

CONTRACT FOR SURVEYING SERVICES

This contract for surveying services ("Contract") is entered into this _____ day of _____, 20__, by and between The City of Oklahoma City, a municipal corporation ("City"), and its successors in interest, and _____ ("Surveyor").

WITNESSETH:

PROJECT NO. MC-0747 SURVEYING SERVICES

WHEREAS, a registered land surveyor is periodically required by the City and its beneficiary trusts to perform surveying services; and

WHEREAS, the City and its beneficiary trusts intend to engage the services of the Surveyor to provide professional surveying services; and

WHEREAS, the Surveyor will provide said professional services in accordance with this Contract, including the scope of work incorporated herein; and

WHEREAS, the Surveyor has been selected and this agreement negotiated under the standards adopted and the procedures prescribed by the Resolution establishing procedure for selection of architects and engineers adopted by the City Council on July 23, 1974, amended on December 31, 1974, February 21, 1978, January 22, 1980, and November 18, 1986, which Resolution is made a part of this agreement by reference.

NOW THEREFORE, in consideration of the mutual covenants contained hereinafter relating to the surveying services, the parties hereto do hereby agree as follows:

1. **Definitions.** All terms and phrases not expressly defined herein shall have their ordinary meanings, consistent with local and state law, except where the context clearly indicates a different meaning. For purposes of this Contract, the following terms and phrases shall have the meaning subscribed herein:
 - A. *Beneficiary Trusts* Any trust of which The City of Oklahoma City is a beneficiary.
 - B. *City* The City of Oklahoma City, a municipal Corporation, wherein the term "City" appears in this contract, the same shall also apply (as applicable) to any of the City's Beneficiary Trusts.

- C. *City Engineer* The officer of the City in charge of engineering, construction and maintenance contracts on public rights-of-way, on public lands and capital improvement projects.
- D. *Contract Documents* Those documents required to construct, renovate and/or modernize the project, including but not limited to standard provisions, special provisions, drawings, plans and specifications.
- E. *Term of Contract* The term of this Contract shall run from date of execution through June 30, 2027.

2. **Surveying Services.** The Surveyor is hereby employed by the City to perform in accordance with good surveying practices and in the best interest of the City, all of the various professional services comprised of design surveys, property surveys, construction staking and/or as-built surveys for the purposes of determining the configuration of property/site surfaces using elevation contours, determining boundaries of property, conducting surveys to determine adequacy of project completion, and other such professional surveying services as may be appropriate or required, and as follows:

- A. **Design Surveys.** By using a combination of boundary and topographic surveys, prepare drawings showing:
 - (1) The configuration of the surface of the property/site using elevation contours of the appropriate intervals on spot elevations.
 - (2) The location of permanent natural and artificial objects using standard mapping designations.
 - (3) The existence, location and elevation of utilities, including the size and type of material.
 - (4) If required, prepare design-ready CADD files of surveys.

Prepare control surveys, which provide horizontal and/or vertical position data for the support or control of subordinate surveys and/or mapping.

- B. **Property Surveys.** Determine the boundaries of property by the research of public and private records combined with site investigation.

Establish or reestablish boundary locations on the ground and prepare maps showing those locations.

Prepare legal descriptions and drawings to be used in the acquisition of property and for the acquisition of easements and rights-of-way.

Identify easements, encroachments and other matters adversely affecting title to property.

All surveys are to be performed to the minimum standards for the practice of land surveying as established by the State Board of Registration for Professional Engineers and Land Surveyors, adopted September 17, 1993.

Recording of corners as required by the Corner Perpetuation and Filing Act must be completed for each survey as necessary.

- C. Construction Staking and/or As-built Surveys. Conduct surveys to determine the adequacy of completion.

Conduct surveys to obtain essential dimensions for computing construction pay quantities.

Conduct surveys upon completion of construction to determine final horizontal and vertical location.

- D. Response Time. If an emergency exists, making it necessary to have the Surveyor on the job site immediately, the Surveyor shall respond as soon as possible, but not later than four (4) hours after contact by City or other authorized personnel, otherwise the Surveyor shall respond within twenty-four (24) hours.

- E. Surveying Procedures. The City shall have the option of requesting that the Surveyor use standard surveying procedures and/or total station procedures.

3. **Compensation.** The City agrees to pay the Surveyor as compensation for professional surveying services listed above at the following rates:

- A. Basic Services. The Surveyor shall be paid on the basis of \$145.00 per hour for the use of a standard two-man survey crew to include transportation of equipment and materials, overhead and profit, and all reports to be made (standard survey crew rate includes GPS/RTK equipment).

- B. Additional Survey Services. Any additional services requested (in writing by the City Engineer) by the City shall be performed by the Surveyor at the following hourly rates:

Registered Surveyor (PLS)	\$
Survey Crew	\$
Survey Crew Chief	\$
Survey Crew Technician	\$
LiDAR Specialist	\$

LiDAR Technician	\$
GIS Specialist	\$
GIS Technician	\$
Design Technician	\$
CAD Technician/Drafter	\$
Administration	\$
Clerical	\$

The Surveyor shall submit invoices, accompanied by detailed description of the total work accomplished to the City, not more than once per month.

4. Payments.

- A. Payment of claims for incremental work completed on each task may be submitted. Invoices for the amount and value of the work and services performed by the Surveyor shall be submitted monthly to the City and shall meet the standards of quality as established under this Contract. The City agrees to pay the Surveyor, as compensation for such architectural or engineering services as listed herein. The invoices shall be prepared and submitted by the Surveyor and be accompanied by all supporting data required by the City. Payment of any invoice for any work or services is not deemed to be recognition of satisfactory performance of said work or services or a waiver of any right of the City or any obligation of the Surveyor should it be determined later that said work or services were negligently performed or provided or were not performed or provided in accordance with the standards required by this Contract. Surveyors or other professional consultants engaged by the Surveyor for the normal structural, electrical or mechanical engineering services shall be billed to the City by the Surveyor at the actual cost thereof.
- B. The Surveyor shall present two (2) copies of the invoice with two (2) properly executed claim vouchers to the City for compensation and payment. The City will review the invoice and claim voucher for payment. Should the City question or request additional documentation or disapprove all or a portion of any invoice, the Surveyor will be notified so that it may provide additional documentation sufficient to demonstrate the invoice and claim should be paid, in whole or in part; provided, however, no invoices or claims shall be paid the aggregate of which are in excess of the Tasks as outlined in the Work Order.
- C. Final payment shall not be deemed to waive any rights or obligations of the parties to this Contract.

5. No Extra Work. No claims for extra work of any kind or nature or character shall be recognized by or be binding upon the City unless such work or service is first approved in writing by the City.

6. **Indemnity.** The Surveyor will not be required to indemnify, insure, defend or hold harmless the City or participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property which arises out of the negligence or fault of the City or participating trusts or their agents, representatives, subcontractors, suppliers or any other entity for whom the Surveyor is not otherwise legally responsible.

The Surveyor must indemnify the City and participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property; provided, that indemnification shall not exceed an amount that is proportionate to the degree or percentage of negligence or fault for which the Surveyor and any person or entity for which the Surveyor is legally responsible are adjudicated liable.

7. **Insurance.** Prior to approval of this contract, the Surveyor shall obtain insurance coverage as provided below. The Surveyor must provide, pay for, and maintain the types of insurance policies provided herein, in amounts of coverage not less than those set forth below. Certified, true and exact copies of all insurance policies required and endorsement pages shall be provided to the City and its participating trusts on a timely basis if requested by City staff.

All insurance must be from responsible insurance companies which are authorized to do business in the state of Oklahoma and are acceptable to the City and its participating trusts. The required insurance coverage and policies shall be performable in Oklahoma City, Oklahoma, and shall be construed in accordance with the laws of Oklahoma.

Nothing in this Section shall define or limit the rights of any party to this Contract under any other provision of this Contract, including but not limited to any indemnification provision.

- A. **Additional Insureds:** All liability policies (except professional liability and worker's compensation and employer's liability policies) shall provide that the City and its participating trusts are named additional insureds without reservation or restriction.

All insurance coverage of the Surveyor shall be primary to any insurance or self-insurance program carried by the City and its participating trusts.

All insurance policies shall include a severability of interest provision wherein claims involving any insured hereunder, except with respect to limits of insurance, interests shall be deemed separate from any and all other interest herein, and coverage shall apply as though each such interest was separately insured.

Subrogation as to any additional insured shall be waived.

- B. **Deductibles:** All policies must be fully insured with any single policy deductible not exceeding \$25,000 per occurrence. All deductibles must be declared on the certificate of insurance. If no deductible is declared, the Surveyor is stating a

deductible does not exist and thus a deductible is not approved or accepted. If the Surveyor's deductible is higher than declared, then the City and its participating trusts will hold an equal amount from pay claims until corrected.

Self-insured retentions will not be accepted unless accompanied by a bond (financial guarantee bond) or irrevocable letter of credit guaranteeing payment of the losses, related investigations, claim administration and defense expenses not otherwise covered by the Surveyor's self-insured retention.

- C. Policy Limits: The insurance coverage and limits required of the Surveyor under this Contract are designed to meet the minimum requirements of the City and its participating trusts. Such coverage and limits are not designed as a recommended insurance program for the Surveyor. The Surveyor alone shall be responsible for the sufficiency of its own insurance program. Should the Surveyor have any question concerning its exposures to loss under this Contract or the possible insurance coverage needed therefore, the Surveyor should seek professional assistance.

Except for professional liability insurance, all policies shall be in the form of an "occurrence" insurance coverage or policy. If any insurance is written in a "claims-made" form, the Surveyor shall also provide tail coverage that extends a minimum of two years from the expiration of this Contract.

The minimum aggregate limits of such insurance policies and continuing coverage shall be:

- (1) Worker's Compensation and Employer's Liability Insurance. The Surveyor shall provide and maintain, during the term of the Contract, worker's compensation insurance as prescribed by the laws of the state of Oklahoma and employer's liability Insurance in an amount not less than One Hundred Thousand Dollars (\$100,000.00) each for all its employees employed at the site of the Project, and in case any work is subcontracted, the Surveyor shall require the subcontractor similarly to provide worker's compensation and employer's liability insurance for all the subcontractor's employees, unless such employees are covered by the protection afforded by the Surveyor. In the event any class of employees engaged in work performed under the Contract or at the site of the Project is not protected under such insurance heretofore mentioned, the Surveyor shall provide and shall cause each subcontractor to provide adequate insurance for the protection of the employees not otherwise protected.
- (2) Commercial General Liability Insurance. The Surveyor shall provide and maintain commercial general liability insurance coverage sufficient to meet the maximum cumulative liability of all parties to this Contract, including the City and any public trust participating in the Project, under the Governmental

Tort Claims Act, 51 O.S. § 151 *et seq.*, (GTCA) and any amendment or addition thereto, as provided herein.

Property damage liability in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages arising out of a single accident or occurrence.

All other liability in an amount not less than One Hundred Seventy Five Thousand Dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.

Single occurrence or accident liability in an amount not less than One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

- (3) Automobile Liability Insurance. The Surveyor shall provide and maintain comprehensive automobile liability insurance coverage as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles sufficient to meet the maximum cumulative liability of all parties to this Contract, including the City and any public trust participating in the Project, under the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, (GTCA) and any amendment or addition thereto, unless otherwise specifically and expressly provided herein.

Property damage liability in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages arising out of a single accident or occurrence.

All other liability in an amount not less than One Hundred Seventy Five Thousand Dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.

Single occurrence or accident liability in an amount not less than One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

- (4) Professional Liability Insurance. The Surveyor shall provide and maintain professional liability insurance coverage in an amount not less than \$1,000,000 aggregate annual limit liability. Such insurance coverage shall be maintained during this Contract, during the construction of the Project, and

for a period of two (2) years after the final, formal acceptance of this Project by the City.

- D. Certificates: The insurance coverage and limits required must be evidenced by properly executed certificates of insurance on the form furnished by The City or on forms approved by the Oklahoma Insurance Commissioner. Copies of these certificates have been provided to the City Engineer prior to execution of this Contract and are attached hereto. The certificate(s) must be signed by the authorized representative of the insurance company(s) shown in the certificate(s). The certificate must include the Project number and Project description or name.
- E. Cancellation. There may be no termination, non-renewal, reduction in coverage, or modification of such insurance coverage.

The Surveyor authorizes the City and its participating trusts to confirm all information so furnished as to the Surveyor's compliance with its bonds and insurance requirements with the Surveyor's insurance agents, brokers, surety and insurance carriers. The lapse of any insurance policy or coverage required by this Contract is a breach of this Contract for which the Surveyor shall repay and reimburse all payment made under the Contract and such other damages, losses, and costs incurred by the City and its participating trusts. The City and its participating trusts may at their option suspend this Contract until there is full compliance with this paragraph, or may cancel or terminate this Contract and seek damages for the breach of this Contract. The remedies in this paragraph shall not be deemed to waive or release any remedy available to The City and its participating trusts. The City and its participating trusts expressly reserve the right to pursue and enforce any other cause or remedy in equity or at law.

In the event of a reduction in any aggregate limit below the aggregate limit required to this contract, the Surveyor shall immediately notify the City and its participating trusts and shall make reasonable efforts to have the full amount of the limits appearing on the certificate reinstated. If at any time the City and its participating trusts request a written statement from the insurance company(s) as to any impairments to or reduction of the aggregate limit below the aggregate limit required by this contract, the Surveyor hereby agrees to promptly authorize and have delivered to the City and its participating trusts such statement.

The Surveyor must carry and maintain the contract-required insurance coverages and may not cancel, fail to be renewed, nor decrease their limits without thirty (30) days written notice to the City and its participating trusts. In the event that a contract-required insurance coverage (policy) is canceled by the Surveyor's insurance company and through no fault of the Surveyor, the Surveyor must immediately provide written notice to the City and its participating trusts and immediately provide properly executed Certificate(s) of Insurance evidencing coverage (policy)

replacement of the canceled coverage(s). The Certificate(s) of Insurance must specifically indicate (in the remarks section of the form or elsewhere) the project number and project description. An authorized representative of the insurance companies listed on the Certificate(s) of Insurance must sign the Certificate(s).

- F. Duration of Coverage. All insurance coverage required under this Contract except professional liability insurance shall be maintained in full force and effect until completion and formal acceptance of the Project by the City and its participating trusts. The Surveyor shall maintain in full force in effect the required professional liability insurance stated above during this Contract, during the construction of the Project, and for a period of two (2) years after the final, formal acceptance of this Project by the City and its participating trusts.

The requirements of the insurance provisions listed above shall survive the completion, expiration, cancellation or termination of this Contract.

- G. The Surveyor and its insurer will not be required to indemnify, insure, defend or hold harmless the City or participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property which arises out of the negligence or fault of the City or participating trusts or their agents, representatives, subcontractors, suppliers or any other entity for whom the Surveyor is not otherwise legally responsible.

The Surveyor and its insurer must indemnify the City and participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property; provided, that indemnification shall not exceed an amount that is proportionate to the degree or percentage of negligence or fault for which the Surveyor and any person or entity for which the Surveyor is legally responsible are adjudicated liable.

8. Termination for Convenience. The City may terminate this Contract, in whole or in part, for the City's convenience. The City may terminate by delivery of a notice to the Surveyor, pursuant to paragraph "Notices" herein.

Upon receipt of the notice of termination, the Surveyor shall (1) immediately discontinue all work and services affected (unless the notice directs otherwise), and (2), upon payment for work performed, deliver to the City all documents, data, drawings, specifications, reports, calculations, field notes, tracings, plans, models, computer files, estimates, summaries and other information and materials accumulated in performing this Contract, whether complete or incomplete unless the notice directs otherwise.

Upon termination for the convenience by the City, the City shall pay the Surveyor for all work and services rendered, up to the time of the notice of termination, in accordance with

the terms, limits and conditions of this Contract and as further limited by the not to exceed amounts set out in this Contract.

The rights and remedies of the City provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

Termination herein shall not terminate or suspend any of the required provisions of paragraph "Indemnity" or "Insurance" of this Contract.

9. **Stop Work.** Upon notice to the Surveyor, the City may issue a Stop Work Order suspending the performance of work and/or services under this Contract. The Stop Work Order shall not terminate or suspend any of the required provisions of paragraph "Indemnity" and/or "Insurance" of this Contract. In the event the City issues a stop work order to the Surveyor, the City will provide a copy of such stop work order to the Contractor.
10. **Notices.** All notices and orders given pursuant to this Contract shall be in writing, delivered or mailed by United States certified mail, return receipt requested, postage prepaid or faxed (with hard copy follow up by mail or delivery) and addressed as follows:

To the City:

The City of Oklahoma City
Department of Public Works
420 W. Main Street, Suite 700
Oklahoma City, Oklahoma 73102
Attn: Eric J. Wenger, P.E., Director of Public Works/City Engineer
Tele: (405) 297-2581 Fax: (405) 297-2117

To the Surveyor:

Firm

Address

Oklahoma City, Oklahoma ZIP

Attn: Name, Title

Phone Number (405) 000-0000

Fax Number (405) 000-0000

The address of any person or party may be changed by notice to the other party, given in the manner described above. All such notices and orders shall be deemed received when delivered or when deposited in the United States mail.

11. **Compliance with Laws, Ordinances, Specifications and Regulations.** The Surveyor shall comply with all existing and applicable federal, Oklahoma and Oklahoma City laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto, applicable to the work and/or services provided by this Contract. All work product provided by the Surveyor must comply with and provide for compliance with all Oklahoma

and Oklahoma City laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto in the use of the work product of the Surveyor.

12. **Records and Accounts.** During the term of this Contract and continuing for a period the longer of five (5) years after the final acceptance of the completed project by the City, or until the final resolution of any outstanding disputes between the City and the Surveyor on the project, the Surveyor shall maintain: all documents, notes, drawings, specifications, reports, estimates, summaries, computer files, renderings, models, photographs, field notes, as-built drawings, information, survey results, plans, computer files and any other materials produced, created or accumulated in performing this Contract that have not been submitted to the City subsequent to final completion of the project and its internal accounting records, and other supporting documents pertaining to the claims and/or invoices for costs of work and/or services of this Contract. The Surveyor must maintain its accounting records in accordance with generally accepted accounting principles applied on a consistent basis. The Surveyor shall permit periodic audits by the City and the City's authorized representative. The periodic audits of the records in support of claims and invoices for the Contract shall be performed at times and places mutually agreed upon by the City and Surveyor. Agreement as to the time and place for audits may not be unreasonably withheld.
13. **Reporting to the City.** The Surveyor shall report to the City as required.
14. **Prohibition Against Collusion.** The Surveyor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Surveyor to solicit or secure this Contract. The Surveyor further warrants that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Surveyor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract. In addition, the Surveyor must execute the Non-collusion Affidavit, attached as Exhibit A, prior to the effective date of this Contract.
15. **Sub-consultant, Subcontractor or Employee Conflict of Interest.** Any work performed by the Surveyor's employees, sub-consultants or subcontractors on this project shall prohibit said persons from contracting with, working for, or otherwise assisting any potential bidder to do any project-related work for the bidder which may in any way be (or construed to be) a conflict of interest. It is the responsibility of the Surveyor to require all employees, sub-consultants, or subcontractors engaged by the Surveyor to advise the City of any business relationship (formal or otherwise) which may pertain directly or indirectly to this project and/or which may in any way be (or construed to be) a conflict of interest. The Surveyor will also notify the City of any such business relationship and/or conflict of interest. Any conflict of interest discovered by the City may be cause for rejection of the bid in question and/or cancellation of the Surveyor's contract.
16. **Work Orders.** A project-specific work order will be written upon receipt from the Surveyor the project proposal, time for completion, and estimate of cost for services to be performed.

The services of the Surveyor are to commence upon the date set out in the work order issued by the City, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of this Contract. If the Surveyor cannot perform the work and/or services within the time provided, and upon the submission by the Surveyor of a request in writing to the City, indicating the length of extension required to perform a task, the City may, at their sole discretion, grant a reasonable extension of time. The request from the Surveyor shall state the reason for the extension request, along with evidence showing that the Surveyor is unable to complete this work in the time specified in the Work Order for reasons beyond its control. The Surveyor is prohibited from claiming damages for delays and extensions of time.

17. **Ownership of Documents.** All documents, notes, drawings, specifications, reports, estimates, summaries, computer files, renderings, models, photographs, field notes, as-built drawings, information, survey results, plans, computer files and any other materials produced, created or accumulated in performing this Contract, are and shall remain the property of the City and may be reproduced, distributed and published in whole or part without permission or any additional payments or fees to Surveyor. Reuse of said documents by the City shall be at the City's risk and responsibility and not that of Surveyor. The parties may use any portions of said documents at their own risk and responsibility. The Surveyor shall do weekly backups of computer files and maintain said backups in a safe and secure location.
18. **References Not Incorporated.** The use of language or definitions from the Federal Acquisition Regulations, the ("FAR"), the American Institute of Architects ("AIA") or any other publication, is not intended to adopt by reference or otherwise any or all of the language, definitions, regulations or publications or any interpretation thereof.
19. **Standard of Care.** In providing the work and services herein, the Surveyor shall maintain during the course of this Contract the standard of reasonable care, skill, diligence and professional competency for such work and/or services. The Surveyor agrees to require all of its consultants, by the terms of its consultants' Contracts, to provide services at the same standard of reasonable care, skill, diligence and professional competence required of the Surveyor.
20. **Survey Corrections.** The Surveyor agrees to make any necessary corrections to the designs, drawings, specifications or other documents, work or services furnished, when such documents or services contain any errors, deficiencies or inadequacies caused by the Surveyor, at no cost to the City. The Surveyor further agrees to be liable for any damages caused by its negligence and/or the negligent failure to timely discover and/or make such necessary corrections.
21. **Backup Required.** In accordance with good engineering practices, the Surveyor must back up all data, surveys, tests, work, plans, specifications, notes, calculations, RFI, records, reports, documents (collectively referred to as "data") in the form of an electronic file on a

USB drive, data storage, or to an offsite electronic storage facility. Should any data become lost, corrupted, inaccessible, or unusable (collectively “loss”), the Surveyor must timely recreate all data within the original time frame of the surveying contract at its sole cost. No extensions or additional time will be granted the Surveyor for loss of data. No additional payment or reimbursement will be made to the Surveyor for loss of data. The Surveyor will be responsible for any and all costs, expenses, or lost opportunities incurred by The City, Trust, and construction contractor resulting from the failure to meet schedules, milestones, performance standards, or performance requirements related to loss of data.

22. **Sub-consultants.** The Surveyor agrees to submit for approval by the City, prior to their engagement, a list of any sub-consultants or subcontractors the Surveyor intends to engage to perform work and/or services and the scope of work and/or services to be performed related to this Contract. Such approval of subcontractors and sub-consultants and scope of work and/or services to be performed will not be unreasonably withheld. The Surveyor must notify the City and seek pre-approval of any substitutions or changes in sub-consultants or subcontractors and changes in the subcontractor or sub-consultant’s scope of work and services related to this Contract. Approval of subcontractors or sub-consultants or their work and services will not relieve or release the Surveyor from responsibility or liability to perform all work and services under this Contract and will not create any responsibility, liability or duty upon the City as to the selection of or work and services provided by the subcontract or sub-consultant under this Contract.
23. **Nondiscrimination.** In connection with the performance of work and/or services under this Contract, the Surveyor agrees as follows:
- A. The Surveyor shall not discriminate against any employee or applicant for employment because of age, race, creed, color, sex, national origin, ancestry or disability as defined by the Americans with Disabilities Act of 1990, Section 3(2). The Surveyor shall take affirmative action to ensure that employees or applicants for employment are treated without regard to their age, race, creed, color, national origin, sex, ancestry or disability as defined by the Americans with Disabilities Act of 1990, Section 3 (2). Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff, termination or cancellation, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Surveyor shall agree to post, in conspicuous places Exhibit B.
 - B. In the event of the Surveyor's noncompliance with this nondiscrimination clause, this Contract may be suspended, canceled or terminated by the City. The City may declare the Surveyor ineligible for further Contracts or agreements until compliance, and/or satisfactory proof of intent to comply shall be made by the Surveyor.
 - C. The Surveyor agrees to include this nondiscrimination clause in any subcontracts connected with the performance of this Contract. The Surveyor shall also execute

the nondiscrimination certificate, attached and incorporated as Exhibit B, prior to the effective date of this Contract.

24. **Assignment.** Inasmuch as this Contract is a personal and professional service agreement which relies upon the personal and professional integrity, financial standing and unique ability and expertise of the Surveyor to provide professional and personal services to the City, the parties agree that the Surveyor may not assign its obligations, rights or interest in this Contract except the assignment of subcontractors and sub-consultants as set forth in paragraph "Termination for Default" subparagraph B.
25. **Termination for Default.** The City may terminate or cancel this Contract for cause, in whole or in part, for failure of the Surveyor to fulfill in accordance with good engineering practices and in the best interests of the City or to promptly fulfill its obligations under this Contract.
- A. After due default notice and thirty (30) days within which to correct the default, this Contract may be terminated by the non-defaulting party upon written notice. Upon termination for cause by the City, the City shall pay the Surveyor for all work and services completed in accordance with good engineering practices and in the best interests of the City and useable by the City for the project(s) in the Notice to Proceed, up to the time of the effective date of termination.
- B. If this Contract is terminated by reason of a default of the Surveyor prior to the completion of this project, regardless of the reason for said termination, the Surveyor shall immediately assign to the City any Contracts and/or agreements relative to this project entered into between the Surveyor and its subcontractors and sub-consultants, as the City may designate in writing and with the consent of the subcontractors and sub-consultants so designated. With respect to those Contracts and/or agreements assigned to and accepted by the City, the City shall only be required to compensate such subcontractors and sub-consultants for compensation accruing to such parties under the terms of their agreements with the Surveyor from and after the date of such assignment to and acceptance by the City. All sums claimed by such the subcontractor or sub-consultants to be due and owing for services performed prior to such assignment and acceptance by the City shall constitute a debt between the Surveyor and the affected subcontractors or sub-consultants, and the City shall in no way be deemed liable for such sums. The Surveyor shall include this provision and the City's rights and obligations hereunder in all agreements or Contracts entered into with the Surveyor's subcontractors and sub-consultants.
- C. In the event of the termination of this Contract by default of the Surveyor, the Surveyor further agrees that all of its obligations and duties contained in this Contract shall survive such termination for default and shall not, in any way, relieve the Surveyor of the obligations provided for in this Contract.

- D. If this Contract is terminated by reason of default on the part of the Surveyor, upon final determination by a court that the termination was improper, the termination will be deemed converted to a termination for convenience and the Surveyor's remedy shall be limited to the recovery of compensation set out in paragraph "Termination for Convenience" of this Contract.
26. **Time Is of the Essence.** Both the City and the Surveyor expressly agree that time is of the essence with respect to this Contract, and the time for performance of each task established by the work orders shall be made a part of this Contract and shall be strictly observed and enforced. Any failure on the part of the City to timely object to the time of performance shall not waive any right of the City to object at a later time.
27. **No Damage for Delay.** No payment, compensation or adjustment of any kind (other than an approved extension of time) shall be made to the Surveyor for damages because of hindrances or delays from any cause in the progress of the work, whether such hindrances or delays be avoidable or unavoidable. The Surveyor agrees that it will make no claim for compensation or damages for any such delays and will accept as full satisfaction for such delays the extensions of time.
28. **Severability.** In the event that any provision, clause, portion or section of this Contract is unenforceable or invalid for any reason, such unenforceability or invalidity may not affect the enforceability or validity of any other paragraph or the remainder of this Contract.
29. **Entire Agreement.** This Contract, including its Exhibits and any other documents or certificates incorporated herein by reference, expresses the entire understanding of the City and the Surveyor concerning the Contract. Neither the City nor the Surveyor has made or shall be bound by any agreement or any representation to the other concerning this Contract, which is not expressly set forth herein.
30. **Amendment.** This Contract may be modified only by a written amendment of subsequent date hereto, approved by the City and the Surveyor. In the event the Surveyor's scope of work is increased or changed so as to materially increase the need for surveying services in excess of the not to exceed total compensation, the Surveyor may seek to amend this Contract.
31. **Execution in Counterparts.** This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
32. **Descriptive Headings.** The descriptive headings of the sections of this Contract are inserted or annexed for convenience of reference only and shall not affect the meaning, construction, interpretation or effect of this Contract.
33. **Construction and Enforcement.** This Contract shall be construed and enforced in accordance with the laws of the State of Oklahoma. In the event of ambiguity in any of the

terms of this Contract, it shall not be construed for or against any party on the basis that such party did or did not author the same.

34. **Survival of Representations.** All representations and covenants of the parties shall survive the expiration of the Contract.
35. **Parties Bound.** This Contract shall be binding upon and inure to the benefit of all parties. This Contract is solely for the benefit of the parties and their successors in interest, and none of the provisions hereof are intended to benefit third parties.
36. **Venue of Actions.** The parties agree that if any legal action is brought pursuant to this Contract, such action shall be instituted in the district court of Oklahoma County.
37. **Effective Date.** The effective date of this Contract shall be the execution of this contract by the City.
38. **Term of Contract.**
 - A. This Contract authorizes the City Engineer to issue Work Orders under this Contract during the contract term as provided herein and the term of this Contract will be from the effective date though June 30, 2027, plus such extended time as necessary until all Work Orders issued during the contract term are complete.
 - B. The City may issue Work Orders under this Contract at any time during the contract term.
 - C. The Surveyor will provide such services as set forth in any Work Order issued under this Contract and this Contract will be deemed extended for such extended time as may be necessary for the completion of services set forth in any Work Order issued during the contract term under this Contract.
 - D. If this Contract is extended for completion of any Work Order, upon completion of all the Work Orders issued under this Contract, the City Engineer will issue a notice to the Surveyor denoting the termination of this Contract and any extended time.
 - E. The Surveyor must provide such services and comply with this Contract until expiration of the contract term or through any extended time, if any, until notification of termination of this Contract from the City Engineer, whichever is later.
 - F. The City will not be obligated to pay the Surveyor under any Work Order (including any services, expenses, and additional services) until the funds have been encumbered. Any Work Order must not exceed the available funds for the year in which the Work Order was issued. Any extended time to complete the Work Order will not change the available funds for the year in which the Work Order was issued.

- G. If the City should need any additional services or a change of the scope of services in any Work Order issued during the contract term, a new separate Work Order must be issued under a separate contract or an amendment to this Contract. An extended time will not extend the authorization to issue a new Work Order under this Contract after the expiration of the contract term.

[Remainder of this page intentionally left blank]

DRAFT

IN WITNESS WHEREOF, this Contract was executed and approved by the Surveyor
this _____ day of _____, 20__.

SURVEYOR

ATTEST:

Secretary
(and Corporate Seal – either print stamped
or embossed – if embossed, must be leaded
sufficiently to be visible in a PDF file
reproduction)

President

IN WITNESS WHEREOF, this Contract was approved and executed by The City of
Oklahoma City this _____ day of _____, 20__.

THE CITY OF OKLAHOMA CITY

ATTEST:

City Clerk

Mayor

REVIEWED for form and legality.

Assistant Municipal Counselor

