



**AGREEMENT – Legal consequences apply. Consult your attorney to complete.**

Date	Between the Owner: State of Oklahoma OMES CAM CAP P.O. Box 53448 Oklahoma City, OK 73152-3448	On behalf of the Using Agency:
<a href="#">CAP website</a> <a href="mailto:cap@omes.ok.gov">cap@omes.ok.gov</a>		

**And the Contractor:**

Company name

Address

EIN/TIN	Email	Phone
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**PROJECT**

Project number	Project name
Purchase order number	Address/location

**CONTRACT ARTICLES**

In consideration of the mutual covenants and obligations contained herein, the Owner, Using Agency and Contractor agree as set forth herein.

**Article 1: The Contract Documents.**

- 1.1 The Contract Documents consist of this Agreement and the Solicitation, as referenced, inclusive of any stated Conditions, Requirements, Provisions, Scope of Work, Plans, Specifications, Addenda and the Contractor’s Bid Form as may be contained therein, included as an attachment. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

**Article 2: The Work of This Contract.**

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

**Article 3: Date of Commencement and Substantial Completion.**

- 3.1 The date of commencement of the Work shall be the date of the Notice to Proceed/Work Order issued by the Owner and affixed to the State of Oklahoma’s separate Purchase Order issued to encumber the cost of the Work. The Contract Time shall be measured from the date of Notice to Proceed/Work Order.
- 3.2 The Contractor shall achieve Substantial and/or Final Completion of the Work not later than:
  - \_\_\_ calendar days from the date of commencement, subject to adjustments of this Contract Time as provided in the Contract Documents.
  - Within the fiscal year \_\_\_\_, starting in or after \_\_\_\_ and continuing until the end of the fiscal year on June 30, \_\_\_\_. If this contract is a 1+, multi-year, optional renewed contract, the duration may be renewed for \_\_\_ subsequent one-year fiscal periods by renewal contract.
  - Terms, subject to adjustments of this Contract Time as provided in the Contract Documents.
- 3.3 If provided for in the Solicitation, in regard to as-needed maintenance or trade services, the Contract Time may be extended for additional annual renewal periods by amendment to the Agreement.

**Article 4: Contract Sum and Payments.**

- 4.1 The clause selected shall be the valid 4.1 contractual clause:
  - This Contract is for a firm fixed price in the amount of \_\_\_\_\_ Dollars (\_\_\_\_\_). Projects with duration of one month or less shall be invoiced upon final completion. Projects with a duration exceeding one month may be incrementally invoiced on a monthly basis. Final payment will not be made until the Owner’s Representative has verified that all work has been completed. No payment will be made to the Contractor after the Final Completion Date until all work is complete.
  - This Agreement is non-binding. The Owner may or may not purchase the quantities stated in the Solicitation. Work authorized under this Agreement shall be invoiced at the rates stated on the Contractor’s Bid Form. Invoices will be accepted for payment monthly for the Work completed in the previous month.

**Article 5: Other Terms and Conditions.**

- 5.1 Owner's Representative and Supervisory Official.** For the purposes of this Agreement, the OMES CAM CAP Administrator or a designated person shall serve as the Owner's Representative, and an individual of the Using Agency shall serve as the Supervisory Official for the purposes of accepting the work and approving Invoices for Payment. No work will be accepted nor any payments made without approval by the Owner or the Owner's Representative.
- 5.2 Contract Clauses.** Contract Changes shall be provided only upon prior written authorization by the Owner and are subject to the statutory limits set forth in 61 O.S. § 121. Upon request by the Owner's Representative, the Contractor shall prepare an itemized cost proposal for the requested contract change and submit to the Owner's Representative for review and approval. If accepted by the Owner, a Change Order will be processed and returned to the Contractor, authorizing the change in the work and serving as a Notice to Proceed/Work Order.
- 5.3 Audits and Records Clause.** As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any contract with the State of Oklahoma, the Contractor agrees any pertinent state or federal agency will have the right to examine and audit all records relevant to execution of the resultant contract. The contractor is required to retain all records relative to this contract for the duration of the contract term and for a period of three years following completion and/or termination of the contract. If an audit, litigation, or other action involving such records are started before the end of the three-year period, the records are required to be maintained for three years from the date that all issues arising out of the action are resolved or until the end of the three-year retention period, whichever is later.
- 5.4 Ownership of Documents.** All documentation generated as an instrument of service is and shall remain the property of the Owner, including shop drawings, equipment manuals, equipment warranties and as-built drawings. The Contractor shall deliver said documents to the Owner's Representative or as otherwise stated in the Solicitation upon final completion of the work.
- 5.5 Successors and Assigns.** The Owner and the Contractor each bind themselves, partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The Contractor shall not assign, sublet or otherwise transfer its interest in this Agreement without the written consent of the Owner.
- 5.6 Disputes and Claims.** The Owner, Using Agency's Supervisory Official and Contractor shall endeavor to resolve claims, disputes and other matters in question between them by participating in good faith in a settlement meeting to obtain a mutual agreement that resolves the claim or dispute. If an Agreement cannot be attained, the Contractor may appeal to the OMES CAM CAP Administrator by submitting written notice of a protest to the Administrator within twenty-one (21) days of the previous settlement meeting. The Administrator may hear the protest or may assign the Contractor's appeal to an administrative law judge the Division retains. If the appeal is assigned to an administrative law judge, the administrative law judge shall review the protest for legal authority and jurisdiction. If legal authority and jurisdictional requirements are met, the administrative law judge shall conduct an administrative hearing in accordance with the Administrative Procedures Act (75 O.S. §§ 309 et seq.) and provide findings of fact and conclusions of law to the Administrator. The Administrator shall send written notice to the Contractor of the final decision sustaining or denying the Contractor's appeal. If the Administrator denies Contractor's appeal, the Contractor may appeal pursuant to provisions of 75 O.S. §§ 309 et seq. of the Administrative Procedures Act.
- 5.7 Termination.**

  - 5.7.1** This Agreement may be terminated by the Owner upon mailing notice of termination to the Contractor at least seven (7) working days in advance of the date of termination if the Contractor substantially fails to perform according to the terms and conditions of this Agreement in the opinion of the Owner or funds for the Project are insufficient to proceed with the Project. In the event of termination, the Contractor shall be paid compensation for services performed up until the date of termination subject to amounts withheld to satisfy any rightful claim or set off by the Owner.
  - 5.7.2** This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.
  - 5.7.3** This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Contractor for the Owner's convenience and without cause.
- 5.8 Insurance.** Insurance meeting the minimum limits of coverage listed below shall be maintained in full force by Contractor for the duration of the Contract. Certificates of Insurance shall be furnished naming the Owner as the Certificate Holder prior to acceptance of the Contract or issuance of a Work Order. The following are minimum limits of insurance coverage. If higher limits or additional insurance provisions are stated in the Bid Solicitation, the requirements of the Solicitation shall be the minimum required.

  - 5.8.1** Workers' compensation and employers' liability meeting statutory limits mandated by state and federal laws. (companies exempt from the Oklahoma Workers' Compensation Act may substitute OMES CAP Form D321 in lieu of a certificate of insurance).
  - 5.8.2** Commercial general liability of not less than \$100,000/\$300,000.
  - 5.8.3** Automobile liability (owned, non-owned and hired vehicles) of not less than \$100,000/\$300,000.
  - 5.8.4** Property damage (for projects under \$50,000) shall be \$50,000 (each occurrence) and \$100,000 (general aggregate).
  - 5.8.5** Builder's risk (for projects \$50,000 and above) shall be \$50,000 (each occurrence) and \$100,000 (general aggregate).

**5.9 Bonds.**

**5.9.1** Bonds are required for any contract where the firm-fixed price contract sum equals or exceeds \$100,000, or where an individual work order under a non-binding service or maintenance contract exceeds \$100,000.

- a.** Performance Bond for 100% of the value of the Contract to insure completion of the Work.
- b.** Defect Bond for 100% of the value of the Contract to provide correction of defects in the construction and equipment for one year after acceptance of the Work.
- c.** Payment Bond for 100% of the Contract to assure that the Owner is protected from the action of Subcontractors, suppliers and employees for unpaid debts of the Contractor.

**5.9.2** All bonds shall be on the forms prescribed and issued by the Owner as attached to this Agreement.

**5.10 Jurisdiction.** This Agreement shall be governed by the laws of the State of Oklahoma.

**Article 6: Other Conditions of the Contract.**

**6.1 Oklahoma Taxpayer and Citizen Protection Act of 2007.** The Contractor certifies that it and all proposed subcontractors and suppliers, whether known or unknown at the time this contract is executed or awarded, will comply with the provisions of the Oklahoma Taxpayer and Citizen Protection Act of 2007 and participate in the Status Verification System. The Status Verification System is defined in the Oklahoma Statutes, Title 25 § 1312.

**6.2 State of Oklahoma Governor's Executive Order 2012-01.** Per the State of Oklahoma Governor's Executive Order 2012-01, effective July 1, 2012, the use of any tobacco product shall be prohibited on any and all properties owned, leased or contracted for use by the State of Oklahoma, including but not limited to all buildings, land and vehicles owned, leased or contracted for use by agencies or instrumentalities of the State of Oklahoma.

**6.3** Other documents, if any, forming part of the Contract Documents are as follows:

**Purchase Order.**

**Notice to Proceed/Work Order.**

**SIGNATURE PAGE TO FOLLOW**

This Agreement is entered into as of the date first written on Page 1 and is executed in at least four original copies, of which one is to be delivered to the Contractor, one to the Owner's Representative for use in the administration of the Contract, and the remainder to the Owner and Using Agency.

### OWNER SIGNATURE

**State of Oklahoma OMES CAM CAP**

Owner name	Owner title
Owner signature	Date

### USING AGENCY SIGNATURE

The Using Agency certifies that funds are available and dedicated to completing the contract sums stated in this Contract. The Using Agency agrees to pay all project related costs including but not limited to work related to unknown site conditions, remediation of discovered environmental conditions, legal expenses, judgments, and any reasonable project-related expense.

Authorized Representative name	Authorized Representative title
Authorized Representative signature	Date

### CONTRACTOR SIGNATURE

**Non-Collusion Statement**

The authorized representative for the Contractor, of lawful age, solemnly swears or affirms, under penalty of perjury, that they are the duly authorized agent of the company indicated herein under the contract, which is attached to this statement, for the purpose of certifying the facts pertaining to the giving of things of value to government personnel in order to procure said contract.

They are fully aware of the facts and circumstances surrounding the making of the contract to which this statement is attached and have been personally and directly involved in the proceedings leading to the procurement of said contract.

Neither the company nor anyone subject to the company's direction or control has paid, given or donated or agreed to pay, give or donate to any office or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement is attached.

Authorized Representative name	Authorized Representative title
Authorized Representative signature	Date

### EXHIBITS/ATTACHMENTS (LIST ALL THAT APPLY)

1. Solicitation for Bids Copy
2. Contractor's Bid Form(s)
3. Contractor's Certificate of Insurance
4. Contractor's Payment, Performance and Statutory Defect Bond, if applicable
- 5.