

d. Payment of all unpaid and due and owing fees or payments owed to the City under the City Contract at the time of the Contractor Default.

8. To the extent of payment to the Surety of the Balance of the Contract Price, the Surety shall defend, indemnify, and hold harmless the City from all claims, suits, causes of actions, and demands (including all costs of litigation and a reasonable attorney's fee), which are brought against the City by the Contractor or any other party and which arise from or by reason of payment to the Surety the Balance of the Contract Price.

9. Surety's obligations hereunder are independent of the obligations of any other surety for the payment of claims of laborers, mechanics, material suppliers, and other persons in connection with the Contract; and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing the City's or other beneficiaries' hereof rights against the other.

10. The Surety hereby waives notice of any change or modification to the City Contract, including changes of time, or changes to related subcontracts, purchase orders, and other obligations.

11. All notices to the Surety shall be mailed or delivered to its address as shown on the signature page. In the event of a change in the address of the Surety, it shall promptly provide notice to the City, with such notice to include the City Contract No. and this Performance Bond No.

12. Any provision in this Performance Bond which conflicts with the statutory or legal requirement of such statute shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein.

13. The law controlling the interpretation or enforcement of this Performance Bond shall be Oklahoma law.

14. Definitions

a. Balance of the Contract Price: The total amount payable by the City to the Contractor under the City Contract after all proper adjustments have been made, including change orders and credits due the City, reduced by all valid and proper payments made to or on behalf of the Contractor under the City Contract and reduced further by all direct costs and expenses incurred by the City as a result of the Contractor Default, including costs of additional supervision or inspection by the City of the Contractor's work under the City Contract and fees and expenses paid to consultants or others hired by the City for purposes of monitoring or investigating the Contractor's work under the City Contract.

b. City Contract: The agreement between the City and the Contractor identified on the front page.

c. Contractor Default: Shall mean contractor's failure to abide by the terms, conditions, and provisions of the contract and to fail to timely remedy, after notice.

15. In the event suit is brought upon this bond, Surety shall pay reasonable attorney's fees and costs incurred by the City in such suit.

Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

**IN WITNESS WHEREOF**, we have hereunto set our hands this \_\_\_\_ day of \_\_\_\_\_, 2022.

Contractor: \_\_\_\_\_  
(Name of Contractor)

Surety: \_\_\_\_\_  
(Name of Company)

By: \_\_\_\_\_  
(Signature of Contractor)

By: \_\_\_\_\_  
(Signature of Agent)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

Address for Notices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTE: Notary acknowledgment for Surety and Surety's Power of Attorney must be attached.

**IMPORTANT** - Surety companies executing bonds must be authorized to transact business in Oklahoma.

**MAINTENANCE BOND**

**KNOW ALL MEN BY THESE PRESENTS:**

That we, \_\_\_\_\_, as PRINCIPAL, and \_\_\_\_\_, as SURETY are held and firmly bound unto the City of Ponca City, Oklahoma or Ponca City Utility Authority (City), in the full and just sum of \_\_\_\_\_ **Dollars** (**\$ \_\_\_\_\_**), such sum being equal to the contract price and being in force for a period of \_\_\_ YEAR from the date of the acceptance of the below described improvements by the City Council, for the payment of which, well and truly to be made, we and each of us, bind ourselves, our heirs, executors and assigns, themselves, and its successors and assigns, jointly and severally, firmly by these presents.

Dated this \_\_\_ day of \_\_\_\_\_, 2022.

The conditions of this obligation are such that whereas said PRINCIPAL, has by a certain contract between it and THE CITY OF PONCA CITY, OKLAHOMA, dated the \_\_\_ day of \_\_\_\_\_, 2022, agreed to construct in the CITY OF PONCA CITY, OKLAHOMA certain improvements known as:

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

shown by the plans and specifications on file in the City Offices, Ponca City, and to maintain the said improvement against any failure due to defective materials or workmanship for a period of \_\_\_one (\_\_\_1\_\_\_) year(s) from the date of acceptance of the work by the CITY OF PONCA CITY, OKLAHOMA.

NOW, THEREFORE, if said PRINCIPAL for the period of one year(s) from and after the completion and acceptance of said improvements shall maintain against any failure due to defective materials or workmanship the said improvements, then this obligation to be void; otherwise, to remain in full force and effect.

It is further agreed that if said PRINCIPAL or SURETY herein shall fail to maintain said improvements against any failure due to defective materials or workmanship for the said period of one year(s), and at any time repairs shall be necessary, that the cost of making such repairs shall be determined by the Ponca City, City Engineer or person or persons designated by them to ascertain the same, and if, upon thirty (30) days' notice, the said amount ascertained, shall not be paid by the PRINCIPAL or SURETY herein, or if the necessary repairs are not made, that said amount shall become due upon the expiration of thirty (30) days, and suit may be maintained to recover the amount so determined in any court of competent jurisdiction. And that the amount so determined shall be conclusive upon the parties as to the amount due on this bond for the repair or repairs included therein, and that the cost of all repairs shall be so determined from time to time during the life of this bond, as the condition of the improvements may require.

Provided, Further, that the SURETY, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on the bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the specifications



**IN WITNESS WHEREOF**, we have hereunto set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Contractor: \_\_\_\_\_  
(Name of Contractor)

Surety: \_\_\_\_\_  
(Name of Company)

By: \_\_\_\_\_  
(Signature of Contractor)

By: \_\_\_\_\_  
(Signature of Agent)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

Address for Notices:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTE: Notary acknowledgment for Surety and Surety's Power of Attorney must be attached.  
**IMPORTANT** - Surety companies executing bonds must be authorized to transact business in Oklahoma.

RELEASE OF LIENS AFFIDAVIT

(Attach to Final Application & Certificate for Payment)

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_ of lawful age, being first duly sworn upon this oath, deposes and says:

That he/she is the \_\_\_\_\_ of the \_\_\_\_\_ a corporation organized and existing under the laws of the State of \_\_\_\_\_ that he/she makes this Affidavit for and on behalf of said corporation; and , that he/she has authority from the corporation to make this Affidavit.

That the corporation named herein is the same corporation that entered into an Agreement with the City of Ponca City, Oklahoma or Ponca City Utility Authority (City), on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, for:

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

That said corporation has completed the work set forth in said agreement; and that in accordance with said agreement, affiant further says under oath that there are no existing claims, judgments or liens, outstanding for labor and/or materials furnished under said agreement and that all persons, firms or corporations who have performed work or furnished materials under this agreement have been fully paid, Further affiant sayeth not.

\_\_\_\_\_  
Affiant (signature)

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

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
Commission No. \_\_\_\_\_



WORK ORDER  
(NOTICE TO PROCEED)

Date of Work Order: \_\_\_\_\_

TO: \_\_\_\_\_

FROM: Ponca City Utility Authority, City of Ponca City, Oklahoma

YOU ARE HEREBY NOTIFIED that all contract documents have been executed and accepted in relation to the Contract entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and

between the Ponca City Utility Authority and \_\_\_\_\_, for

(Contractor)

**PONCA CITY LANDFILL, WEST FENCE LINE, CONSTRUCTION, PROJECT NO. PCUA 22-6** and that the Contractor shall start work within ten (10) days following the date of this work order, and shall complete the work within the number of consecutive calendar days after the authorized starting date, whereas the starting date is defined as the first day of the aforementioned ten (10) days, as stipulated below:

Date of First Day of Contract: \_\_\_\_\_

All Work Completed: 30 calendar days

Date of Last Day of Contract: \_\_\_\_\_

\_\_\_\_\_  
Engineering Dept. Rep.

\_\_\_\_\_  
Date

Please acknowledge receipt of this Notice to Proceed by signing below and returning a copy of this form.

Company: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_



CITY OF PONCA CITY

PO Box 1450  
516 E. Grand Av.  
Ponca City, OK 74602  
(580) 767-0336 Fax (580) 767-0344

Attn:

RE: City of Ponca City Sales Tax Exemption Numbers:

State: 68 O.S. Section 1356  
Federal: IRS A366022, June 5, 1962

Dear,

You are a contractor for the City of Ponca City for furnishing of all labor and materials for  
**PONCA CITY LANDFILL, WEST FENCE LINE CONSTRUCTION, PROJECT NO. PCUA 22-6**

The purpose of this letter is to insure an appointment as Agent for the City of Ponca City, for the purchase of all materials, equipment, supplies, and any and all personal property that may be incorporated into and become a part of the above mentioned project. Purchases will be made from local vendors where possible.

This appointment is effective the \_\_\_\_\_ day of \_\_\_\_\_, 2022, and shall expire upon completion of the work and acceptance of the project by the City of Ponca City.

It is expressly understood and agreed that you shall purchase the supplies and any other personal property necessary for such project in the name of the City of Ponca City as follows:

City of Ponca City, \_\_\_\_\_ (Name of Business)

By: \_\_\_\_\_, Authorized Person  
(Agent of Business)

We request that you acknowledge this appointment as Agent by signing below and returning a copy of this letter.

Sincerely,

City of Ponca City

Company: \_\_\_\_\_

Homer Nicholson, Mayor

BY: \_\_\_\_\_

EXTENSION OF TIME REQUEST

(to be submitted with each partial payment application)

DATE: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF CONTRACT:

**PONCA CITY LANDFILL  
WEST FENCE LINE CONSTRUCTION  
PROJECT NO. PCUA 22-6**

EXTENSION OF CONTRACT TIME REQUIRED? Yes \_\_\_\_\_ No \_\_\_\_\_

TOTAL OF EXTENSION TIME REQUESTED: \_\_\_\_\_

If yes, give reason: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
SIGNATURE - CONTRACTOR

CONSULTING ENGINEER OR ENGINEERING STAFF RECOMMENDATION:

APPROVED: \_\_\_\_\_ REJECTED: \_\_\_\_\_

REASON: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

DATE: \_\_\_\_\_

Action will be taken within 30 days from receipt of Request.

A formal Change Order to the City of Ponca City will be required to consummate the extension of Time Request.

## Minimum Wage

No wage determination is in effect on this project.

## GENERAL CONDITIONS OF CONTRACT

GC-1. SCOPE: The Contract stipulations which follow are general in scope and may refer to conditions which will not be encountered in the performance of the work included in this Contract, and which are not applicable thereto. Any requirements, provisions, or other stipulations of these General Conditions which pertain to a nonexistent condition, and are not applicable to the work to be performed hereunder, shall have no meaning in the Contract.

The specifications and drawings are intended to supplement, but not necessarily duplicate each other; and together constitute one (1) complete set of specifications and drawings, so that any work exhibited in the one and not in the other shall be executed just as if it had been set forth in both, in order that the work shall be completed according to the complete design or designs as decided and determined by the Engineer.

Should anything be omitted from the specifications and drawings, which are necessary to a clear understanding of the work, or should it appear various instructions are in conflict, and then the Contractor shall request written clarification from the Engineer before proceeding with the construction affected by such omissions or discrepancies.

GC-2. CONTRACT DOCUMENTS: It is understood and agreed that the Notice to Bidders, Instructions to Bidders, Proposal, Contract, Statutory Bond, Performance Bond, Maintenance Bond, Power of Attorney, Certificate of Insurance, General Conditions, Specifications, Drawings, Addenda thereto, and duly authorized Change Orders, together with any and all supplementary drawings furnished by the Engineer as and when required to make clear, and to define in greater detail, the intent of the contract, drawings, and specifications, other drawings, specifications, and engineering data furnished by the Contractor (when accepted by the Engineer), and instructions furnished by manufacturers of equipment for the installation thereof, are each and all included in this Contract, and the work shall be done in full compliance and accord herewith.

GC-3. DEFINITIONS: Any word, phrase, or other expressions defined in this paragraph and used in these Contract Documents shall have the meaning herein given:

1. "Contract" or "Contract Documents" shall include all of the documents and drawings mentioned in above Paragraph GC-2.
2. "City" shall mean the City of Ponca City, Kay County, Oklahoma, a Municipal Corporation.
3. "Contractor" shall mean the corporation, company, partnership, firm or individual, named and designated in the Contract and who has entered into this Contract for the performance of the work covered thereby, and its, his, or their duly authorized agents and other legal representatives.
4. "Engineer" shall mean the Director of Engineering, or the Architect or Engineers who have been designated, appointed, or employed by the City and Director of engineering for this work, or their duly authorized agents; such agents acting within the scope of the particular duties entrusted to them in each case.
5. "Inspector" shall mean the engineering or technical inspector or inspectors duly authorized by the Engineer, limited in each case to the particular duties entrusted to him or them.
6. "Surety" shall mean any corporation that executes, as surety, the Contractor's performance bond, maintenance bond, and statutory bond securing the performance of this Contract.



7. "Drawings" shall mean and include all drawings prepared by the City as a basis of proposals; all drawings submitted by the successful bidder with his proposal and by the Contractor to the City, when and as accepted by the Engineer, and all drawings submitted by the City to the Contractor during the progress of the work as provided herein.

8. "Subcontractor" shall mean a person, firm or corporation to whom any portion of this work has been sublet by the Contractor.

9. "Work" shall mean work to, be performed, necessary for the fulfillment of this Contract.

10. "Unit Price" shall mean the price per specified unit of measurement of work and/or material.

11. "Lump Sum" shall mean the price of an item of work including all things necessary to complete the item as shown on the drawings and specifications. Such an item is not measured in units but is defined by description.

GC-4. MODIFICATIONS AND ALTERATIONS: In executing the Contract, the Contractor agrees that the City shall have the right to make such modifications, changes, and alterations, as the City may see fit, in the extent, or plan of the work agreed to be done or any part thereof, or in the materials to be used therein, either before or after the beginning of construction thereof, without affecting the validity of the Contract or the liability of the sureties upon the performance of this Contract or the Statutory Bond.

Where any modification, change, or alteration increases the quantity of work to be performed, and is within the scope of a fair interpretation thereof, such increase shall be paid for according to the quantity of work actually done, either at unit prices included in the Contract, or in the absence of such unit, as extra work. Modifications and alterations which reduce the quantity of work to be done shall not constitute a claim for damages or for anticipated profits on work involved in such reduction. The Engineer shall determine, on an equitable basis, the amount of credit due the City for contract work not performed as a result of modifications or alterations authorized hereunder; where the value of the omitted work is not fixed by unit prices in the Contract; allowance to the Contractor for any actual loss incurred in connection with the purchase, delivery, and subsequent disposal of materials and equipment required for use on the work as actually built; and any other adjustment of the Contract amount where the method to be used in making such adjustment is not clearly defined in the Contract Documents. In this respect, such determination shall be final and binding only when approved by the Director of Engineering.

GC-5. DRAWINGS TO BE FURNISHED BY CONTRACTOR: The Contractor shall furnish all shop, fabrication, assembly, foundation, and other drawings required by the specifications; drawings of equipment and devices, offered by the Contractor for review by the Engineer, in sufficient detail to show adequately the construction and operation thereof; drawings of essential details of any change in design or construction proposed, for consideration of the Engineer, by the Contractor in lieu of the design or arrangement required by the Contract or any item of extra work thereunder. The Contractor shall submit to the Engineer, the number required by Engineer, of each copy of such drawing for the Engineer's review. After review by the Engineer, all such drawings shall become a part of the Contract Documents and the work or equipment shown thereby shall be in conformity therewith unless otherwise required by the City.

The Engineer's check and acceptance of drawings submitted by the Contractor will be for, and will cover, only general conformity to the plans and specifications and will not constitute a blanket acceptance of all dimensions, quantities, and details of the material or equipment shown; nor shall such acceptance relieve the Contractor of his responsibility for errors contained in such

drawings.

GC-6. CONTRACTOR'S BUSINESS ADDRESS: The business address of the Contractor given in the bid or proposal upon which this Contract is founded is hereby designated as the place to which all notices, letters, and other communications to the Contractor may be mailed or delivered. The delivery at the above named address, or depositing in any mail box regularly maintained by the Post Office, of any notice, letter, or other communication to the Contractor, shall be deemed sufficient service thereof upon the Contractor; and the date of said service shall be the date of such delivery or mailing. Such address may be changed at any time by an instrument in writing, executed by the Contractor and delivered to the Engineer. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or communication upon the Contractor personally.

GC-7. CONTRACTOR'S RISK AND RESPONSIBILITY: The performance of the Contract and the work is at the risk of the Contractor until the final acceptance thereof and payment therefore. The Contractor shall take all responsibility of the work, and shall bear all losses resulting because of the amount or character of the work, or because the nature of the land in or on which the work is done is different from what is assumed or expected, or on account of the weather, floods, fire, windstorm, or other actions of the elements, or any cause or causes whatsoever for which the City is not responsible.

If the work or any part or parts thereof is destroyed or damaged from any of the aforesaid causes, the Contractor, at his own cost or expense, shall restore the same or remedy the damage.

The Contractor shall, in good and workmanlike manner, perform all work and furnish all supplies and materials, machinery, equipment, facilities, and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all work required by the Contract within the time herein specified, in accordance with the provisions of these Contract Documents and drawings of the work covered by this Contract, and any and all supplemental drawings. The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements and limitations of the Contract, and shall do, carry on, and complete the entire work to the satisfaction of the Engineer and of the City.

GC-8. ASSIGNMENT AND SUBLETTING OF CONTRACT: The Contractor shall give his personal attention to the fulfillment of this Contract, and shall not let, assign or transfer it or his right, title, or interest in or to the same or any part thereof, by attorney or otherwise, or sublet any part of the work to any other person without the previous consent of the City in writing.

Should any subcontractor fail to perform in a satisfactory manner the work undertaken by him, his subcontract shall be immediately terminated by the Contractor upon notice from the City. The Contractor shall be as fully responsible to the City for the acts and omissions of his subcontractor, and of persons either directly or indirectly employed by his subcontractor. Nothing contained in these Contract Documents shall create any contractual relation between any subcontractor and the City.

GC-9. CONTRACTOR'S REPRESENTATIVES: The Contractor Co-partnership, shall designate some proper person on the work to represent him or them when absent from the work; and the Contractor, if a corporation, shall designate some proper person to represent it on the work.

GC-10. CONTRACTOR AND HIS EMPLOYEES: The Contractor shall employ competent foremen, experienced mechanics, and others skilled in the several parts of the work given them to do, for the performance of the work embraced in this Contract; and shall promptly discharge any and

all incompetent or otherwise unsatisfactory employees. Contractor's employees directly employed in performance of the work shall not be paid less than the prevailing minimum wage scale.

Necessary sanitary conveniences for the use of employees on the work, properly secluded from public observation, shall be provided and maintained by the Contractor. The construction and location of the facility and disposal of the contents shall comply with all laws of the City and State, relating to health and sanitation regulations.

GC-11. CONTRACTOR'S RIGHT OF PROTEST: If the Contractor considers any work demanded of him to be outside the requirements of the Contract, or considers any record or ruling of the Engineers to be unfair, he shall, immediately upon such work being demanded or such record or ruling being made, ask for written instructions or decisions, whereupon he shall proceed without delay to perform the work or to conform to the record or ruling; and within ten (10) days after the date of receipt of written instructions or decision, he shall file a written protest with Engineer, stating clearly and in detail the basis of his objections. Except for such protest and objections as are made of record in the manner herein specified and within the time limit stated, the records, rulings, or decisions of the Engineer shall be final and conclusive.

GC-12. INSURANCE AND BONDS: The Contractor shall provide and keep in force until completion of this Contract, insurance policies of comprehensive general liability, automobile liability, and worker's compensation, insuring itself, its agents and employees, and waiving all rights of subrogation against the City. These policies shall include the following minimum limits of coverage:

A. General Liability:

Each Occurrence	\$1,000,000
Personal & Advertising Injury	\$1,000,000
General Aggregate	\$1,000,000
Products - Completed Operations Aggregate	\$1,000,000

B. Employer's Liability & Workers Compensation:

Contractor shall also provide worker's compensation insurance as required by Oklahoma Law.

C. Automobile Liability:

Combined Single Limit	\$1,000,000
or	
Bodily Injury (per person)	\$1,000,000
Bodily Injury (per accident)	\$1,000,000
Property Damage	\$1,000,000

All automobile liability policies shall include Hired & Non-Owned Automobile Liability with \$1,000,000 limits.

D. Owner's Protective Policy : The contractor shall also furnish an Owner's Protective Policy in the same amounts with the City of Ponca City as the named insured, issued by the same insurance company as the Contractor's Liability coverage.

E. Builder's Risk: BUILDER'S RISK INSURANCE IS NOT REQUIRED ON THIS PROJECT.

City shall be named an additional insured on all policies and shall be furnished a Certificate of PCUA 22-6

Insurance that shall provide that the insurer will not cancel such insurance without the insurer first giving the City thirty (30) days written notice of cancellation.

**BONDS:**

The Contractor shall execute and furnish the Statutory Bond for the protection of laborers, mechanics, and materialmen in a sum equal to one hundred percent (100%) of the contract price.

The Contractor shall execute and furnish the Performance Bond in a sum equal to one hundred percent (100%) of the contract price.

The Contractor shall execute and furnish the Maintenance Bond in a sum equal to one hundred percent (100%) of the contract price.

All bonds and insurance must be executed by a company licensed to do business in the State of Oklahoma, and must be acceptable to the City.

**GC-13. TIME FOR COMPLETION:** The work shall be commenced within ten (10) days from and after the date of a written order from the City. The Contractor agrees that the work shall be prosecuted regularly, diligently, and uninterruptedly at a uniform rate of progress so as to insure completion by the time period as stated in the Bid Proposal. It is expressly understood and agreed that the said time for the completion of the work described herein is a reasonable time for the completion of the same.

The Contractor may be required to furnish the Engineer with a tentative schedule, in a format acceptable to the Engineer, setting forth in detail the procedure he proposes to follow, and giving the dates on which he expects to start and to complete separate portions of the work. If at any time, in the opinion of the Engineer, proper progress is not being maintained, such changes shall be made in the schedule of operations which will satisfy the Engineer that the work will be completed within the period stated in the proposal, or extension thereof made as herein provided.

If the Contractor shall fail to complete the work within the time specified, then the Contractor agrees to pay the City, not as a penalty, but as liquidated damages for such breach of contract, the sum of Five Hundred Dollars (\$500.00) for each and every calendar day of failure to complete the work after the specified time set forth in the Bid Proposal. The said amount is fixed and agreed upon because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain.

It is further agreed that time is of the essence of each and every portion of this Contract and the specifications wherein a definite and certain time is fixed for the performance of any act whatsoever; and where under the Contract an allowance of additional time for the completion of any work is made, the new time fixed by such extension shall be of the essence of this Contract.

In the event the Contractor does not maintain the work schedule accepted by the Engineer, a sum equal to the liquidated damages for the number of days Contractor is behind schedule may be retained by the City out of the Engineer's Estimates of the amount due the Contractor to complete the work or any part thereof in the time provided herein. The amount of the damages finally determined to be due may be withheld from any sums determined to be due Contractor hereunder, or otherwise.

**GC-14. EXTENSIONS OF TIME:** Should the Contractor be delayed in the final completion of the work by any act or neglect of the City or Engineer, or of any employee of either or strikes, injunctions, fire, or other causes outside of and beyond the control of the Contractor and which, in the opinion of the Engineer, could have been neither anticipated nor avoided, then an extension of time

sufficient to compensate for the delay, as determined by the Engineer shall be granted by the City, provided, however, that the Contractor shall give the City and the Engineer notice in writing of the cause of delay in the case on the Extension of Time Request Form enclosed in these documents, and agrees that any such claim shall be fully compensated for by an extension of time to complete performance of the work included herein.

The Contractor shall submit the Extension of Time Request Form with each partial payment application. Failure to submit the Extension of Time Request with a partial payment application shall constitute a complete waiver of any claim for time extension for the period covered by the partial payment.

Extensions of time will not be granted for delays caused by unsuitable ground conditions, inadequate construction force, or the failure of the Contractor to place orders for equipment or materials a sufficient time in advance to insure delivery when needed. Any extension of time by the City shall not release the Contractor and Surety herein from the payment of liquidated damages as provided in the General Conditions of this Contract, for a period of time not included in the original Contract or the time extension, as herein provided.

In no event shall the City be liable or responsible to the Contractor, Surety, or any person for or on account of any stoppage or delay of work herein provided for by injunction or any other kind of legal, equitable proceedings, or from or by or on account of any delay from any other cause whatsoever.

GC-15. ENGINEER'S POWERS AND DUTIES: The Engineer will provide general administration of the construction contract, including performance of the functions hereinafter described.

The Engineer will be the City's representative during construction and until final payment. The Engineer will have authority to act on behalf of the City to the extent provided herein unless otherwise modified by written instrument, which will be shown to the Contractor. The Engineer will advise and consult with the City, and all of the City's instructions to the Contractor shall be issued through the Engineer. Nothing contained in the contract documents shall create any contractual relationship between the Engineer and the Contractor.

The Engineer shall at all times have access to the works as provided elsewhere herein. The Engineer will make periodic visits to the site to familiarize himself generally with the progress and quality of the work and to determine in general whether the work is proceeding in accordance with the contract documents.

Based on their on-site observations as Engineer, he will keep the City informed of the progress of the work and will endeavor to guard the City against defects and deficiencies in the work of the Contractor. The Engineer will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, and will not be responsible for the Contractor's failure to carry out the work in accordance with the contract documents. Based on such observations and the Contractor's applications for payment, the Engineer will determine the amounts owing to the Contractor and will issue certificates for payment in such amounts, as provided elsewhere.

The Engineer may provide one or more full-time project representatives to assist the Engineer in carrying out his responsibilities at the site. The duties, responsibilities and limitations of authority of the Engineer as the City's representative during construction as set forth herein will not be modified or extended without written consent of the City, the Contractor and the Engineer.

The Engineer will not be responsible for the acts or omissions of the Contractor, any subcontractors, or any of their agents or employees, or any other persons performing any of the work.

The Engineer shall decide the meaning and intent of any portion of the specifications, and of any plans or drawings, where the same may be found obscure or be in dispute; and they shall have the right to correct any errors or omissions therein when such corrections are necessary to the proper fulfillment of the intent of said specifications, plans or drawings; the action of such correction to date from the time that the Engineer gives due notice thereof.

Any differences or conflicts which may arise between the Contractor and other contractors with the City in regard to their work shall be adjusted as determined by the Engineer.

Neither the Engineer's authority to act under this article or elsewhere in the contract documents nor any decision made by the Engineer in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the Engineer to the Contractor, any subcontractor, any manufacturer, fabricator, supplier or distributor, or any of their agents or employees or any other person performing any of the work.

Whenever in the contract documents the terms "as ordered", "as directed", "as required", "as allowed", or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper", or "satisfactory" or adjectives of like effect or import are used, to describe requirements, direction, review or judgment of the Engineer as to the work, it is intended that such requirement, direction, review, or judgment will be solely to evaluate the work for compliance with the contract documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective never indicates that the Engineer shall have authority to supervise or direct performance of the work or authority to undertake responsibility contrary to the provisions of this General Condition.

GC-16. CITY'S RIGHT OF INSPECTION: The City shall appoint or employ such engineers or inspectors as the City may deem proper to inspect the materials furnished and the work performed, and to determine whether the said materials are furnished and the said work performed in accordance with the drawings and specifications therefore. The Contractor shall furnish all reasonable aid and assistance required by the inspectors, for the proper inspection and the Engineer, or by the extent of examination of the work and all parts thereof, even to uncovering or taking out portions of finished work.

Should the work thus exposed or examined prove satisfactory, the uncovering or taking out and the replacing of the covering or the making good of the parts removed shall be paid for by the Owner; but should the work exposed or examined prove unsatisfactory, the uncovering, taking out, replacing, and making good shall be at the expense of the Contractor.

Such inspection shall not relieve the Contractor from any obligation to perform said work strictly in accordance with the drawings and specifications or any modifications thereof as herein provided; and the work not so constructed shall be removed and made good by the Contractor at his own expense; and free of all expense to the City, whenever so ordered by the Engineer, without reference to any previous oversight or error in inspection.

GC-17. SUSPENSION OF WORK ON NOTICE: The Contractor shall delay or suspend the progress of the work or any part thereof whenever he shall be so required by written order of the City or Engineer, and for such period of time as it or he shall require.

Any such order of the City or Engineer shall not modify or invalidate in any way the provisions of

this Contract.

GC-18. QUALITY OF WORKMANSHIP: All workmanship shall be the best possible, both as to material and labor, that could be demanded by these Contract Documents, or if no specific description is given, it is understood that the best quality is required.

GC-19. SATURDAY, SUNDAY, HOLIDAY, AND NIGHT WORK: No work shall be done between the hours of 6:00 p.m. and 8:00 a.m., nor on Saturday, Sunday, or legal holidays without the written approval or permission of the Engineer in each case, except such work as may be necessary for the proper care, maintenance, and protection of work already done, or of equipment, or in the case of an emergency.

GC-20. LAWS AND ORDINANCES: The Contractor shall keep himself fully informed of all existing and current regulations of the City, County, State and National Laws which in any way limit or control the actions or operations of those engaged upon the work, or affecting the materials supplied to or by them. He shall at all times observe and comply with all applicable ordinances, laws, and regulations; and shall protect and indemnify the City and the City's officers and agents against any claims or liability arising from or based on any violations of the same.

GC-21. TAXES AND PERMITS: Unless otherwise specified in these contract documents, the Contractor shall pay all sales, use, and other taxes that are lawfully assessed against the Owner or Contractor in connection with the work included in this contract and shall obtain all licenses, permits, and inspections required for the work.

GC-22. PROTECTION OF PROPERTY: The protection of City, State, and Government monuments, street signs, and other City property is of prime importance, and if the same be damaged, destroyed, or removed, they shall be repaired, replaced, or paid for by the Contractor.

GC-23. PATENT RIGHTS: All fees for any patented Invention, article, or arrangement that is based upon, or in any manner connected with the construction, erection, or maintenance of the work or any part thereof embraced in the Contract and these specifications, shall be included in the price stipulated in the Contract for said work. The Contractor shall protect and hold harmless the City of Ponca City, against any and all demands of such fees or claims.

GC-24. DEFENSE OF SUITS: In case of any action at law or suit in equity is brought against the City or any officer or agent thereof, for or on account of the failure, omission or neglect of the Contractor to do and perform any of the covenants, acts, matters, or things by this Contract undertaken to be done or performed, or for the injury or damage caused by negligence or willful act of the Contractor or his subcontractors or his or their agents, or in connection with any claim or claims based on the lawful demands of subcontractors, workmen, materialmen, or suppliers of machinery and parts thereof, equipment, power tools, and supplies incurred in the fulfillment of this Contract, the Contractor shall indemnify and save harmless the City and officers and agents of the City, or the Engineer or any officers or agents thereof, of and from all losses, damages, costs, expenses, judgments, or decrees whatsoever arising out of such action or suit that may be brought as aforesaid, without requiring said parties to give any notice thereof.

The City may suspend payments of any sum due or to become due for work done on this Contract until such claims, suits, actions, or proceedings are final and liability has been determined. The amount of such damages or liability shall be deducted from sums due or to become due on this Contract.

The sums mentioned above will be retained by the City until the Contractor furnishes evidence

that satisfactory settlement has been made. Any action taken by the City shall not excuse the Contractor for failure to perform his Contract or bar the City from legal action to recover from the Contractor the amount of damages or liability suffered in excess of the amount retained.

The Contractor shall furnish the City with satisfactory evidence upon demand that all persons who have done work on the Contract or furnished materials for the Contract have been paid in full. If such evidence is not furnished, the amount necessary to pay the lawful claims may be retained until the evidence is furnished, or if such evidence is not furnished, the City may apply any sums retained to valid claims and charge the amounts disbursed, including the costs of any action that may be necessary to prove or disprove the claims against the Contractor.

GC-25. REMOVAL OF CONDEMNED MATERIALS AND STRUCTURES: The Contractor shall remove from the site of the work, without delay, all rejected and condemned materials or structures of any kind brought to or incorporated in the work, and upon his failure to do so, or to make satisfactory progress in so doing, within forty-eight (48) hours after the service of written notice from the Engineer ordering such removal, the condemned material or structures may be removed by the City and the cost such removal be taken out of the money that may be due or may become due the Contractor on account of or by virtue of this Contract.

No such rejected or condemned material shall again be offered for use by the Contractor under this or any other Contract under this project.

GC-26. EXTRA WORK: If a modification increases the amount of the work, and the added work or any part thereof is of a type and character which can properly and fairly be classified under one or more unit price items of the Bid Form, then the added work or part thereof shall be paid for according to the amount actually done and at the applicable unit price. Otherwise, such work shall be paid for as hereafter provided.

Claims for extra work will not be paid unless the work covered by such claims was authorized in writing by the City. The Contractor shall not have the right to prosecute or take action in court to recover for extra work unless the claim is based upon a written order from the City.

Payments for extra work will be based on agreed lump sums or on agreed unit prices whenever the City and the Contractor agree upon such prices before the extra work is started; otherwise, payments for extra work will be based on actual field cost plus the specified percentage allowance.

For the purpose of determining whether proposed extra work will be authorized, or for determining the payment method for extra work, the Contractor shall submit to the Engineer, upon request, a detailed cost estimate for proposed extra work. The estimate shall show itemized quantities and charges for all elements of direct cost. Charges for the Contractor's and subcontractor's extra profit, extra general superintendence, extra field office expense, and extra overheads shall be shown as a percentage addition to the total estimated net cost.

Unless otherwise agreed upon by the Contractor and the City, such percentage additions shall be fifteen percent (15%) for the extra work performed by the Contractor's own forces, or twenty percent (20%) for extra work performed by a subcontractor.

When payment for extra work is based on actual field cost, the Contractor will be paid for the actual field cost plus an allowance of fifteen percent (15%) if extra work is performed by the Contractor's own forces or twenty percent (20%) if the extra work is performed by a subcontractor.



The allowance will be paid as full compensation for the Contractor's and subcontractor's extra profit, extra general superintendence, extra field office expense, extra overheads, and all other elements of extra cost not defined herein as actual field cost. The actual field cost shall include only those extra costs for labor and materials expended in direct performance of the extra work and may include:

- a. The actual payroll cost of all workmen, such as laborers, mechanics, craftsmen, and foremen.
- b. The Contractor's or subcontractor's net cost for materials and supplies.
- c. The rental charge for vehicles and construction equipment.
- d. The transportation charges for equipment.
- e. The charges for extra power fuel, lubricants, water and special services.
- f. The charges for extra payroll taxes, bond premiums, and insurance premiums.

The form on which field cost records are kept, the construction methods and the type and quantity of equipment used shall be submitted to the Engineer for approval.

Construction equipment which the Contractor has on the job site and which is of a type and size suitable for use in performing the extra work shall be used. The hourly rental charges for equipment, including all insurance, taxes, fuel, and operating costs, shall not exceed 1-1/2 percent of the latest applicable Means Heavy Construction Cost Data or Means Building Construction Cost Data published yearly rates, indexed down for construction in Ponca City area as applicable, and shall apply to only the actual time the equipment is used in performing the extra work.

When extra work requires the use of equipment, which the Contractor does not have on the job site, the Contractor shall obtain the concurrence of the Engineer before renting or otherwise acquiring additional equipment. The rental charges for the additional equipment shall not exceed the latest applicable Means Heavy Construction Cost Data or Means Building Construction Cost Data published rates.

The Contractor shall file with the Engineer, certified lists in duplicate, of any equipment and the schedule of pay rates for common and semi-skilled labor and operators of various classes which are intended to be used in performing the work covered by this Contract. These rates shall be subject to the review of the Engineer. This information will be used by the Engineer for computation of Extra Work as mentioned above, however, if the Contractor fails to file these lists with the Engineer prior to starting any work covered by Contract, then the Engineer's computation shall be based on average wages and rates paid on City work.

GC-27. PAYMENT FOR CONTRACTOR'S PLANT AND MISCELLANEOUS TEMPORARY WORK: For providing plant, tools, and equipment, and for furnishing, erecting, maintaining, and removing scaffolding and construction plant, construction roads, camps, sanitary conveniences, temporary water supply, trestles, dewatering and other temporary works, the Contractor shall receive no direct payment, but compensation for them shall be considered as having been included in the prices stipulated for the appropriate items.

GC-28. BASIS OF PAYMENT FOR ITEMS OF WORK: The Contractor shall be paid for all work

performed under the Contract based on the Engineer's computations of as-built quantities and the Contractor's unit price or lump sum bid per item. This payment shall be full compensation for furnishing all supplies, materials, tools, equipment, transportation, and labor required to do the work; for all loss or damage, because of the nature of the work, from the action of the elements or from any unforeseen obstruction or difficulty which may be encountered in the prosecution of the work, and for which payment is not specifically provided; for all expense incurred by or because of any suspension or discontinuance of all or any part of the work; and for well and faithfully completing the contract according to the drawings and specifications, and requirements of the Engineer.

GC-29. PAYMENTS: (1) Partial: If the work is progressing in good and workmanlike manner and if the Contractor is faithfully carrying out the terms of this contract, approximate estimates of the work done shall be made by the Engineers between the first and fifteenth of each calendar month, including labor actually performed and supplies or materials actually used or incorporated in the work, and an allowance will be made for acceptable materials satisfactorily delivered, stored and secured on the site of the work in such amount as can be incorporated in the work within a reasonable time. The City shall have a lien on any materials stored on the site of the work for which the Contractor has been paid.

Each partial estimate for payment shall contain or have attached an affidavit in the form bound in this book of specifications, as required by Law.

Each month that work is performed for which payment is due, the Contractor shall submit to the Engineer an application for such payment, provided said payment is not less than \$1,000.00, and, if required, receipts or other vouchers from subcontractors showing his payments to them.

Each estimate shall be of the approximate value of all work performed and materials in place or delivered on the site, determined as aforesaid from the beginning of this contract to the date fixed for the current estimate, from which shall be deducted five percent (5%), or a lesser amount approved by the City, and, in addition thereto, all previous payments and all other sums withheld under the foregoing provisions of this Contract, the remainder to become due and payable; and the City receiving the said estimate, after it has been reviewed and signed by the Engineer, shall pay the estimate in the regular manner in the amount determined as due unless it shall be known by the City that there is good reason under the terms of this contract for withholding same.

At any time the Contractor has completed in excess of fifty percent (50%) of the total contract amount, the retainage will be reduced to five percent (5%) of the amount earned to date; provided, however, that the City or its duly authorized representative has determined that satisfactory progress is being made and upon approval by the surety.

The Contractor may withdraw any part, or the whole, of the amount which has been retained from partial payment to the Contractor pursuant to the terms of Contract, upon depositing with or delivery to the awarding public agency, or other appropriate public official designated in the contract documents:

- (1) United States Treasury Bonds, United States Treasury Notes, United States Treasury bills, or
- (2) General Obligation Bonds of the State of Oklahoma, or
- (3) Certificates of deposit from a state or national bank having its principal office in the State of Oklahoma.

No retained amount shall be withdrawn which would represent an amount in excess of the market value of the securities at the time of deposit or of the par value of such securities, whichever is lower.

All partial estimates are subject to correction in the final estimate.

(2) Final Payment: Whenever this contract, in the opinion of the Engineer, shall be completely performed on the part of the Contractor, the Engineer shall proceed with all reasonable diligence to measure up the work and shall make out the final estimate for the same, and shall, except for cause herein specified, give to the Contractor, within thirty (30) days after receiving said certificate, an order on the City for the balance found to be due, excepting there from such sum or sums as may be lawfully retained under any of the provisions of the contract; PROVIDED, that nothing herein contained shall be construed to affect the rights of the City hereby reserved to reject the whole or any portion of the aforesaid work, should the said estimate and certificate be found or known to be inconsistent with the terms of this agreement or otherwise improperly given; PROVIDED, that in case after the work hereunder has been accepted and final payment made, it shall be discovered that any part of the contract has not been fully performed or has been done in an improper or faulty manner, the Contractor shall immediately remedy such defect, or, in case of neglect to do so within a reasonable time after notice thereof, shall be liable for and shall pay to the City the cost of remedying such defect or a sum equal to the damages sustained thereby, as the City shall elect; and the acceptance of and final payment for the work shall be no bar to suit on any bond against any principal or principals, or surety or sureties, or both, given for the due performance of the contract, or for the recovery of such cost or the equivalent of such damage. The City will pay to the Contractor interest at the rate of three-fourths percent (3/4%) per month of the final payment due the Contractor.

For lump sum contracts, the interest shall commence thirty (30) days after the work under the contract has been completed and accepted and all required material certifications and other documentation required by the contract have been furnished the City by the Contractor, and shall run until the date when the final payment or estimate is tendered to the Contractor.

For contracts bid by unit prices, the interest will commence sixty (60) days after the above conditions are satisfied. When contract quantities or the final payment amount is in dispute, the interest-bearing period will be suspended until the conclusion and settlement of the dispute.

GC-30. CONTRACTOR REIMBURSEMENT FOR SURETY BOND: For contracts of \$1,000,000.00 or more, the Contractor may receive reimbursement for the cost of the surety bonds, after issuance of a work order. To receive reimbursement, the Contractor shall submit a standard partial payment form and affidavit, and a copy of the surety bond invoice. The final partial pay estimate will be reduced by the amount paid for surety bond reimbursement.

GC-31. RELEASE OF LIABILITY AND ACCEPTANCE: The acceptance by the Contractor of the final payment shall operate as, and shall be a release to the City and every officer and agent thereof, from all claims and liability to the Contractor for anything done or furnished for or relating to the work, or for any act or neglect of the City or of any person relating to or affecting the work, and, following such acceptance, no person, firm, or corporation other than the signer of this Contract as Contractor, will have any interest hereunder, and no claim shall be made or be valid, and neither the City nor any employees or agent thereof shall be liable or be held to pay any money, except as herein provided.

It shall be the duty of the Engineer to determine when the work is completed and the Contract fulfilled, and to recommend its acceptance by the City. The work herein specified to be

performed shall not be considered finally accepted until all the work has been accepted by the City.

GC-32. RIGHT OF CITY TO TERMINATE CONTRACT: If the work to be done under this Contract shall be abandoned by the Contractor, or if this Contract shall be assigned by him otherwise than as herein provided, or if the Contractor should be adjudged a bankrupt, or if a general assignment of his assets be made for the benefit of his creditors, or if a receiver should be appointed for the Contractor or any of his property; or if at any time the Engineer shall certify in writing to the City that the performance of the work under this Contract is being unnecessarily delayed, or that he is executing the same in bad faith or otherwise not in accordance with the terms of the Contract; or if the work be not substantially completed within the time named for its completion, or within the time to which such completion date may be extended; then the City may serve written notice upon the Contractor and his Surety of said City's intention to terminate this Contract, and unless within five (5) days after serving of such notice upon this Contractor, a satisfactory arrangement is made for the continuance thereof, this Contract shall cease and terminate. In the event of such termination, the City shall immediately serve notice thereof upon the Surety and Contractor, and the Surety shall have the right to take over and complete the work, provided, however, that if the Surety does not commence performance thereof within fifteen (15) days from the date of said notice of termination, the City may take over the work and prosecute same to completion, by Contract, or otherwise for the account and at the expense of the Contractor; and the Contractor and his Surety shall be liable to the City for any and all excess cost sustained by the City by reason of such prosecution and completion.

In such event, the City may take possession of, and utilize in completing the work, all such materials, equipment, tools, and plant as may be on the site of the work and necessary therefore. The Contractor shall not receive any other payment under the Contract until said work be wholly finished, at which time, if the unpaid balance of the amount to be paid under the Contract shall exceed the expense incurred by the City in finishing the work as aforesaid, the amount of the excess shall be paid to the Contractor, but if such expense shall exceed the unpaid balance, the Contractor shall pay the difference to the City.

GC-33. ADMINISTRATIVE COSTS AND FEES: Cash Improvements - In the event the improvements are to be paid for in cash: the costs and fees for publication, engineering, filing, recording, abstracting, acquisition of easements, shall be paid by the City unless otherwise provided for in these Contract Documents.

Assessment Improvements: In the event the improvements are to be paid for by the issuance of special assessment bonds: The costs and fees for publication, engineering, filing, recording, abstracting, acquisition of easements, testing, and other authorized costs shall be added to the contract price and paid for in the same manner as the other work included in this Contract. The Contractor shall pay the City the amount of said charges before the execution and delivery of the special assessment bonds or other payments. If the Contractor fails, neglects, or refuses to pay said charges within thirty (30) days after the bonds are ready for delivery, he shall pay the City interest at the rate of seven percent (7%) per annum and shall be liable for it in a civil suit. The Contractor shall pay the testing fees directly to the testing laboratory.

GC-34. PAYMENT OR ACCEPTANCE NOT A WAIVER BY CITY: Neither acceptance by the City, or the Engineer, or any employee of either, nor any order by City for the payment of money, or the payment thereof, nor any taking of possession by City, nor the granting of any extension of time, shall operate as a waiver of any rights or powers of the City hereunder, and in the event that after the work hereunder has been accepted and final payment made, it should be discovered that any part of this Contract has not been fully performed, or has been done in a faulty or improper

manner, the Contractor shall immediately remedy such defect, or in the event of neglect to do so within a reasonable time after notice thereof, shall be liable for and shall pay to City the cost of remedying such defect, or a sum equal to the damage caused thereby, as City may elect. The acceptance of the work or final payment therefore shall be no bar to suit against the Contractor or Surety, or both.

GC-35. CONTRACTOR'S OBLIGATION AFTER ACCEPTANCE: Contractor further agrees without cost other than is specially provided for in this Contract, at any and all times during one (1) year next following the completion and final acceptance of the work embraced in this Contract without notice from City, to refill all trenches or ditches that may sink or settle; and to repair all breaks and failures that may occur in the construction work due to defective material or workmanship; and to indemnify, save harmless and defend the City from any and all suits and actions of every description brought against City for, or on account of injuries or damages alleged to have been received or sustained by any party or parties by reasons of, or arising out of the failure of Contractor to refill all trenches and ditches and to repair all breaks or failures of said construction work, which said injuries or damages are alleged to have been received within one (1) year from the final acceptance of the work hereunder; and to pay any and all judgments that might be rendered against City in any suits and actions, together with such expenses or attorney's fees expended or incurred by City in the defense thereof; and Contractor hereby expressly waives any notice that might by law be required to be given to them by City of any defect, break, settling, or failure or of any other condition that might be the cause of injury or damage to any person on account of which a claim or suit might be made or filed against City, or a judgment taken for damages against City. It is expressly agreed that the acceptance of the work by City shall constitute no bar against any person injured or damaged by the failure of the Contractor to perform all of his covenants and agreements hereunder from maintaining an action against the Contractor, or against City from enforcing its rights against the Contractor hereunder.

GC-36. NOTICES: Any notices or other communications hereunder may be given to Contractor at the address given in the Proposal, to the surety at the office of the Attorney-in-Fact signing the Contract or at surety's home office address on file with the Insurance Commissioner of the State of Oklahoma, and to City in care of the Director of Engineering, or at such other place as may be designated in writing.

The delivery at such address, or depositing in any mailbox regularly maintained by the Post Office; of any notice, letter, or other communication to the Contractor, shall be deemed sufficient service thereof, and the date of said service shall be the date of such delivery or mailing.

GC-37. RELATION TO OTHER CONTRACTORS: Nothing herein contained and nothing marked upon the drawings shall be interpreted as giving the Contractor exclusive occupancy of the territory or right-of-way provided. The City and its employees for any just purpose, and the other contractors of the City for any purpose required by their respective contracts, may enter upon or cross this territory or occupy portions of it or take materials there from as directed or permitted.

When two or more contracts are being executed at one time on the same or adjacent land in such manner that the work on one contract may interfere with the work on another, the Engineers shall decide which contractor shall cease work and which continue, or whether the work on both contracts shall progress at the same time and in what manner. When the territory of one contract is the necessary or convenient means of access for the transportation or movement of men, machines, or appliances for the execution of another contract, such privilege of access or any other reasonable privilege may be granted by the Engineers to the contractor desiring it, to the extent, amount, in the manner and at the time permitted. Any decision regarding the method or time of conducting the work or the use of the territory shall not be made the basis of claims for

delay or damage except as otherwise stipulated. The Contractor shall not cause any unnecessary hindrance or delay to any other contractors on the premises, and shall bear all damages done to the work of such other contractors by him or by his employees.

GC-38. PARTIAL OCCUPANCY AND USE: The City, upon advance written notification to the Contractor, shall have the right to occupy and use any completed or partially completed portions of the project when such occupancy and use are to the City's best interest, notwithstanding completion of the entire project.

Such partial occupancy and use shall be upon the following terms:

- a. The Engineer shall make an inspection of the portion or portions of the project concerned, and report to the City his findings as to the acceptability and completeness of the work.  
The Engineer's report shall include a list of items to be completed or corrected before final payment.
- b. The City, upon acceptance of the Engineer's report, shall give written notice to the Contractor of the City's intention to occupy and use said portions of the project. The City's notice shall include a copy of the Engineer's report, shall clearly identify the portions of the project to be occupied and used, and shall establish the date of said occupancy and use.
- c. From the date thus established, the City shall assume all responsibilities for operation, maintenance, and the furnishing of water, gas, and electrical power for the portions of the project thus occupied and used. The City shall have the right to exclude the Contractor from those portions of the project but shall provide the Contractor reasonable access to complete or correct necessary items of work.
- d. The one year guarantee required by the General Conditions shall not begin until completion and final acceptance of the entire project, except as to any items of mechanical or electrical equipment such as pumps, blowers, process equipment, instrumentation, controls, metering equipment, heating ventilating equipment and similar items having movable or operable components, and any of which are thus used by the City. For said equipment, the one year warranty shall start from the date established in the written notice from the City.
- e. Occupancy or use of any space in the project shall not constitute acceptance of work not performed in accordance with the Contract, nor relieve the Contractor of liability to perform any work required by the Contract but not completed at the time of said occupancy and use.
- f. The Contractor shall not be held responsible for fair wear and tear or damage resulting from said occupancy, except to the extent that such damage is covered by the one year guarantee.
- g. The partial occupancy and use of any portions of the project by the City shall not constitute grounds for claims by the Contractor for release of any amounts retained from payments under the provisions of the Contract. The retained amounts will not be due until completion of the entire project for final acceptance and final payment, as set forth in the General Conditions.