

OKLAHOMA WATER RESOURCES BOARD MEETING INFORMATION

The Oklahoma Water Resources Board meets monthly in accordance with the date, time, and location shown on the final posted agenda. A draft Board meeting agenda and packet materials are scheduled to be prepared approximately 10 calendar days prior to the Board's meeting. A final agenda is scheduled to be posted at least 24 hours prior to the meeting. The standard sections of the agenda are numbered in a series; additional or special items will appear on the agenda subsequently. Standard sections include the following:

- 01000 = Call to Order
- 02000 = Financial Assistance Division
- 03000 = Summary Disposition Agenda
- 04000 = Items of Interest
- 05000 = Special Consideration Items

This meeting packet contains expanded information (summary documents, proposed orders, etc.) associated with individual agenda items. Each section of the packet contains a cover sheet noting the appropriate corresponding agenda item/number. (For example, to locate agenda item 2.D., concerning a grant or loan, review the packet for the section labeled, "2. Financial Assistance Division," which will begin on page 02000. Item D. is placed in alphabetical order in the section and is labeled accordingly.) The documents and information provided within the meeting packet are draft until approved by the Board. Please contact OWRB staff for the final, official documents as approved by the Board.

If you require assistance in locating an item or accompanying documents, please contact OWRB staff at (405) 530-8800.

1.B.

**August 20,204, Regular Meeting Draft Official Minutes
For consideration at the September 17, 2024 Board Meeting**

CALL TO ORDER

The Regular Meeting of the Oklahoma Water Resources Board was called to order by Madam Chair Jennifer Castillo, on August 20, 2024, at 9:30 a.m. at the Oklahoma Water Resources Board located at 3800 N. Classen Blvd. Oklahoma City, Oklahoma 73118. The meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof. The agenda was posted on August 16, 2024, at 2:00 p.m., at the Oklahoma Water Resources Board's offices at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

A. Roll Call. Madam Chair Castillo welcomed everyone to the meeting and asked for the roll call of members.

Board Members Present

Ron Justice
Robert L. Stallings, Jr.
Darren Cook
Jennifer Castillo
Suzanne Landess
Jarred Campbell
Matt Muller

Board Members Absent

Bob Latham
Tom Gorman

Staff Members Present

Julie Cunningham, Executive Director
Sara Gibson, General Counsel
Robby Short, Communication and Marketing Coordinator
Chrystal Kittenbrink, Legal Secretary
Joe Freeman, Chief, Financial Assistance Division
Bill Cauthron, Chief, Water Quality Programs Division
Chris Neel, Chief, Planning and Management Division
Cleve Pierce, Chief, Administrative Services Division

Others Attending

Mary Stallings
Dwayne Martin
Charles Outlaw
Vanessa Aguilar
Chris Browning
Cindy Arnard
Randy McDaniel
Ken McQueen
J. W. Fleetwood
Clay Herndon
Jesus Hernandez
Gilma Arrlaga
Victoria Tran
Bud Ground
Emile Rowland
Bary Spyros
Carolyn S.
Marla Peek

B. Discussion, Amendments and Vote to Approve Official Minutes of the July 16, 2024, Regular Meeting. Madam Chair Castillo inquired if all members reviewed the minutes of the July 16, 2024, meeting and if no questions, or changes, requested a motion to approve. No comments or amendments; Mr. Stallings motioned to approve, and Mr. Justice seconded the motion. Madam Chair Castillo called for the vote.

AYE: Stallings, Justice, Landess, Muller, Cook, Campbell, Castillo
NAY: None
ABSTAIN: None
ABSENT: Latham and Gorman

C. Executive Director’s Report:

Governor’s Water Conference is scheduled for November 19th and 20th and we are developing the agenda now and have secured the location and keynote speaker. November 19-20, 2024, Embassy Suites, Norman, and all board members have been registered. November Board Meeting: will be canceled for the month of November, giving our board members a break.

Southwest:

- The Southwest region received only 43% normal rainfall in the past month.
- The Crop Moisture Index shows severely dry conditions.
- Harmon and Cotton Counties are under a burn ban.
- Lake levels range from one to several feet below normal.

Statewide:

- A million Oklahomans are now in drought--40.51% of the state in area.
- Average streamflow has been below normal most of the month.
- According to the PDSI, the Panhandle, Southwest, and South-Central regions are in Severe Drought status, and the Southeast region is in Moderate Drought.
- Mesonet stations all along the southern border of the state and a few scattered other areas have KBDI values greater than 600, indicating severe drought and increased wildfire chances.

Outlook:

- Statewide, there's a below normal chance for precipitation through November.
- Most of the State is predicted to develop or remain in persistent drought through November.

Legislative Session:

- Aug. 27 is the runoff election for several key members of the state legislature.
- Nov. 1 – Deadline for interim studies to be heard.
- We’ve been working with members on their interim studies, still waiting on some request.
- Interim studies begin in September, two have been scheduled to date (see bolded below.)

- On: July 9, a bipartisan group of lawmakers sent a letter to top members of the House and Senate Appropriations Committees, **urging them to increase funding for water infrastructure projects, warning that if current state allocations for Clean Water and Drinking Water State Revolving Funds (SRFs) continue to be diverted to Community Project Funding and Congressionally Directed Spending (CPF/CDS), “states will experience significant shortfalls in funding water infrastructure projects.”**
- On July 25, the Senate Appropriations Committee approved several FY25 appropriations bills, including: S. 4802 provides \$9.3B for EPA, including \$783.7M for Science and Technology, \$3.2B for Environmental Programs and Management, **\$4.4B for State and Tribal Assistance Grants (STAG), and \$72.3M for the Water Infrastructure Finance and Innovation Program (WIFIA).** STAG funding would include **\$2.8B for SRFs, with \$1.6B for Clean Water SRFs and \$1.1B for Drinking Water SRFs.** It recommends **\$362.5M from Clean Water SRFs and \$242.3M from Drinking Water SRFs be allocated for Congressionally Directed Spending.** The bill provides funding for the Safe and Sustainable Water

Resources Program (\$112.89M), including up to \$5M for grants under the Innovative Water Technology Program.

- The SFO bill would fully fund the International Boundary and Water Commission with \$159.5M for urgent water management and water quality improvement programs, and \$500,000 for the International Joint Commission to address gaps in transboundary governance between British Columbia and bordering U.S. States.
- On August 1, the Senate Appropriations Committee unanimously approved the Energy and Water Development and Related Agencies (EWD) bill, which would fund the U.S. Army Corps of Engineers (USACE) at \$10.3B, the U.S. Bureau of Reclamation (USBR) at \$2.04B and provide over **\$150M for rural water projects**.

Notable studies:

- **SSP2012 - Howard, Brent** A study on water usage, monitoring and oversight.
- **SSP2014- Howard, Brent** A study on critical infrastructure and foreign ownership.
- **SSP2016 - Hamilton, Warren** A study on the corps of engineers and Eufaula Lake.
- **SSP2021 - Howard, Brent** A study on DEQ standardization of small municipal and rural water well sites.
- **SSP2039 - Daniels, Julie,** A study on how to ensure boards and commissions meet their statutory obligation to act in the public's best interests. **9/26/2024 Sept 26**
- **HSP2050 - Schreiber, Suzanne** A study on flood control laws and regulations in the state.
- **HSP2087 - West, Rick,** A study on the Kiamichi River and the possibility of a hydroelectric dam or designation as a scenic river. **10/22/24 Oct 22**
- **HSP2001 Kendrix, Gerrid, Bergstrom, Micheal** study on the Administrative Rules Procedure Act.

Bills of Note:

SSP2012 - Howard, Brent A study on water usage, monitoring and oversight.

SSP2016 - Hamilton, Warren A study on the corps of engineers and Eufaula Lake.

HSP2050 - Schreiber, Suzanne A study on flood control laws and regulations in the state.

HSP2087 - West, Rick A study on the Kiamichi River and the possibility of a hydroelectric dam or designation as a scenic river.

D. Financial Update

Mr. Cleve pierce, Chief Administrative Services Division, presents the budget report for the period ending July 2024. Mr. Pierce reports the agency has spent 2 % of it appropriated budget leaving 98 %; spent 1% of its revolving budget, leaving 99%; has spent 1% of its federal budget, leaving 99%. Overall, the total budget remaining is 1% with 99% of the year remaining.

2. FINANCIAL ASSISTANCE DIVISION

- A. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for the Okemah Utilities Authority, Okfuskee County, Oklahoma. Recommended for Approval.

*THIS ITEM WAS PULLED FROM THE AGENDA AT THE BOARD MEETING. NO VOTE.

B. Consideration of and Possible Action on a Proposed Order Approving State Loan Program Revenue Bond Loan Funding Application for the Broken Arrow Municipal Authority, Tulsa County, Oklahoma. Recommended for Approval.

This is a \$21,450,00.00 FAP loan request that will be secured with a lien on the revenues of the applicant’s water, sewer, and sanitation systems. A one cent sales tax and may include a mortgage on the applicant’s water and sewer systems and other real property. Broken Arrow’s debit coverage ratio stands at 2.27 times.

Madam Chair Castillo asked for additional questions, discussion, or motion.

Question: (Muller) On completion of this phase, with additional proceeds being awarded, will this get you where you need to be, or will this not cover future needs that will need to be addressed?

Answer: These projects are all phases of future projects to address our aging infrastructure, whenever we start phase new issues arise, and we believe there will be more requests but hopefully this is a step in the right direction.

A motion for approval was made by Mr. Stallings and Mr. Campbell seconded the motion; Madam Chair Castillo called for the vote.

- AYE: Stallings, Justice, Landess, Muller, Cook, Campbell, Castillo
- NAY: None
- ABSTAIN: None
- ABSENT: Latham and Gorman

3. SUMMARY DISPOSITION AGENDA ITEMS

All the items listed below under this Summary Disposition Agenda are recommended for approval. Any item listed under this Summary Disposition Agenda may, at the request of any member of the Board, the Board’s staff, or any other person attending this meeting, be transferred to the Special Consideration Agenda. Under the Special Consideration Agenda, separate discussion and vote or other action may be taken on any items already listed under that agenda or items transferred to that agenda from this Summary Disposition Agenda.

Request to transfer items from Summary Disposition to the Special Consideration Agenda and Action on whether to transfer such items.

Discussion, questions, and responses pertaining to any items remaining on Summary Disposition agenda and possible action items listed below.

- A. Requests to Transfer Items from Summary Disposition Agenda to the Special Consideration Agenda and Action on Whether to Transfer Such Items.
- B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on Summary Disposition Agenda and Possible Action on Items Listed Below.
- C. Consideration of and Possible Action on Financial Assistance Division Items:

1. Emergency Grant Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>	<u>County</u>	<u>Amount Recommended</u>
a.	FAP-24-0007-G	City of Kaw City	Kay	\$ 26,474.95

2. Rural Economic Action Plan (REAP) Grant Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>		<u>County</u>	<u>Amount Recommended</u>
ASCOG			Rural		
a.	FAP-24-0103-R	Water District No. 5, Comanche County, Oklahoma		Comanche	\$ 150,000.00

3. CWSRF Principal Forgiveness Loan Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>		<u>County</u>	<u>Amount Recommended</u>
a.	ORF-24-0049-CW	The Mannford Works Authority	Public	Creek	\$ 191,550.00
b.	ORF-22-0019-CW	Fairmont Works Authority	Public	Garfield	\$ 221,500.00
c.	ORF-25-0018-CW	The Arapaho Works Authority	Public	Custer	\$ 285,000.00
d.	ORF-24-0021-CW	Hollis Works Authority	Public	Harmon	\$ 332,500.00
e.	ORF-24-0011-CW	The Crescent Works Authority	Public	Logan	\$ 332,500.00
f.	ORF-24-0008-CW	Arkoma Authority	Municipal	LeFlore	\$ 400,000.00
g.	ORF-24-0001-CW	El Reno Municipal Authority		Canadian	\$ 1,500,000.00

4. DWSRF Principal Forgiveness Loan Applications:
None.

5. Sewer Overflow and Stormwater Reuse Municipal Grants (“OSG”)

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>		<u>County</u>	<u>Amount Recommended</u>
a.	OSG-25-0001-G	Taneha Authority	Utilities	Creek	\$ 739,000.00

6. American Rescue Plan Act (ARPA) Grant Applications:

<u>Item No.</u>	<u>Application No.</u>	<u>Entity Name</u>		<u>County</u>	<u>Amount Recommended</u>
a.	ARP-23-0029-DTG	The Eufaula Public Works Authority		McIntosh	\$ 102,000.00
b.	ARP-23-0202-G	Oklahoma City Utilities Trust	Water	Oklahoma	\$ 2,000,000.00

c.	ARP-23-0017-DPG	The Lawton Authority	Water	Comanche	\$ 2,000,000.00
d.	ARP-23-0042-DTG	Rural Water, Sewer, and Solid Waste Management District No. 4, Atoka County, Oklahoma		Atoka	\$ 2,381,032.77

D. Consideration of and Possible Action on the Contracts and Agreements:

1. Agreement between the State of Oklahoma by and through the Oklahoma Water Resources Board and Geotech Environmental Equipment, Inc. for the provision of a supplier to assist in the process of replacing sensors while maintaining the existing parts of the deployment and expanding the network to include new wells.
2. Third Amendment to the Grant Agreement with the Office of Management and Enterprise Services for the administrative services related to the American Rescue Plan Act Grant Funds designated by the Legislature for the Tribal cooperation grant matching funds for water and wastewater infrastructure projects.
3. Non-Assistance Cooperative Agreement between the U.S. Dept. of Agriculture and OWRB to conduct a field investigation to support hydrologic research and provide a database on stream flow and water quality in the Little Washita River and Fort Cobb Reservoir Lake Experimental Watersheds.

E. Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:

E. Consideration of and Possible Action on Applications for Temporary Permits to Use Groundwater:

1. The Family of John Warren and Darla Elaine Tharp, Kay County, 2024-504
2. Aaron and Carla Rose Stutzman, Washita County, 2024-545
3. Marissa Graf, Caddo County, 2024-555
4. Steven F. and Lori R. Irwin, Major County, 2024-559
5. Irwin Bros., LLC. Major County, 2024-560

F. Consideration of and Possible Action on Applications to Amend Temporary Permits to Use Groundwater:
None

G. Consideration of and Possible Action on Applications for Regular Permits to Use Groundwater:

1. Anthony R. Thornton Sr. and Mary Ann Thornton, Okfuskee County, 2022-571
2. Comanche Exploration Co., LLC, Major County, 2023-636
3. Nickolas and Danielle Gaddis, Creek County, 2024-505
4. Caleb and Kassidi Wootton, Greer County, 2024-526
5. Michael Smith, Woodward County, 2024-550
6. Ace and Amy Berry, Texas County, 2024-551
7. James Chad Smith, Roger Mills County, 2024-572
8. Paul Dean and Karina V. Blaser, Texas County, 2024-585

H. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Groundwater:

1. Dwayne E. and Krystal K. Martin, Tillman County, 1974-029

I. Consideration of and Possible Action on Applications to Amend Prior Right to Use Groundwater:

1. Jason W. and Amber L. Lawles, Caddo County, 1955-033B

J. Consideration of and Possible Action on Applications to for Term/Seasonal Permits to Use Stream Water:
None

K. Consideration of and Possible Action on Applications for Regular Permits to Use Stream Water:
None

L. Consideration of and Possible Action on Applications to Amend Regular Permits to Use Stream Water:

None

M. Consideration of and Possible Action on Well Driller and Pump Installer Licensing:

- 1. New Licenses, Accompanying Operator Certificates and Activities:
 - None
- 2. New Operators, Licensee Name Change, and/or Activities for Existing Licenses:
 - A. Licensee: Dawson’s Water Well Service, LLC DPC-0978
 - 1. Operator: Kolyn Dawson OP- 2546
 - Activities: Pump installation
 - B. Licensee: Conetec, Inc DPC-1008
 - 2. Operator: Alejandro Sancen OP- 2547
 - Activities: Monitoring wells

N. Consideration of and Possible Action on Dam and Reservoir Construction:

None

O. Consideration of and Possible Action on Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:

- 1. Mid-America Industrial Park, Mayes County, FP-2024-10
- 2. Oklahoma Turnpike Authority, Oklahoma County, FP-2024-11
- 3. Northeastern Oklahoma A&M College, Ottawa County, FP-2024-12

P. Consideration of and Possible Action on Applications for Accreditation of Floodplain Administrators:

- 1. Losco Hunter, Payne County, #FPA-612
- 2. Dennis Meyers, Comanche County, #FPA-153
- 3. Banai Jonathan, Seminole County, #FPA-430
- 4. Cindy Gaddis, Kay County, #FPA-027

Q. Consideration of and Possible Action on a Proposed Acquisition of a Rural Water District:

- 1.Acquisition of Sequoyah County Rural Water District No. 3, Sequoyah County, by Sequoyah County Water Association, Sequoyah County

Madam Chair Castillo asked for additional questions, discussion, or motion. A motion for approval was made by Mr. Muller and Mr. Stallings seconded the motion; Madam Chair Castillo called for the vote.

- AYE: Stallings, Justice, Landess, Muller, Cook, Campbell, Castillo
- NAY: None
- ABSTAIN: None
- ABSENT: Latham and Gorman

0400 4. QUESTIONS AND DISCUSSION ABOUT AGENCY MATTERS AND OTHER ITEMS OF INTEREST

A. Employee Recognition

Chairman Jennifer Castillo

Long time employee, Joe Freeman was recognized as a valuable and beloved member of the Oklahoma Water Resources Board. Joe will be retiring on August 30, 2024, the Board, Secretary McQueen, multiple municipalities, partners, co-workers, and friends expressed their appreciation, dedication, and hard work over his tenure at the agency. *An audio of this meeting is available by request*

A. Consideration of and Possible Action on Proposed Default Order Finding Violations and Assessing Penalty for Use of Groundwater Without a Permit for Jesus Hernandez dba Whitestone Farms, LLC, Adair County, Oklahoma

1. Summary – **Mr. Chris Neel**

A notice was given by Whitestone Farms, LLC an Arkansas Limited Liability Company c/o Jesus Hernandez of 21000 Summers MTN Rd, Lincoln, AR 72744 has filed an application, #2021-505, with the Oklahoma Water Resources Board (Board) for a permit to use 398 acre-feet of groundwater per year. The groundwater is proposed to be used for agriculture (poultry houses) and taken from 199 acres. Wells and dedicated lands are located over the Roubidoux groundwater basin. Prior to notice, the OWRB staff received a complaint # 2309081220 in regard to improper non-domestic use of water located over the application referenced above. A notice of violation and assessment of administrative penalty was submitted on November 1st, 2023, to Whitestone Farms, LLC c/o Jesus Hernandez, requesting response by November 15th, 2023. Nothing was received by the applicant by that date. In response the OWRB staff sent a notice of violation, assessment of penalty, and hearing on March 18th, 2024, by a process server, to request Whitestone Farms, LLC c/o Jesus Hernandez to appear at the OWRB for a hearing on alleged violations of committing waste. The respondent, Jesus Hernandez, did not appear in person, by representative or by legal counsel. The hearing examiner recommends a default order be executed. The applicant gave proper Public Notice, the application was protested, and an administrative hearing was set for July 26, 2024.

The Hearing Officer announced that the recommendation to the Board in this matter would be a default judgment in accordance with OAC 785:4-7-3(d), which states “If a respondent party fails to appear without good cause shown, the allegations set forth in the Board’s notice and supplemental statement thereto, if any, shall be deemed confessed, and the Hearing Examiner may recommend a default order based thereon to the Board without further notice to such defaulting respondent.” The recommendation in this matter as stated in the Notice of Violation, Assessment of Penalty, and Hearing is that an order be issued finding that the Respondent has violated 82 O.S. §1020.7 and OAC 785:30-1-4 by failing to make application to the Board for an appropriate permit before taking water from a completed well and 82 O.S. § 1020.15(A)(1) by committing waste by using groundwater without a permit, and requiring that the Respondent immediately cease and desist using groundwater without an appropriate permit and that Respondent pay One Thousand Dollars (\$1,000.00), as authorized by 82 O.S. § 1020.22(A) for committing waste as defined in 1020.15(A)(1).

2. Discussion and presentation by parties

Question (Muller): He applied for a temporary permit while he was waiting on a regular permit, correct?

Answer (C. Neel): The temporary permit was valid for 90 days, but during that time, the applicant didn’t keep up with the process for obtaining the regular permit. The applicant was working on the regular permit application and ceased to correspond. Our office made multiple efforts to resolve these issues by sending notices and reminders. During this time, there was a protest that came in and we verified via correspondence and issued a fine.

Question (Muller): So, he’s been using water without a permit?

Answer (Neel): Correct, since January 2022.

Question (Castillo): You reflected, or you mentioned that service was accomplished by private process server and there had been some question about green cards, and some of these other communications, but process was served resulting in evidence on the record whether it's an affidavit from the private processor over or communication back and forth, correct?

Answer (Neel): Correct

Board recognizes Ms. Arriaga and her comments: per Ms. Arriaga, I'm here because my husband suffers from schizophrenia and Schizophrenia is hard. He doesn't do anything about business right now, so I will and at this point because he needs treatment, and he refuses go to the hospital and do anything for his mental disorder. So right now, I'm here to take care of all this stuff because we must continue with his job.

Question (Muller): Do you actively have birds at your house right now and what is the age of the flock?

Answer (Arriaga): Yes. We have eight houses. Four are empty and four are full and expecting more chickens in September.

Question (Campbell): So, you have 4 houses that are empty and four with birds in it right now. So, at any point in time with your rotations is it where all the houses you have birds in all the houses at one time, correct? And how old are the current birds?

Answer (Arriaga): Our current birds are 94 days, very young and other will be born in September.

Question (Stallings): Do you have an attorney?

Answer (Arriaga): No

Castillo: I would make a motion to enter Executive Session or vote on default order.

Muller: I have no problem staying in open session and maybe asking additional questions.

Castillo: We will stay in open session, and I open the floor to board members with additional questions.

Question: (Muller): So, today's order simply has to do with backing up the hearing examiner with \$1000 fine, correct?

Answer (Neel): Correct

So, what if we issue the fine? Based on past track record, what if it's ignored? It's not paid. Or even if it is paid, what does that do to the status of the permit?

Answer (Neel): I will default to Sara.

Sara: We have had the hearing regarding the permit and that will be a default order as well when it comes to you. We are hoping to have it on the September agenda. We can hold the permit until the fine is paid. This will be our first enforcement action where we have assessed a penalty. How this works for future deterrence and compliance, we will see as we move along further down this road. Intent to drill is helping in a good number of these situations to prevent these wells from being drilled in the first place.

Question (Muller): So, let me speak to you and your staff from my perspective as board member of what's here, what may be coming. So, we have someone who we have at least a fundamental idea of a reason why there's wasn't some follow up done here. But we have someone running a business without a permit and ignoring the communications to get their permit. So, to me the \$1000 fine is a slam dunk that's going to happen. My bigger question is if more a sobering serious nature is someone continually pumping without a permit and their entire livelihood is at stake along with the humane treatment of a lot of birds, that needs to be dealt with in a very judicious manner and how we muddle through all that.

Answer (Sara): We have some options for enforcement, we can apply a fine of up to \$5000 per day, per violation.

Muller: I was reading that in this packet, and this is very lite compared to what we could be doing.

Sara: Again, this is our first step out of this door and the goal is to capture the attention of the person violating the rules without setting a penalty so high it is just ignored, there's a middle ground. If we have a situation where they have birds or other crops, we could enter into a consent order where we might waive some of the penalty and pending the actual received of the permit and ask for additional information. There we have other options. We have done those consent orders for dam safety issues. It's a little trickier on water rights because we are acknowledging use of water without a permit. But that is an option that we can use if people want to come in and work with us. We are hearing a lot more about enforcement from our legislators and other partners and people out there following the rules and they want to make sure everyone else is following the rules as well. So, you know, there's kind of a percentage. In my past enforcement days, there are people who are always going to comply and might make a mistake and you notice them about it, and they'll fix it and come back into compliance. Then there's the people that the initial penalty is going to get their attention and bring it back to compliance and then you have that top percentage that's just never going to comply, and we can go to District Court and get an injunction if need be and have the county Sherriff serve those injunctions if need be.

Castillo: Any other questions or any further discussion amongst the board members?

Question (Muller): I have a follow up question for Mr. Neel. How long are we going to allow this business to continue to operate without a permit?

Answer (Neel): That is a very good question. In the past, we rely on issuing cease and desist letters and complaints from landowners. We do have the ability to go out and perform a site visit. So, we can be doing that. But again, we're on some uneven ground with humane treatment of birds and livelihoods and things like that. So. Again, I'd like Sara's input.

Muller: How long are we going to allow this business to operate with without a permit and flagrantly not take care of business. And what would be our steps to do so and how long do we patiently coach and help and at what point?

Sara: We are working on finalizing our policy on those things. That is always kind of a situation-by-situation analysis. Our next step would be to, if you approve this order, to take that order, because there's two parts of this order to one, stop using water and pay the penalty. So, we could take this order file for an injunction in the District Court and then have that injunction enforced. There's also, if you get the right District Attorney, they can file misdemeanor charges if that was something they were interested in. It's also going to depend on where their water rights are in and what phase.

Muller: Regardless of how this shakes out, I hope we do take the opportunity to make a site visit and very explicitly lay out to Mr. Jesus or his spouse, what will be happening very shortly if this is not remediated.

Question (Campbell): Have you been in communication with the company that they are growing for? Tyson or Cobb, I don't know who, but have you let them know what is going on?

Answer (Neel): We do not make communications with those companies and I'm not sure who they are contracted with in this instance.

Castillo: Any other questions from the board or I will entertain a motion regarding the order at hand or continue discussion.

3. Possible Executive Session

As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of “[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act”.

- (a) Vote on whether to hold Executive Session. Before it can be held, the Executive Session must be authorized by a majority vote of a quorum of members present and such vote must be recorded.
- (b) Designation of person to keep written minutes of Executive Session, if authorized.
- (c) Executive Session, if authorized.
- 4. Return to open meeting and possible vote or action on any matter discussed in the Executive Session, if authorized.
- 5. Vote on whether to approve the Proposed Order as presented or as may be amended, or vote on any other action or decision relating to the Proposed Order.

B. Consideration of and Possible Action on Items Transferred from Summary Disposition, if any.

A motion for approval was made by Mr. Cook and Mr. Stallings seconded the motion; Madam Chair Castillo called for the vote.

AYE: Stallings, Justice, Landess, Muller, Cook, Campbell, Castillo
 NAY: None
 ABSTAIN: None
 ABSENT: Latham and Gorman

06000 6. NEW BUSINESS

Chairman Jennifer Castillo

Under the Open Meeting Act, this agenda item is authorized only for matters not known about or which could not have been reasonably foreseen prior to the time of posting the agenda or any revised agenda.

07000 7. ADJOURNMENT

Chairman Jennifer Castillo

The next regular meeting of the Oklahoma Water Resources Board will be held on Tuesday, September 17, 2024, at 9:30 am. In the offices of the OWRB, 3800 N. Classen Boulevard, Oklahoma City, OK 73118.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman

Thomas Gorman, Vice Chairman

Matt Muller

Darren Cook

Ron Justice

Bob. Latham

Robert L. Stallings, Jr.

Jarred Campbell

ATTEST:

Suzanne Landess, Secretary (SEAL)

1. D. FINANCIAL UPDATE

1. D.1. Monthly Budget Report

AUGUST 2024 FOR FY2025 FY 2025 Revenues and Expenses

General Revenue		Budgeted	Expended	Balance	Percentage Remaining
1	FY 25 Appropriation	6,003,372	664,273	5,339,099	89%
Total General Revenue		6,003,372	664,273	5,339,099	89%
Revolving Funds					
2	Drillers Indemnity Fund	50,000	0	50,000	100%
3	OWRB Revolving Fund	5,509,081	305,378	5,203,703	94%
4	Phase II A-S Hydro St Rev Fund	211,412	0	211,412	100%
5	Revolving Fund	891,000	133,919	757,081	85%
6	Drillers Regulation Fund	0	0	0	
7	Water Infrastructure Dev. Fund (OCWP)	3,674,861	210,169	3,464,692	94%
8	USGS Cooperative Agreement	351,600	0	351,600	100%
9	DW Loan Administration Fund	1,507,037	61,266	1,445,771	96%
10	CW Loan Administration Fund	2,520,581	171,296	2,349,285	93%
Total Revolving Funds		14,715,572	882,027	13,833,545	94%
Federal Funds					
11	Federal Fund - General	1,177,679	112,267	1,065,412	90%
12	Federal Fund - Engineering and Planning	4,578,738	140,387	4,438,351	97%
13	Federal Fund - *ARPA	1,441,330	77,092.97	1,364,237	95%
Total Federal Funds		7,197,747	329,748	6,867,999	95%
Total Funding		27,916,691	1,876,048	26,040,643	93%
		Budgeted	Expended	Balance	Percentage Remaining
14	Salary Expense	8,263,646	1,212,946	7,050,700	85%
15	Insurance	1,468,665	199,805	1,268,860	86%
16	FICA and Retirement	1,994,985	278,896	1,716,089	86%
17	Professional Services	10,064,106	6,900	10,057,206	100%
18	Flexible Benefits	16,000	-	16,000	100%
Total Personal Services		21,807,402	1,698,547	20,108,855	92%
19	Travel Expense	654,167	28,370	625,797	96%
20	Administrative Expense	1,305,124	149,131	1,155,993	89%
21	Furniture and Equipment Expense	598,975		598,975	100%
22	Intra Inter Agency Payments	3,551,023		3,551,023	100%
Total Operating Expenses		6,109,289	177,501	5,931,788	97%
Total Expenditures		27,916,691	1,876,048	26,040,643	93%

*American Recovery and Reinvestment Act (ARPA)

2. FINANCIAL ASSISTANCE DIVISION

September 17, 2024

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: Cherokee Development Authority, Alfalfa County

Loan Application No.: FAP-24-0021-L
State Loan Program Revenue Bond Loan (“FAP Loan”)

Amount Requested: \$2,295,000.00

Interest Rate: The FAP Loan shall bear interest at a fixed rate.

Payment Term: Principal and interest payments shall be made on a semi-annual basis. The term of the FAP Loan shall be no longer than twenty-five (25) years.

Security Position: The loan shall be secured with a lien on the revenues of the applicant's water, sewer, and sanitation systems, RV park rent, and a 1 cent sales tax, and may include a mortgage on the applicant's water and sewer systems and other real property.

Purpose: The applicant will utilize the loan proceeds to: (i) convert their wastewater treatment to a total retention system with land application, replace a portion of the main water distribution line leaving the water treatment plant as well as installing additional valves on branch lines, all related appurtenances (the “Project”), (ii) satisfy the Local Reserve Requirement, if necessary; and (iii) pay related costs of issuance.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
Loan Proceeds	\$2,201,823.25	Project	\$2,075,542.53
		Bond Counsel	46,536.47
		Financial Advisor	46,536.47
		Local Counsel	22,018.23
		OWRB Cost of Issuance	10,439.55
		Trustee Bank	750.00
Total	\$2,201,823.25	Total	\$2,201,823.25

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF LOAN APPLICATION)
NO. FAP-24-0021-L IN THE NAME OF)
CHEROKEE DEVELOPMENT AUTHORITY)
ALFALFA COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 17th day of September, 2024.

WHEREAS, Cherokee Development Authority (the "Applicant") has made its Application for Funding No. FAP-24-0021-L (the "Loan Application") to the Board for a loan from the proceeds of the Board's State Loan Program Revenue Bonds issued pursuant to the 2016 General Bond Resolution dated as of November 1, 2016, as supplemented and amended (the "Bond Resolution"), and authorized by Title 82 Oklahoma Statutes 2021, Sections 1085.31 *et seq.*, as amended; and

WHEREAS, the Applicant intends to use the loan to provide for acquisition, development, and utilization of storage and control facilities for water and sewage systems for the use and benefit of the public and for the conservation and distribution of water for beneficial purposes in or from reservoirs or other storage facilities and/or refinancing indebtedness originally incurred for such purposes; and

WHEREAS, the Board has completed its review of the Loan Application and related information and finds that the Loan Application should be approved according to the terms and conditions set forth below.

NOW, THEREFORE, LET IT BE RESOLVED AND ORDERED BY THE OKLAHOMA WATER RESOURCES BOARD:

Application for Funding No. FAP-24-0021-L in the name of Cherokee Development Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) convert their wastewater treatment to a total retention system with land application, replace a portion of the main water distribution line leaving the water treatment plant as well as installing additional valves on branch lines, all related appurtenances (the "Project"), (ii) satisfy the Local Reserve Requirement, if necessary and (iii) pay related costs of issuance, all as more specifically set forth in the Application.

Terms and Conditions

1. A loan shall be made out of proceeds of the Board's State Loan Program Revenue Bonds to the Applicant to provide funds for the Project described in the Loan Application in an aggregate principal amount not to exceed \$2,295,000.00. The Applicant shall pay interest on the loan at a fixed or variable rate to be established periodically by the Board. Principal and interest

**ORDER APPROVING LOAN APPLICATION
CHEROKEE DEVELOPMENT AUTHORITY
FAP-24-0021-L**

payments shall be made on a semi-annual basis or as otherwise provided for under the Bond Resolution. The term of the loan shall be no longer than twenty-five (25) years.

2. The loan shall be secured with a lien on the revenues of the Applicant's water, sewer, and sanitation systems, RV park rent, and a 1 cent sales tax, and may include a mortgage on the Applicant's water and sewer systems and other real property.

3. The funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other loans, as the Board determines shall permit the best use of the funds. Funds shall be provided to the Applicant from proceeds of the Board's State Loan Program Revenue Bonds in accordance with the requirements of the Bond Resolution.

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, and Bond Resolution requirements. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

5. The loan shall be subject in all respects to the provisions of the Applicant's promissory note(s), loan agreement(s), and other loan documents which shall be executed by proper officials of the Applicant and a Board Member at or prior to loan closing as appropriate.

6. Additional loans may be made at such times, for such projects of the Applicant, at such repayment periods and interest rates, and upon such other terms and conditions as may be agreed to and approved by the Board and the Applicant.

So ordered this 17th day of September, 2024, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman

ATTEST:

Suzanne Landess, Secretary

(SEAL)

**ORDER APPROVING LOAN APPLICATION
CHEROKEE DEVELOPMENT AUTHORITY
FAP-24-0021-L**

Reviewed By:



Lori Johnson, Chief
Financial Assistance Division

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: Okemah Utilities Authority, Okfuskee County

Loan Application No.: FAP-24-0017-L
State Loan Program Revenue Bond Loan (“FAP Loan”)

Amount Requested: \$2,365,000.00

Interest Rate: The FAP Loan shall bear interest at a fixed rate.

Payment Term: Principal and interest payments shall be made on a semi-annual basis. The term of the FAP Loan shall be no longer than thirty (30) years.

Security Position: The loan shall be secured with a lien on the revenues of the applicant's water and sewer systems, a 1 cent sales tax and may include a mortgage on the applicant's water and sewer systems and other real property.

Purpose: The applicant will utilize the loan proceeds to: (i) provide additional funds needed to construct a new water treatment plant for which a loan was approved on February 15, 2022, all related appurtenances (the “Project”), (ii) satisfy the Local Reserve Requirement, if necessary; and (iii) pay related costs of issuance.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
Loan Proceeds	\$ 2,273,275.80	Project	\$35,115,646.29
Project Fund (2022 FAP)	21,263,763.76	Bond Counsel	25,232.76
Indian Health Service Grant	10,573,000.00	Financial Advisor	25,232.76
ARPA Grant	1,000,000.00	OWRB Costs of Issuance	10,677.75
Local Contribution	75,000.00	Local Counsel	7,500.00
		Trustee Bank	750.00
Total	\$35,185,039.56	Total	\$35,185,039.56

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF LOAN APPLICATION)
NO. FAP-24-0017-L IN THE NAME OF)
OKEMAH UTILITIES AUTHORITY)
OKFUSKEE COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 17th day of September, 2024.

WHEREAS, Okemah Utilities Authority (the "Applicant") has made its Application for Funding No. FAP-24-0017-L (the "Loan Application") to the Board for a loan from the proceeds of the Board's State Loan Program Revenue Bonds issued pursuant to the 2016 General Bond Resolution dated as of November 1, 2016, as supplemented and amended (the "Bond Resolution"), and authorized by Title 82 Oklahoma Statutes 2021, Sections 1085.31 *et seq*, as amended; and

WHEREAS, the Applicant intends to use the loan to provide for acquisition, development, and utilization of storage and control facilities for water and sewage systems for the use and benefit of the public and for the conservation and distribution of water for beneficial purposes in or from reservoirs or other storage facilities and/or refinancing indebtedness originally incurred for such purposes; and

WHEREAS, the Board has completed its review of the Loan Application and related information, and finds that the Loan Application should be approved according to the terms and conditions set forth below.

NOW, THEREFORE, LET IT BE RESOLVED AND ORDERED BY THE OKLAHOMA WATER RESOURCES BOARD:

Application for Funding No. FAP-24-0017-L in the name of Okemah Utilities Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) provide additional funds needed to construct a new water treatment plant for which a loan was approved on February 15, 2022, all related appurtenances (the "Project"), (ii) satisfy the Local Reserve Requirement, if necessary and (iii) pay related costs of issuance, all as more specifically set forth in the Application.

Terms and Conditions

1. A loan shall be made out of proceeds of the Board's State Loan Program Revenue Bonds to the Applicant to provide funds for the Project described in the Loan Application in an aggregate principal amount not to exceed \$2,365,000.00. The Applicant shall pay interest on the loan at a fixed or variable rate to be established periodically by the Board. Principal and interest payments shall be made on a semi-annual basis or as otherwise provided for under the Bond Resolution. The term of the loan shall be no longer than thirty (30) years.

**ORDER APPROVING LOAN APPLICATION
OKEMAH UTILITIES AUTHORITY
FAP-24-0017-L**

2. The loan shall be secured with a lien on the revenues of the Applicant's water and sewer systems, a 1 cent sales tax and may include a mortgage on the Applicant's water and sewer systems and other real property.

3. The funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other loans, as the Board determines shall permit the best use of the funds. Funds shall be provided to the Applicant from proceeds of the Board's State Loan Program Revenue Bonds in accordance with the requirements of the Bond Resolution.

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, and Bond Resolution requirements. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

5. The loan shall be subject in all respects to the provisions of the Applicant's promissory note(s), loan agreement(s), and other loan documents which shall be executed by proper officials of the Applicant and a Board Member at or prior to loan closing as appropriate.

6. Additional loans may be made at such times, for such projects of the Applicant, at such repayment periods and interest rates, and upon such other terms and conditions as may be agreed to and approved by the Board and the Applicant.

So ordered this 17th day of September, 2024, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman

ATTEST:

Suzanne Landess, Secretary

(SEAL)

**ORDER APPROVING LOAN APPLICATION
OKEMAH UTILITIES AUTHORITY
FAP-24-0017-L**

Reviewed By:

A handwritten signature in cursive script that reads "Lori Johnson".

Lori Johnson, Assistant Chief
Financial Assistance Division

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: The Jenks Public Works Authority, Tulsa County

Loan Application No.: FAP-24-0018-L
State Loan Program Revenue Bond Loan (“FAP Loan”)

Amount Requested: \$8,950,000.00

Interest Rate: The FAP Loan shall bear interest at a fixed rate.

Payment Term: Principal and interest payments shall be made on a semi-annual basis. The term of the FAP Loan shall be no longer than thirty (30) years.

Security Position: The loan shall be secured with a lien on the revenues of the applicant's water and sewer systems, a 3 cents sales tax, and may include a mortgage on the applicant's water and sewer systems and other real property.

Purpose: The applicant will utilize the loan proceeds to: (i) repair the pedestrian bridge, replace the waterline attached to the pedestrian bridge, conduct a master plan of the entire water system, extend waterline services west of US highway 75 to north of 121st street, relocate a waterline to accommodate a road improvement project by Tulsa County, all related appurtenances (the “Project”), (ii) satisfy the Local Reserve Requirement, if necessary; and (iii) pay related costs of issuance.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
Loan Proceeds	\$8,559,960.00	Project	\$8,340,295.54
		Bond Counsel	88,099.60
		Financial Advisor	88,099.60
		OWRB Costs of Issuance	42,715.26
		Trustee Bank	750.00
Total	\$8,559,960.00	Total	\$8,559,960.00

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF LOAN APPLICATION)
NO. FAP-24-0018-L IN THE NAME OF)
THE JENKS PUBLIC WORKS AUTHORITY)
TULSA COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 17th day of September, 2024.

WHEREAS, The Jenks Public Works Authority (the "Applicant") has made its Application for Funding No. FAP-24-0018-L (the "Loan Application") to the Board for a loan from the proceeds of the Board's State Loan Program Revenue Bonds issued pursuant to the 2016 General Bond Resolution dated as of November 1, 2016, as supplemented and amended (the "Bond Resolution"), and authorized by Title 82 Oklahoma Statutes 2021, Sections 1085.31 *et seq*, as amended; and

WHEREAS, the Applicant intends to use the loan to provide for acquisition, development, and utilization of storage and control facilities for water and sewage systems for the use and benefit of the public and for the conservation and distribution of water for beneficial purposes in or from reservoirs or other storage facilities and/or refinancing indebtedness originally incurred for such purposes; and

WHEREAS, the Board has completed its review of the Loan Application and related information, and finds that the Loan Application should be approved according to the terms and conditions set forth below.

NOW, THEREFORE, LET IT BE RESOLVED AND ORDERED BY THE OKLAHOMA WATER RESOURCES BOARD:

Application for Funding No. FAP-24-0018-L in the name of The Jenks Public Works Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) repair the pedestrian bridge, replace the waterline attached to the pedestrian bridge, conduct a master plan of the entire water system, extend waterline services west of US highway 75 to north of 121st street, relocate a waterline to accommodate a road improvement project by Tulsa County, all related appurtenances (the "Project"), (ii) satisfy the Local Reserve Requirement, if necessary and (iii) pay related costs of issuance, all as more specifically set forth in the Application.

Terms and Conditions

1. A loan shall be made out of proceeds of the Board's State Loan Program Revenue Bonds to the Applicant to provide funds for the Project described in the Loan Application in an aggregate principal amount not to exceed \$8,950,000.00. The Applicant shall pay interest on the loan at a fixed or variable rate to be established periodically by the Board. Principal and interest

**ORDER APPROVING LOAN APPLICATION
THE JENKS PUBLIC WORKS AUTHORITY
FAP-24-0018-L**

payments shall be made on a semi-annual basis or as otherwise provided for under the Bond Resolution. The term of the loan shall be no longer than thirty (30) years.

2. The loan shall be secured with a lien on the revenues of the Applicant's water and sewer systems, a 3 cents sales tax, and may include a mortgage on the Applicant's water and sewer systems and other real property.

3. The funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other loans, as the Board determines shall permit the best use of the funds. Funds shall be provided to the Applicant from proceeds of the Board's State Loan Program Revenue Bonds in accordance with the requirements of the Bond Resolution.

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, and Bond Resolution requirements. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

5. The loan shall be subject in all respects to the provisions of the Applicant's promissory note(s), loan agreement(s), and other loan documents which shall be executed by proper officials of the Applicant and a Board Member at or prior to loan closing as appropriate.

6. Additional loans may be made at such times, for such projects of the Applicant, at such repayment periods and interest rates, and upon such other terms and conditions as may be agreed to and approved by the Board and the Applicant.

So ordered this 17th day of September, 2024, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman


ATTEST:

Suzanne Landess, Secretary

(SEAL)

**ORDER APPROVING LOAN APPLICATION
THE JENKS PUBLIC WORKS AUTHORITY
FAP-24-0018-L**

Reviewed By:



Lori Johnson, Chief
Financial Assistance Division

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: Rural Sewer District No. 1, Rogers County, Oklahoma

Loan Application No.: FAP-24-0020-L
State Loan Program Revenue Bond Loan (“FAP Loan”)

Amount Requested: \$10,600,000.00

Interest Rate: The FAP Loan shall bear interest at a fixed rate.

Payment Term: Principal and interest payments shall be made on a semi-annual basis. The term of the FAP Loan shall be no longer than thirty (30) years.

Security Position: The loan shall be secured with a lien on the revenues of the applicant's sewer system and may include a mortgage on the applicant's sewer system and other real property.

Purpose: The applicant will utilize the loan proceeds to: (i) rehabilitate the existing wastewater treatment plant lagoons, construct three new lagoons, a concrete basin, and a new discharge lift station, all related appurtenances (the “Project”), (ii) satisfy the Local Reserve Requirement, if necessary; and (iii) pay related costs of issuance.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
Loan Proceeds	\$10,170,705.10	Project	\$9,760,710.26
Local Funds	683,380.00	Reserve	683,380.00
		Bond Counsel	155,060.58
		Financial Advisor	155,060.58
		Local Counsel	50,853.53
		OWRB Cost of Issuance	48,270.15
		Trustee Bank	750.00
Total	\$10,854,085.10	Total	\$10,854,085.10

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF LOAN APPLICATION)
NO. FAP-24-0020-L IN THE NAME OF)
RURAL SEWER DISTRICT NO. 1)
ROGERS COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 17th day of September, 2024.

WHEREAS, Rural Sewer District No. 1, Rogers County, Oklahoma (the "Applicant") has made its Application for Funding No. FAP-24-0020-L (the "Loan Application") to the Board for a loan from the proceeds of the Board's State Loan Program Revenue Bonds issued pursuant to the 2016 General Bond Resolution dated as of November 1, 2016, as supplemented and amended (the "Bond Resolution"), and authorized by Title 82 Oklahoma Statutes 2021, Sections 1085.31 *et seq.*, as amended; and

WHEREAS, the Applicant intends to use the loan to provide for acquisition, development, and utilization of storage and control facilities for water and sewage systems for the use and benefit of the public and for the conservation and distribution of water for beneficial purposes in or from reservoirs or other storage facilities and/or refinancing indebtedness originally incurred for such purposes; and

WHEREAS, the Board has completed its review of the Loan Application and related information and finds that the Loan Application should be approved according to the terms and conditions set forth below.

NOW, THEREFORE, LET IT BE RESOLVED AND ORDERED BY THE OKLAHOMA WATER RESOURCES BOARD:

Application for Funding No. FAP-24-0020-L in the name of Rural Sewer District No. 1, Rogers County, Oklahoma be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) rehabilitate the existing wastewater treatment plant lagoons, construct three new lagoons, a concrete basin, and a new discharge lift station, all related appurtenances (the "Project"), (ii) satisfy the Local Reserve Requirement, if necessary and (iii) pay related costs of issuance, all as more specifically set forth in the Application.

Terms and Conditions

1. A loan shall be made out of proceeds of the Board's State Loan Program Revenue Bonds to the Applicant to provide funds for the Project described in the Loan Application in an aggregate principal amount not to exceed \$10,600,000.00. The Applicant shall pay interest on the loan at a fixed or variable rate to be established periodically by the Board. Principal and interest payments shall be made on a semi-annual basis or as otherwise provided for under the Bond Resolution. The term of the loan shall be no longer than thirty (30) years.

**ORDER APPROVING LOAN APPLICATION
RURAL SEWER DISTRICT NO. 1, ROGERS COUNTY, OKLAHOMA
FAP-24-0020-L**

2. The loan shall be secured with a lien on the revenues of the Applicant's sewer system and may include a mortgage on the Applicant's sewer system and other real property.

3. The funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other loans, as the Board determines shall permit the best use of the funds. Funds shall be provided to the Applicant from proceeds of the Board's State Loan Program Revenue Bonds in accordance with the requirements of the Bond Resolution.

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, and Bond Resolution requirements. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

5. The loan shall be subject in all respects to the provisions of the Applicant's promissory note(s), loan agreement(s), and other loan documents which shall be executed by proper officials of the Applicant and a Board Member at or prior to loan closing as appropriate.

6. Additional loans may be made at such times, for such projects of the Applicant, at such repayment periods and interest rates, and upon such other terms and conditions as may be agreed to and approved by the Board and the Applicant.

So ordered this 17th day of September, 2024, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman


ATTEST:

Suzanne Landess, Secretary

(SEAL)

**ORDER APPROVING LOAN APPLICATION
RURAL SEWER DISTRICT NO. 1, ROGERS COUNTY, OKLAHOMA
FAP-24-0020-L**

Reviewed By:



Lori Johnson, Chief
Financial Assistance Division

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: The Edmond Public Works Authority, Oklahoma County

Loan Application No.: ORF-23-0097-CW
Clean Water SRF Loan (“CWSRF Loan”)

Amount Requested: \$30,000,000.00

Interest Rate: The CWSRF Loan shall bear a fixed interest rate to be determined prior to loan closing plus an administrative fee of 0.5% per annum, all on the outstanding principal balance of the loan.

Payment Term: Interest, administrative fee, and principal payments shall be made on a semi-annual basis. The applicant shall commence principal repayment no later than one (1) year following Project completion and the maturity of the loan shall be no later than thirty (30) years following the date the Project is completed.

Security Position: The loan shall be secured with a lien on the revenues of the applicant's water, sewer, sanitation, and electric systems, a 2 cents sales tax, and may include a mortgage on the applicant's water, sewer, and electric systems and other real property.

Purpose: The applicant will utilize the loan proceeds to: (i) replace force main sewer lines from the Chisholm Creek lift station to the Coffee Creek interceptor as part of the Chisholm Creek project and construct or replace interceptor sewer lines, construct aerial crossings, and install or rehabilitate manholes as part of the Spring Creek project, all related appurtenances (the “Project”), and (ii) pay related costs of issuance.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
Loan Proceeds	\$30,000,000.00	Project	\$29,744,500.00
		Bond Counsel	127,500.00
		Financial Advisor	127,500.00
		Trustee Bank	500.00
Total	\$30,000,000.00	Total	\$30,000,000.00

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF LOAN APPLICATION)
NO. ORF-23-0097-CW IN THE NAME OF)
THE EDMOND PUBLIC WORKS AUTHORITY)
OKLAHOMA COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 17th day of September, 2024.

WHEREAS, The Edmond Public Works Authority (the "Applicant") has made its Application for Funding No. ORF-23-0097-CW (the "Application") to the Board for a loan from the Clean Water State Revolving Fund (the "CWSRF") program, pursuant to Title 82 Oklahoma Statutes 2011, Sections 1085.51 *et seq.*, as amended; and

WHEREAS, the Applicant intends to use the loan for wastewater system improvements and/or water quality protection efforts to further compliance with State and Federal standards, and/or to refinance existing indebtedness originally incurred for such purposes; and

WHEREAS, the Board has completed its review of the Application and related information, and finds that the Application should be approved according to the terms and conditions set forth below.

NOW, THEREFORE, LET IT BE RESOLVED AND ORDERED BY THE OKLAHOMA WATER RESOURCES BOARD:

Application for Funding No. ORF-23-0097-CW in the name of The Edmond Public Works Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) replace force main sewer lines from the Chisholm Creek lift station to the Coffee Creek interceptor as part of the Chisholm Creek project and construct or replace interceptor sewer lines, construct aerial crossings, and install or rehabilitate manholes as part of the Spring Creek project, all related appurtenances (the "Project"), and (ii) pay related costs of issuance, all as more specifically set forth in the Application.

Terms and Conditions

1. A loan shall be made to the Applicant to provide funds for the Project described in the Loan Application in an aggregate principal amount not to exceed \$30,000,000.00. The Applicant shall pay interest on the loan at a fixed rate to be determined prior to closing plus an administrative fee at the rate of 0.5% per annum, all on the outstanding balance of disbursed loan proceeds. Interest, administrative fee, and any principal payments shall be made on a semi-annual basis. The Applicant shall commence principal repayment no later than one (1) year following Project completion, and the maturity of the loan shall be no later than thirty (30) years following the date the Project is completed.

**ORDER APPROVING LOAN APPLICATION
THE EDMOND PUBLIC WORKS AUTHORITY
ORF-23-0097-CW**

2. The loan shall be secured with a lien on the revenues of the Applicant's water, sewer, sanitation, and electric systems, a 2 cents sales tax, and may include a mortgage on the Applicant's water, sewer, and electric systems and other real property.

3. Upon the Applicant's acceptance of the Board's Letter of Binding Commitment, the funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other CWSRF loans, as the Board determines shall permit the best use of the funds. Funds shall be provided to the Applicant from the CWSRF in accordance with the CWSRF program regulations as approved by the United States Environmental Protection Agency.

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, CWSRF, and Bond Resolution requirements. In accordance with applicable authority and the United States Environmental Protection Agency ("EPA") guidelines for the implementation of the CWSRF Capitalization Grant, the loan conditions may include principal forgiveness to be used to pay a portion of the costs of the Project as described in the Application or for other purposes authorized by applicable authority and EPA guidelines. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

5. The loan shall be subject in all respects to the provisions of the Applicant's promissory note(s), loan agreement(s), and other loan documents which shall be executed by proper officials of the Applicant and a Board Member at or prior to loan closing as appropriate.

6. Additional loans may be made at such times, for such projects of the Applicant, at such repayment periods and interest rates, and upon such other terms and conditions as may be agreed to and approved by the Board and the Applicant.

So ordered this 17th day of September, 2024, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman

ATTEST:

Suzanne Landess, Secretary

(SEAL)

**ORDER APPROVING LOAN APPLICATION
THE EDMOND PUBLIC WORKS AUTHORITY
ORF-23-0097-CW**

Reviewed By:



Lori Johnson, Chief
Financial Assistance Division

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: The Edmond Public Works Authority, Oklahoma County

Loan Application No.: ORF-23-0076-DW
Drinking Water SRF Loan (“DWSRF Loan”)

Funding Requested: \$54,000,000.00

Loan Interest Rate: The DWSRF Loan shall bear a fixed interest rate to be determined prior to loan closing plus an administrative fee of 0.5% per annum, all on the outstanding principal balance of the loan.

Loan Payment Term: Interest, administrative fee, and principal payments shall be made on a semi-annual basis. The applicant shall commence principal repayment no later than one (1) year following Project completion and the maturity of the loan shall be no later than thirty (30) years following the date the Project is completed.

Loan Security Position: The DWSRF loan shall be secured with a lien on the revenues of the applicant's water, sewer, sanitation, and electric systems, a 2 cents sales tax and may include a mortgage on the applicant's water, sewer, and electric systems and other real property.

Purpose: The applicant will utilize the loan proceeds to: (i) construct approximately 8,200 linear feet of raw water transmission line and approximately 22,700 linear feet of finished water transmission line, all related appurtenances (the “Project”), and (ii) pay related costs of issuance.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
Loan Proceeds	\$54,000,000.00	Project	\$53,624,500.00
		Bond Counsel	187,500.00
		Financial Advisor	187,500.00
		Trustee Bank	500.00
Total	\$54,000,000.00	Total	\$54,000,000.00

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF LOAN APPLICATION)
NO. ORF-23-0076-DW IN THE NAME OF)
THE EDMOND PUBLIC WORKS AUTHORITY)
OKLAHOMA COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 17th day of September, 2024.

WHEREAS, The Edmond Public Works Authority (the "Applicant") has made its Application for Funding No. ORF-23-0076-DW (the "Loan Application") to the Board and to the Oklahoma Department of Environmental Quality (the "DEQ") for a loan from the Drinking Water Treatment Revolving Loan Account (the "DWSRF"), pursuant to Title 82 Oklahoma Statutes 2021, Sections 1085.71 *et seq.*, as amended; and

WHEREAS, the Applicant intends to use the loan for drinking water system improvements, to further compliance with State and Federal standards and/or to refinance existing indebtedness originally incurred for such purposes; and

WHEREAS, the DEQ has certified the Loan Application with regards to compliance with applicable technical program requirements and forwarded it to the Board with a recommendation that the Loan Application be considered and approved for a DWSRF Loan; and

WHEREAS, the Board has completed its review of the Loan Application and related information, and finds that the Loan Application should be approved according to the terms and conditions set forth below.

NOW, THEREFORE, LET IT BE RESOLVED AND ORDERED BY THE OKLAHOMA WATER RESOURCES BOARD:

Application for Funding No. ORF-23-0076-DW in the name of The Edmond Public Works Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) construct approximately 8,200 linear feet of raw water transmission line and approximately 22,700 linear feet of finished water transmission line, all related appurtenances (the "Project"), and (ii) pay related costs of issuance, all as more specifically set forth in the Application.

Terms and Conditions

1. A loan shall be made to the Applicant to provide funds for the Project described in the Loan Application in an aggregate principal amount not to exceed \$54,000,000.00. The Applicant shall pay interest on the loan at a fixed rate to be determined prior to closing plus an administrative fee at the rate of 0.5% per annum, all on the outstanding balance of disbursed loan proceeds. Interest, administrative fee, and any principal payments shall be made on a semi-annual basis. The Applicant shall commence principal repayment no later than one (1) year

**ORDER APPROVING LOAN APPLICATION
THE EDMOND PUBLIC WORKS AUTHORITY
ORF-23-0076-DW**

following Project completion, and the maturity of the loan shall be no later than thirty (30) years following the date the Project is completed.

2. The loan shall be secured with a lien on the revenues of the Applicant's water, sewer, sanitation, and electric systems, a 2 cents sales tax and may include a mortgage on the Applicant's water, sewer, and electric systems and other real property.

3. Upon the Applicant's acceptance of the DEQ's Letter of Binding Commitment, the funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other DWSRF loans, as the Board determines shall permit the best use of the funds. Funds shall be provided to the Applicant from the DWSRF in accordance with the DWSRF program regulations as approved by the United States Environmental Protection Agency.

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, DWSRF, and Bond Resolution requirements. In accordance with applicable authority and the United States Environmental Protection Agency ("EPA") guidelines for the implementation of the DWSRF Capitalization Grant, the loan conditions may include principal forgiveness to be used to pay a portion of the costs of the Project as described in the Application or for other purposes authorized by applicable authority and EPA guidelines. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

5. The loan shall be subject in all respects to the provisions of the Applicant's promissory note(s), loan agreement(s), and other loan documents which shall be executed by proper officials of the Applicant and a Board Member at or prior to loan closing as appropriate.

6. Additional loans may be made at such times, for such projects of the Applicant, at such repayment periods and interest rates, and upon such other terms and conditions as may be agreed to and approved by the Board and the Applicant.

So ordered this 17th day of September, 2024 in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman

ATTEST:

Suzanne Landess, Secretary

(SEAL)

**ORDER APPROVING LOAN APPLICATION
THE EDMOND PUBLIC WORKS AUTHORITY
ORF-23-0076-DW**

Reviewed By:



Lori Johnson, Chief
Financial Assistance Division

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: The Edmond Public Works Authority, Oklahoma County

Loan Application No.: FAP-24-0019-L
State Loan Program Revenue Bond Loan (“FAP Loan”)

Amount Requested: \$75,890,000.00

Interest Rate: The FAP Loan shall bear interest at a fixed rate.

Payment Term: Principal and interest payments shall be made on a semi-annual basis. The term of the FAP Loan shall be no longer than thirty (30) years.

Security Position: The loan shall be secured with a lien on the revenues of the applicant's water, sewer, sanitation, and electric systems, a 2 cents sales tax and may include a mortgage on the applicant's water, sewer, and electric systems and other real property.

Purpose: The applicant will utilize the loan proceeds to: (i) construct two additional ground storage tanks near the water treatment plant, relocate the Danforth elevated storage tank, construct a new 2-million-gallon elevated storage tank, replace waterlines to the new elevated storage tank, rehabilitate the wastewater treatment facility (WWTF) including replacing 4 clarifiers, constructing new splitter boxes, and modifying structures near the WWTF basins, all related appurtenances (the “Project”), (ii) satisfy the Local Reserve Requirement, if necessary; and (iii) pay related costs of issuance.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
Loan Proceeds	\$72,816,061.05	Project	\$72,002,630.71
		Bond Counsel	234,540.15
		Financial Advisor	234,540.15
		OWRB Costs of Issuance	343,600.04
		Trustee Bank	750.00
Total	\$72,816,061.05	Total	\$72,816,061.05

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF LOAN APPLICATION)
NO. FAP-24-0019-L IN THE NAME OF)
THE EDMOND PUBLIC WORKS AUTHORITY)
OKLAHOMA COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 17th day of September, 2024.

WHEREAS, The Edmond Public Works Authority (the "Applicant") has made its Application for Funding No. FAP-24-0019-L (the "Loan Application") to the Board for a loan from the proceeds of the Board's State Loan Program Revenue Bonds issued pursuant to the 2016 General Bond Resolution dated as of November 1, 2016, as supplemented and amended (the "Bond Resolution"), and authorized by Title 82 Oklahoma Statutes 2021, Sections 1085.31 *et seq*, as amended; and

WHEREAS, the Applicant intends to use the loan to provide for acquisition, development, and utilization of storage and control facilities for water and sewage systems for the use and benefit of the public and for the conservation and distribution of water for beneficial purposes in or from reservoirs or other storage facilities and/or refinancing indebtedness originally incurred for such purposes; and

WHEREAS, the Board has completed its review of the Loan Application and related information, and finds that the Loan Application should be approved according to the terms and conditions set forth below.

NOW, THEREFORE, LET IT BE RESOLVED AND ORDERED BY THE OKLAHOMA WATER RESOURCES BOARD:

Application for Funding No. FAP-24-0019-L in the name of The Edmond Public Works Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The loan proceeds, along with other funds of the Applicant, if any, will be used to (i) construct two additional ground storage tanks near the water treatment plant, relocate the Danforth elevated storage tank, construct a new 2-million-gallon elevated storage tank, replace waterlines to the new elevated storage tank, rehabilitate the wastewater treatment facility (WWTF) including replacing 4 clarifiers, constructing new splitter boxes, and modifying structures near the WWTF basins, all related appurtenances (the "Project"), (ii) satisfy the Local Reserve Requirement, if necessary and (iii) pay related costs of issuance, all as more specifically set forth in the Application.

Terms and Conditions

1. A loan shall be made out of proceeds of the Board's State Loan Program Revenue Bonds to the Applicant to provide funds for the Project described in the Loan Application in an aggregate principal amount not to exceed \$75,890,000.00. The Applicant shall pay interest on

**ORDER APPROVING LOAN APPLICATION
THE EDMOND PUBLIC WORKS AUTHORITY
FAP-24-0019-L**

the loan at a fixed or variable rate to be established periodically by the Board. Principal and interest payments shall be made on a semi-annual basis or as otherwise provided for under the Bond Resolution. The term of the loan shall be no longer than thirty (30) years.

2. The loan shall be secured with a lien on the revenues of the Applicant's water, sewer, sanitation, and electric systems, a 2 cents sales tax and may include a mortgage on the Applicant's water, sewer, and electric systems and other real property.

3. The funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other loans, as the Board determines shall permit the best use of the funds. Funds shall be provided to the Applicant from proceeds of the Board's State Loan Program Revenue Bonds in accordance with the requirements of the Bond Resolution.

4. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, and Bond Resolution requirements. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

5. The loan shall be subject in all respects to the provisions of the Applicant's promissory note(s), loan agreement(s), and other loan documents which shall be executed by proper officials of the Applicant and a Board Member at or prior to loan closing as appropriate.

6. Additional loans may be made at such times, for such projects of the Applicant, at such repayment periods and interest rates, and upon such other terms and conditions as may be agreed to and approved by the Board and the Applicant.

So ordered this 17th day of September, 2024, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman


ATTEST:

Suzanne Landess, Secretary

(SEAL)

**ORDER APPROVING LOAN APPLICATION
THE EDMOND PUBLIC WORKS AUTHORITY
FAP-24-0019-L**

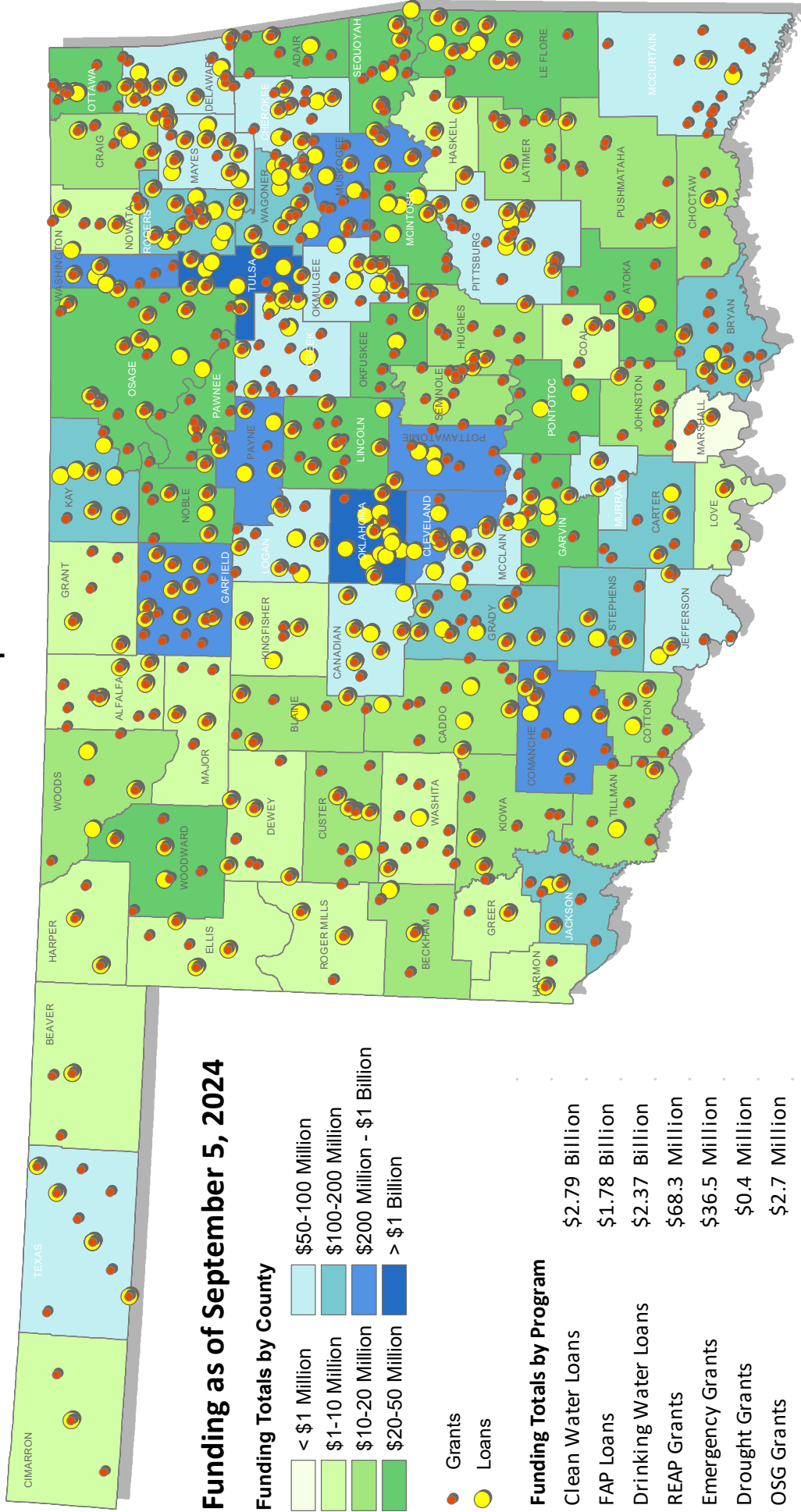
Reviewed By:



Lori Johnson, Chief
Financial Assistance Division

Financial Assistance Division

Loan and Grant Recipient Status



3.C. SUMMARY DISPOSITION AGENDA ITEMS

FINANCIAL ASSISTANCE DIVISION

September 17, 2024

BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA

IN THE MATTER OF REAP GRANT APPLICATION)
NO. FAP-24-0066-R IN THE NAME OF THE)
YALE WATER AND SEWAGE TRUST,)
PAYNE COUNTY, OKLAHOMA.)

PROPOSED
ORDER APPROVING REAP GRANT APPLICATION

This matter came on for consideration before the Oklahoma Water Resources Board on the 17th day of September 2024. The Board finds that since the application for this grant has received a priority ranking of 89 points under Chapter 50 of the Board's Rules and that since sufficient funds are available in the REAP Grant Account of the Water Resources Fund, the grant application for an amount not to exceed \$70,000.00 should be approved to be advanced for the following purpose and subject to the following conditions:

Conditions:

1. The amount of the REAP grant shall not exceed \$70,000.00.
2. REAP Grant funds shall be deposited in a separate account with a federally insured financial institution.
3. Applicants who have raised water and/or sewer rates resulting in an advancement in position of priority for assistance shall not modify those rates after receipt of the REAP grant without the prior written consent of the Board, unless such modification would not result in a change in position of priority.
4. The applicant shall fully document disbursement of REAP grant funds as required by the Board or its staff. Further, applicant shall maintain proper books, records, and supporting documentation, and make the same available for inspection by the Board or its staff. Disbursement of grant funds without supporting documentation shall be considered and deemed unauthorized expenditure of grant funds.
5. The applicant shall return any unexpended REAP grant funds to the Board within thirty (30) days of completion of the project or within thirty (30) days from the applicant's receipt of all invoices, whichever is later.

6. The project shall be to install a new tap to the Lone Chimney distribution system, cross State Highway 51 to the north and install a 4" water line to the area of low pressure as well as other related construction and necessary appurtenances, as more fully described in the engineering report included in applicant's grant application. Applicant is authorized to expend the REAP grant funds only for purposes of completing such project. The applicant shall return or otherwise pay to the Board, any REAP grant funds expended for unauthorized or unallowable purposes. Any funds due to be returned by the applicant under this paragraph shall additionally bear interest at the maximum rate allowed by law until repaid in full. Whenever there is any doubt as to whether an expenditure is authorized, the applicant shall consult with Board staff and obtain staff's answer before making the expenditure.
7. Furthermore, prior to and during the construction period, Yale Water and Sewage Trust is required to comply with the requirements of all applicable federal and state statutory provisions and all Oklahoma Water Resources Board rules, regulations and grant policies.

SO ORDERED this 17th day of September 2024, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman

ATTEST:

Suzanne Landess, Secretary

(SEAL)

Reviewed By:



Lori Johnson, Chief
Financial Assistance Division

BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA

IN THE MATTER OF REAP GRANT APPLICATION)
NO. FAP-24-0011-R IN THE NAME OF THE)
RURAL WATER DISTRICT NO. 2,)
WAGONER COUNTY, OKLAHOMA.)

PROPOSED
ORDER APPROVING REAP GRANT CHANGE OF SCOPE APPLICATION

This matter came on for consideration before the Oklahoma Water Resources Board on the 17th day of September 2024. The Board finds that since the original application for this grant received a priority ranking of 88 points under Chapter 50 of the Board's Rules and that sufficient funds were available in the REAP Grant Account of the Water Resources Fund, the grant application for an amount not to exceed \$99,999.00 was approved to be advanced for the purpose specified in the original order. The Board further finds that the requested change of scope will not increase the amount of grant requested, nor does it change the ranking of the project, and therefore should be approved as proposed and subject to the following conditions:

Conditions:

1. The amount of the REAP grant shall not exceed \$99,999.00.
2. The applicant shall return any unexpended REAP grant funds to the Board within thirty (30) days of completion of the project or within thirty (30) days from the applicant's receipt of all invoices, whichever is later.
3. The change of scope shall be to replace filter valves as well as other related construction and necessary appurtenances instead of originally replacing filter media, as more fully described in the revised engineering report. Applicant is authorized to expend the REAP grant funds only for purposes of completing such project. The applicant shall return or otherwise pay to the Board, any REAP grant funds expended for unauthorized or unallowable purposes. Any funds due to be returned by the applicant under this paragraph shall additionally bear interest at the maximum rate allowed by law until repaid in full. Whenever there is any doubt as to whether an expenditure is authorized, the applicant shall consult with Board staff and obtain staff's answer before making the expenditure.
4. Furthermore, prior to and during the construction period, Rural Water District No. 2, Wagoner County, Oklahoma is required to comply with the requirements of all applicable federal and state statutory provisions and all Oklahoma Water Resources Board rules, regulations and grant policies.
5. All other provisions of the original order from the 16th day of July 2024, save the change of scope, shall remain in full force and affect.

SO ORDERED this 17th day of September 2024, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman

ATTEST:

Suzanne Landess, Secretary

(SEAL)



Lori Johnson, Chief
Financial Assistance Division

LOAN APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: Midwest City Municipal Authority, Oklahoma County

Loan Application No.: ORF-25-0030-CW
Clean Water SRF Loan (“CWSRF Loan”)

Amount Requested: \$2,252,000.00

Payment Term: The applicant shall be required to comply with all CWSRF loan provisions. If all CWSRF loan provisions are met to the satisfaction of the OWRB, then the funding shall be forgiven in total without fees for administration or interest.

Purpose: The applicant will utilize the loan proceeds to: (i) determine if the Midwest City Water Resources Recovery Facility could be a source of microplastics and to recommend treatment process modifications that can minimize the discharge of these pollutants to the environment (the “Project”) and (ii) pay related costs of issuance.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
Loan Proceeds	\$2,252,000.00	Project	\$2,206,464.00
		Bond Counsel	22,768.00
		Financial Advisor	22,768.00
Total	<u>\$2,252,000.00</u>	Total	<u>\$2,252,000.00</u>

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF LOAN APPLICATION)
NO. ORF-25-0030-CW IN THE NAME OF)
MIDWEST CITY MUNICIPAL AUTHORITY)
OKLAHOMA COUNTY, OKLAHOMA)

**PROPOSED
ORDER APPROVING LOAN APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board (the "Board") on the 17th day of September, 2024.

WHEREAS, Midwest City Municipal Authority (the "Applicant") has made its Application for Funding No. ORF-25-0030-CW (the "Application") to the Board for a loan from the Clean Water State Revolving Fund (the "CWSRF") program, pursuant to Title 82 Oklahoma Statutes 2021, Sections 1085.51 *et seq.*, as amended; and

WHEREAS, the Applicant intends to use the loan for wastewater system improvements and/or water quality protection efforts to further compliance with State and Federal standards, and/or to refinance existing indebtedness originally incurred for such purposes; and

WHEREAS, the Board has completed its review of the Application and related information, and finds that the Application should be approved according to the terms and conditions set forth below.

NOW, THEREFORE, LET IT BE RESOLVED AND ORDERED BY THE OKLAHOMA WATER RESOURCES BOARD:

Application for Funding No. ORF-25-0030-CW in the name of Midwest City Municipal Authority be and the same is hereby approved. Subject to and contingent upon the Board's receipt of sufficient funds, a loan shall be made to the Applicant for the following purpose and subject to the following terms and conditions:

Purpose

The proceeds, along with other funds of the Applicant, if any, will be used to (i) determine if the Midwest City Water Resources Recovery Facility could be a source of microplastics and to recommend treatment process modifications that can minimize the discharge of these pollutants to the environment (the "Project") and (ii) pay related costs of issuance, all as more specifically set forth in the Application.

Terms and Conditions

1. Funding shall be made to the Applicant to provide funds for the Project described in the Loan Application in an aggregate principal amount not to exceed \$2,252,000.00.

2. Upon the Applicant's acceptance of the Board's Letter of Binding Commitment, the funds shall be reserved for the Applicant for a period of one (1) year from the date of this Order. In the event the loan is not closed on or before such date, the Board reserves the right to (i) approve, at the Applicant's request, a reasonable extension of time to close the loan, or (ii) de-obligate all or a portion of the loan funds in order to be used by the Board to make other CWSRF loans, as the Board determines shall permit the best use of the funds. Funds shall be provided to

ORDER APPROVING LOAN APPLICATION
Midwest City Municipal Authority
ORF-25-0030-CW

the Applicant from the CWSRF in accordance with the CWSRF program regulations as approved by the United States Environmental Protection Agency.

3. The Board's Staff is authorized to determine what additional conditions or requirements shall be necessary in order to assure the soundness of the loan and compliance with applicable financial, legal, CWSRF, and Bond Resolution requirements. In accordance with applicable authority and the United States Environmental Protection Agency ("EPA") guidelines for the implementation of the CWSRF Capitalization Grant, the loan conditions may include principal forgiveness to be used to pay all or a portion of the costs of the Project as described in the Application or for other purposes authorized by applicable authority and EPA guidelines. The Board's Staff is further authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially and adversely affect the loan.

4. The loan shall be subject in all respects to the provisions of the Applicant's promissory note(s), loan agreement(s), and other funding documents which shall be executed by proper officials of the Applicant and a Board Member at or prior to loan closing as appropriate.

5. Additional loans may be made at such times, for such projects of the Applicant, at such repayment periods and interest rates, and upon such other terms and conditions as may be agreed to and approved by the Board and the Applicant.

So ordered on this 17th day of September, 2024, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman

ATTEST:

Suzanne Landess, Secretary

(SEAL)

ORDER APPROVING LOAN APPLICATION
Midwest City Municipal Authority
ORF-25-0030-CW

Reviewed By:



Lori Johnson, Chief
Financial Assistance Division

AMERICAN RESCUE PLAN ACT (ARPA) APPLICATION
RECOMMENDED FOR APPROVAL

Applicant: Rural Water and Sewer District No. 5, Bryan County, Oklahoma

Grant Application No.: ARP-23-0041-DTG
American Rescue Plan Act Grant (“ARPA Grant”)

Amount Requested: \$300,000.00

Designated Grant

Information: Name and/or number of the ARPA Grant account under which designated: Tribal Matching Grant - ARPA YY000881

Purpose: Rural Water and Sewer District No. 5, Bryan County, Oklahoma owns and operates a water distribution system. The district is in a growing area and needs to expand capacity. The proposed project is to construct a new well at the Smiser Road Tank site, optimize the existing Cypress Well, and all appurtenances required to complete the project.

<u>Sources of Funds (Est.)</u>		<u>Uses of Funds (Est.)</u>	
OWRB ARPA Grant:	\$300,000.00	Project:	\$600,000.00
Choctaw Tribal Matching Funds:	300,000.00		
Total	<u>\$600,000.00</u>	Total	<u>\$600,000.00</u>

**BEFORE THE OKLAHOMA WATER RESOURCES BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF AMERICAN RESCUE PLAN ACT)
(ARPA) GRANT APPLICATION NO. ARP-23-0041-DTG)
IN THE NAME OF THE RURAL WATER AND SEWER)
DISTRICT NO. 5, BRYAN COUNTY, OKLAHOMA.)

**PROPOSED
ORDER APPROVING ARPA GRANT APPLICATION**

This matter came on for consideration before the Oklahoma Water Resources Board on the 17th day of September 2024. The Board finds that since the application for this grant has been identified by the legislature, has met the eligibility requirements for this grant, and that since sufficient funds are available, the grant application for an amount not to exceed \$300,000.00 should be approved for the following purpose and subject to the following conditions:

Conditions:

1. The amount of the ARPA grant shall not exceed \$300,000.00.
2. ARPA grant funds shall be accounted for separately with a federally insured financial institution.
3. The project shall be to construct a new well at the Smiser Road Tank site and optimize the existing Cypress Well. Applicant is authorized to request the ARPA grant funds only for costs incurred for eligible expenses for the purposes of completing such project.
4. Furthermore, prior to and during the construction period, Rural Water and Sewer District No. 5, Bryan County, Oklahoma is required to comply with the requirements of all applicable federal and state statutory provisions, all applicable ARPA regulations, and the Oklahoma Water Resources Board ARPA Grant Agreement, Board rules, regulations, and grant policies. The Board Staff is authorized to determine what additional conditions may be necessary in order to assure compliance with the applicable requirements.
5. The Board's Staff is authorized to approve future modifications or additions to the project purposes and uses of funds approved herein, provided such modifications or additions will not materially or adversely affect the grant.

SO ORDERED this 17th day of September 2024, in regular and open meeting of the Oklahoma Water Resources Board.

OKLAHOMA WATER RESOURCES BOARD

Jennifer Castillo, Chairman

ATTEST:

Suzanne Landess, Secretary

(SEAL)

Rural Water and Sewer District No. 5, Bryan County, Oklahoma
OWRB ARPA Grant No. ARP-23-0041-DTG

Reviewed By:

A handwritten signature in black ink that reads "Lori Johnson". The signature is written in a cursive style with a horizontal line underneath it.

Lori Johnson, Chief
Financial Assistance Division

3. SUMMARY DISPOSITION AGENDA ITEMS

D. Contracts and Agreements Recommended for Approval

September 17, 2024

AGENDA ITEM 3D(1)

INTERAGENCY AGREEMENT AMENDMENT

WITH: Oklahoma Department of Environmental Quality

PURPOSE: Renewal of Term for Bathymetric Survey of Select Dissolved Impaired Reservoirs

AMOUNT: No Cost

TERM: July 1, 2024 through June 30, 2025

Amendment of Contract

This Amendment of Contract is made for the contract of Bathymetric Survey of Select Dissolved Oxygen Impaired Reservoirs (FY24/25), **EPA Strategic Plan Goal 5: Ensure Clean and Safe Water for All Communities** **EPA Strategic Plan Objective 5.2: Protect and Restore Waterbodies and Watersheds**, previously executed between the State of Oklahoma, ex.rel. The Department of Environmental Quality hereinafter referred to as "Department" and/or DEQ and **Oklahoma Water Resources Board** hereinafter referred to as "Contractor". In consideration of the provisions set forth herein; the parties mutually agree to the following contracting parties to amend the following that was previously executed. The amendments are as follows:

The current contract term ends June 30th, 2024. This is a no cost contract renewal for the term July 1, 2024 through June 30th, 2025.

All other terms and conditions that are not hereby amended are to remain in full force and effect.

In witness whereof, this Contract and Amendments is now consisting of seven (7) pages has been executed and delivered effective as of the date first above written.

Electronic Signature page will replace this page if applicable.

**State of Oklahoma
Oklahoma Water Resources Board
3800 North Classen Boulevard
Oklahoma City, OK 73118**

**State of Oklahoma
Oklahoma Department of
Environmental Quality
707 N. Robinson, P.O. Box 1677,
Oklahoma City, Oklahoma, 73101-1677**

Signature of Authorized Representative

Signature of Authorized Representative

Printed Name of Authorized
Representative

Printed Name of Authorized
Representative

Title of Authorized Representative

Title of Authorized Representative

Project: 3 **Comment Addressed 9/21/23 - APPROVED 10/2/23**

Agency: Oklahoma Department of Environmental Quality (DEQ)

Title: Bathymetric Survey of Select Dissolved Oxygen Impaired Reservoirs (FY24/25)

EPA Strategic Plan Goal 5: Ensure Clean and Safe Water for All Communities

EPA Strategic Plan Objective 5.2: Protect and Restore Waterbodies and Watersheds

Introduction

The State of Oklahoma currently has many reservoirs impaired for fish and wildlife propagation due to dissolved oxygen impairment that have not been surveyed through bathymetric methods. Under the federally approved Oklahoma State Water Quality Standards, reservoirs can be assessed for dissolved oxygen (DO) in differing ways based on the availability of bathymetric survey data. If bathymetric survey data is unavailable, reservoirs are found to be not supporting its DO criterion if the portion of the water column with less than 2 mg/L DO is equal to or greater than 70% at any time of the year. If bathymetric data is available, reservoirs are found to be not supporting its DO criterion if 50% or greater of the volume of the reservoir has less than 2 mg/L DO throughout the year. Following the volume-depth curves of surveyed reservoirs in Oklahoma, it takes on average 78% of the water-column of lakes to exceed the 50% volumetric DO standard. This suggests that surveying reservoirs impaired for DO would provide the information necessary to likely remove the fish and wildlife propagation impairment from a subset of reservoirs. Lakes that are in the undetermined range (unmapped reservoirs with >50% water column anoxia but <70% water column anoxia) will be placed in category 3 of the 305(b) list indicating insufficient data is available for an impairment designation to be made. Bathymetric survey work on these reservoirs will provide the data necessary for an impairment designation to be made. Volumetric determination of reservoirs will allow for reassessment under the new volumetric DO water quality standard and may result in the removal of some reservoirs from the 303(d) list for fish and wildlife propagation impairment.

Project Objectives

The goal of this project is to complete mapping of reservoirs currently impaired for fish and wildlife propagation due to DO that are sampled by the states Beneficial Use Monitoring Program (BUMP). Previous FY work had mapped Boomer, Okmulgee, Hominy, John Wells, Elmer Thomas, Arbuckle, Clinton, Crowder, Fairfax, Brushy Creek, Greenleaf, Shell, Duncan, Clear Creek, Wewoka, Holdenville, Stilwell City, Wayne Wallace, Walters (Dave Boyer), Atoka, Cedar, and Spavinaw. Sardis and McGee Creek Reservoirs will be mapped in FY24 and Ponca City and Sooner Lakes will be mapped in FY25.

Table 1: DO Impaired Reservoirs for FY24

Water body Name	Water Rights Holder	Surface Area (acre)
Sardis	City of Oklahoma City	13,589
McGee Creek	City of Oklahoma City	3,709
Ponca City	City of Ponca City	805
Sooner	OG&E	5,400

General Procedure

The process of surveying a reservoir uses a combination of Geographic Positioning System (GPS) and acoustic depth sounding technologies that are incorporated into a hydrographic survey vessel. As the survey vessel travels across the lake's surface, the echosounder gathers multiple readings every second from the lake bottom. The depth readings are stored on the survey vessel's on-board computer along with the positional data generated from the vessel's GPS receiver. The collected data files are downloaded daily from the computer and brought to the office for editing after the survey is completed. During editing, data "noise" is removed or corrected, and average depths are converted to elevation readings based on the elevation of the lake on the day that data was collected. Geographic Information System (GIS) software is used to process the edited XYZ data collected from the survey. Accurate estimates of area-capacity can then be determined for the lake by building a 3-D TIN surface model of the reservoir from the collected data.

Survey Plan and Specifications

Data collection at the normal pool elevation by the OWRB will use an echosounder to determine elevation below the surface of the water. The reported accuracy of the echosounder is ± 1.0 cm. However, accuracy can be affected by different factors including, heave, pitch, roll, and bottom sediment types. A Differential Global Positioning System (DGPS) with submeter accuracy will provide positioning information. The data will be referenced to the appropriate zone in the Oklahoma State Plane Coordinate System.

The bathymetric survey will be conducted for elevations at and below the current water level at the time of survey. Survey lines will be spaced a maximum of 500 ft apart, and will extend as near to the shore as safety and equipment limitations permit. Positioning and sounding data will be collected and stored electronically at the rate of at least one measurement per second, with a maximum spacing of 10 ft along the survey line. The lake elevation will be taken from a lake gage maintained by the U.S. Army Corps of Engineers or the U.S. Geological Survey. If neither is available, elevation will be measured using GNSS Positioning by OWRB.

The OWRB follows U.S. Army Corps of Engineers standards for quality control and quality assurance for Reservoir Surveys (Hydrography) found in EM 1110-2-1003 Engineering Design – Hydrographic Survey. For these surveys the following MPS will be met.

Table 2: Minimum Performance Standards and Quality Assurance Practices for Project's Hydrographic Surveys

Minimum Performance Standards and Quality Assurance Practices for Project's Hydrographic Surveys	
Repeatability (Bias)	0.3 ft
Standard Deviation (\pm ft at 95%)	\pm 0.8 ft
Horizontal Positioning System Accuracy (95%)	5 m (16 ft)
Minimum Survey Coverage Density	Not to Exceed 500 ft (150 m)
Quality Control and Assurance Criteria	–
➤ Bar Check	1/project
➤ Sound Velocity QC calibration	2/day
➤ Squat Test	1/year
➤ Position calibration QC check	1/project
From the 2002 version of EM 1110-2-1003	From the 2013 version of EM 1110-2-1003

A minimum of 75 cross-section line convergences will be recorded and used to evaluate the quality of the collected data according to the above table.

Product Requirements

A Quality Assurance Project Plan (QAPP) will be drafted and executed by OWRB and DEQ personnel prior to any data collection. Following data collection and editing, a final report will be drafted to include background information, the equipment used, the methods employed, as well as a summary section. New elevation-area-capacity tables showing cumulative volume and surface area by 1/10 ft elevation increments will be generated. A map showing the approximate locations of survey lines used to collect the positioning and sounding data will also be provided.

A draft copy of the report text, elevation-area-capacity data, and the DEM will be made available for review and comment. Comments and questions should be addressed in writing within 30 days, and will be addressed in the final report.

The final product will consist of three hard copies and one electronic copy of the final report. The report will include the Elevation-Area-Capacity table. All data from the survey will be stored for future reference and can be made available upon request.

Project Tasks

Task 1: Data Quality Assurance Project Plan (QAPP)

As a continuance and completion of work started under a previous contract the QAPP, Quality Assurance Project Plan for Bathymetric Mapping of Selected Water Supply Reservoirs Impaired for Dissolved Oxygen FY 20/21 Section 106 I-006400-20 Project 11, shall serve as the QAPP for this project. OWRB will cooperate with re-certifications as needed to ensure project coverage under an approved QAPP.

Task 2: Reservoir Mapping

The reservoirs identified in this workplan will be mapped using a shallow draft boat equipped with a high-precision Global Positioning System (GPS) coupled with a high-precision echo sounder. Data will be collected on transect lines spaced appropriately for application to that specific lake. Data will be reviewed for erroneous readings and elevation corrections applied. ArcGIS software will be utilized for area/capacity computations, volume-depth curves, and bottom contour map production. An electronic report will be developed and submitted to DEQ from the contractor detailing all work to date shall be presented as discussed in the approved QAPP.

Project Outputs

- 1. QAPP re-certification for FY24 Lakes
- 2. Final Report for FY24 Lakes
- 3. QAPP re-certification for FY25 Lakes
- 4. Final Report for FY25 Lakes

Project Management

This project will be managed by the Oklahoma Department of Environmental Quality. DEQ will provide oversight for all project activities and the contractor.

Project Duration

July 1, 2023 through June 30, 2026

Project Milestones

- 1. QAPP Revision and Approval November 30, 2024
- 2. Final Report June 30, 2025
- 1. QAPP Revision and Approval November 30, 2025
- 2. Final Report June 30, 2026

Budget

TOTAL\$140,000

Resource Allocation

\$70,000 FY 2024 Main Program, Contractual
\$70,000 FY 2025 Main Program, Contractual

\$140,000 Total Budget

Figure 1: Location of the FY24 Study Lakes

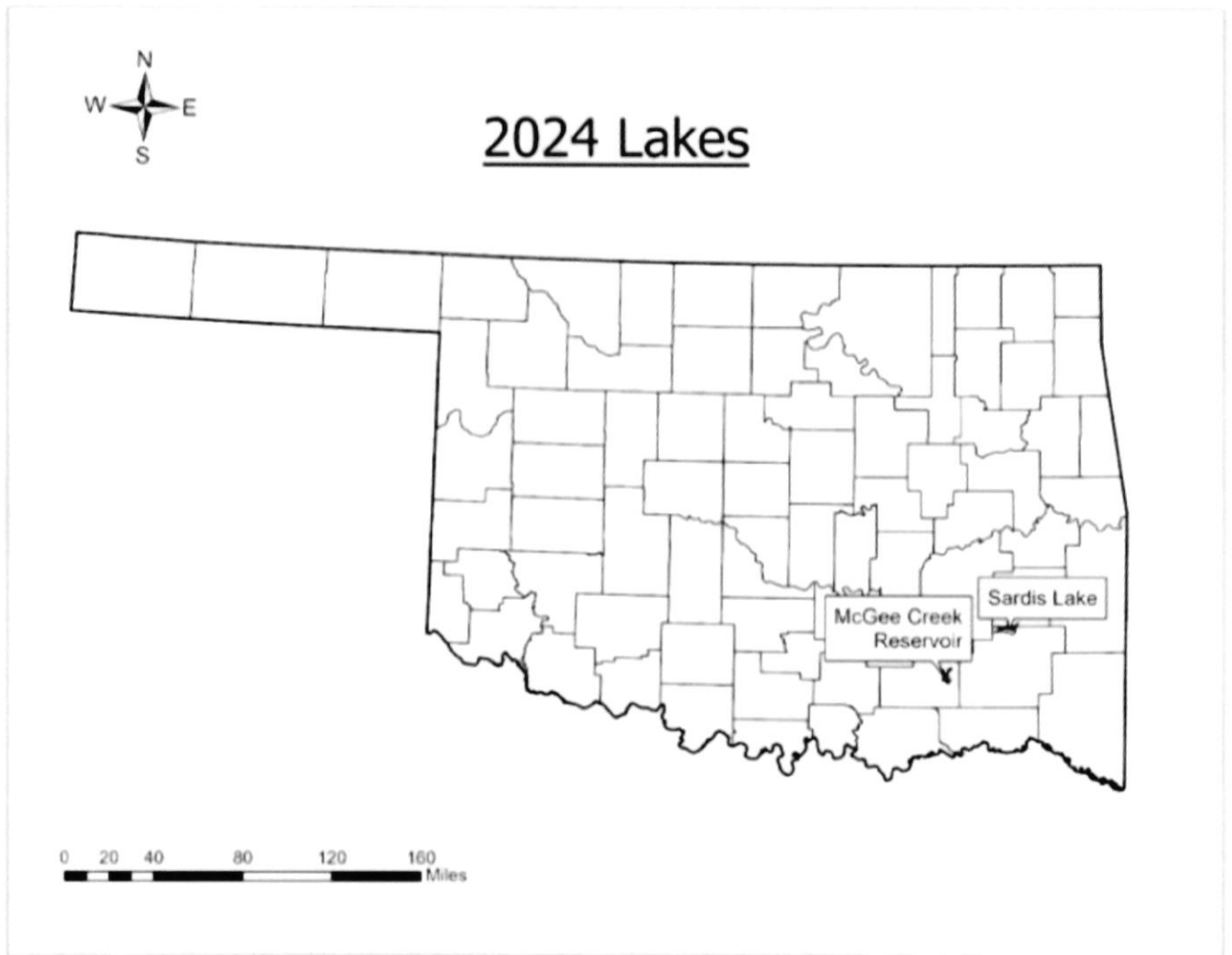
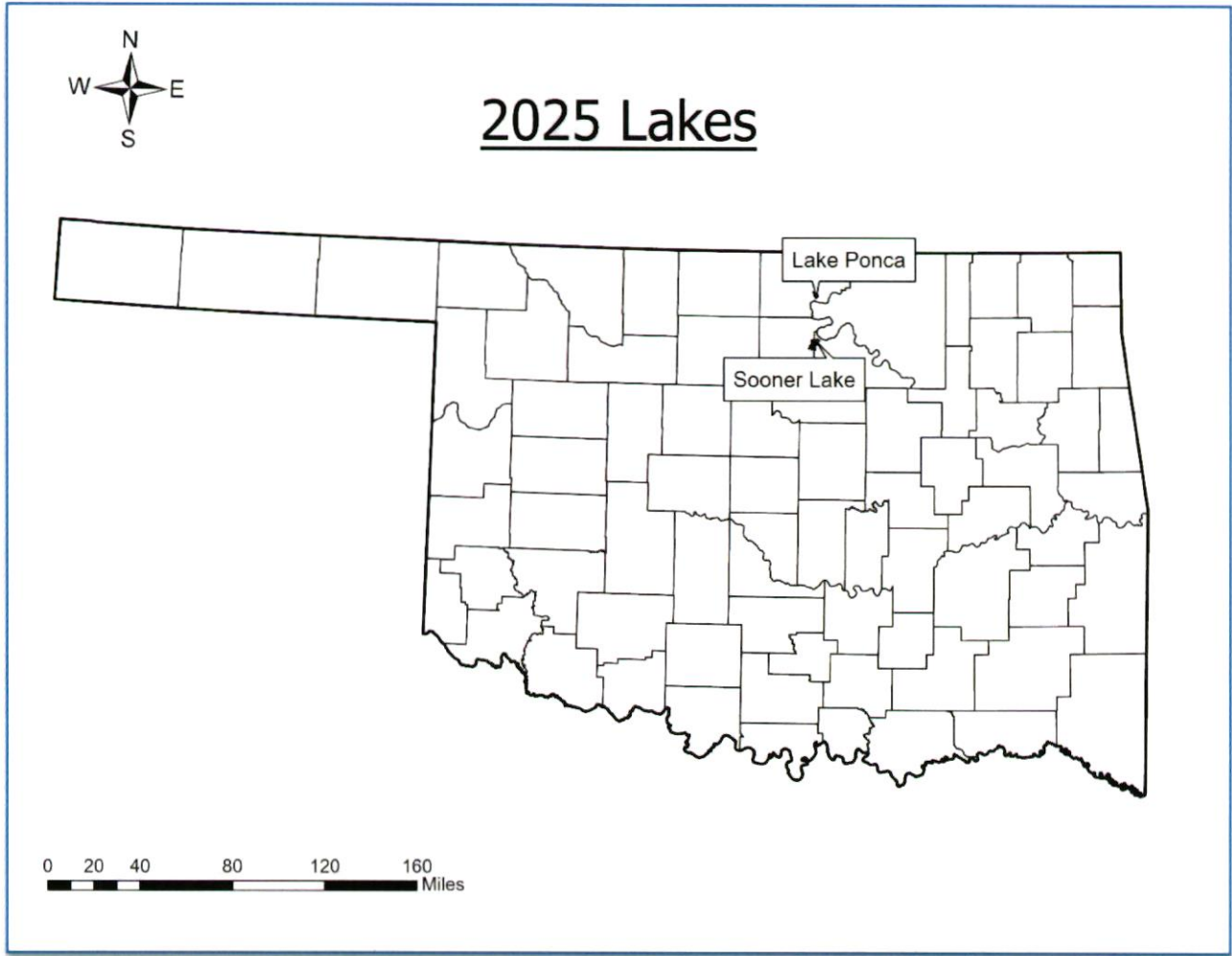


Figure 2: Location of FY25 Study Lakes



Signature: *Bill Cauthron*

Email: bill.cauthron@owrb.ok.gov

Signature: *Jessica Billingsley*

Email: jessica.billingsley@owrb.ok.gov

Signature: *Anil Pillai*
Anil Pillai (Aug 26, 2024 10:22 CDT)

Email: anil.pillai@owrb.ok.gov

Signature: *Lance Phillips*

Email: lance.phillips@owrb.ok.gov

Signature: *Lance Phillips*
Lance Phillips (Aug 23, 2024 14:02 CDT)

Email: lance.phillips@owrb.ok.gov

Signature: *Sara Gibson*

Email: sara.gibson@owrb.ok.gov

AGENDA ITEM 3D(2)

RESOLUTION

WITH:

Federal Emergency Management Agency

PURPOSE:

Resolution authorizing an application for funding assistance with the Federal Emergency Management Agency's Hazard Mitigation Grant Program to support development of hazard mitigation plans and rebuild in a way that reduces, or mitigates, future disaster loss.

**A RESOLUTION OF THE OKLAHOMA WATER RESOURCES BOARD
AUTHORIZING AN APPLICATION FOR FUNDING ASSISTANCE WITH THE
FEDERAL EMERGENCY MANAGEMENT AGENCY’S HAZARD MITIGATION
GRANT PROGRAM THROUGH THE OKLAHOMA DEPARTMENT OF
EMERGENCY MANAGMENT**

WHEREAS, the Federal Emergency Management Agency (FEMA) has implemented the Hazard Mitigation Grant Program which is administered by the Oklahoma Department of Emergency Management (OEM) to support development of hazard mitigation plans and rebuild in a way that reduces, or mitigates, future disaster loss;

WHEREAS, OEM has solicited proposals for financial assistance for projects intended to prevent or reduce future loss of lives and property through the identification and funding of cost-effective mitigation measures, and minimize the costs of future disaster response and recovery;

WHEREAS, the Oklahoma Water Resources Board (“Agency”) has identified itself as an eligible applicant under FEMA’s Hazard Mitigation Grant Program Funding Opportunity;

WHEREAS, the Agency is pursuing grant funding assistance under the FEMA’s Hazard Mitigation Grant Program in an amount up to \$300,000 with a 25% cost share for the Agency.

NOW, THEREFORE, be it resolved by the Board as follows:

1. The Board has reviewed the scope and purpose of the funding application and finds that the Project will serve the needs of the people of Oklahoma and satisfy the goals of updating storage capacity and yield of state reservoirs providing data needed to mitigate both flood and drought emergencies through the ability to manage water supplies, and on that basis, supports the staff’s submittal of the grant proposal to OEM
2. The Agency is capable of funding the optional 25% in-kind match through the normal operating activities and costs of BUMP.
3. Pursuant to state policy, the Agency sought and received approval from the Office of the Secretary of Energy and Environment to pursue this funding opportunity.
4. The Board hereby ratifies the action of its Chief Financial Officer or his designee of the Agency in applying for financial assistance from FEMA’s Hazard Mitigation Grant Program and authorizes the Chief Financial Officer or his designee to execute any related document, including a cooperative financial assistance agreement with OEM/FEMA.
5. The Chief Financial Officer and staff are directed to take all other actions necessary to secure funding for the Project under the FEMA’s Hazard Mitigation Grant Program, including working with OEM/FEMA to meet established deadlines for entering into a cooperative financial assistance agreement.

PASSED AND ADOPTED by the Oklahoma Water Resources Board on the 17th day of September 2024:

Jennifer Castillo, Chairman

ATTEST:

Suzanne Landess, Secretary

AGENDA ITEM 3D(3)

STATEMENT OF WORK

WITH: Office of Management and Enterprise and Services Information Services

PURPOSE: This statement of work authorizes OMES to build a set of cloud-based Microsoft services to be used as a platform for modernizing agency applications and databases.

AMOUNT: Not to exceed \$21,230.00 (193 hours x \$110.00/hour)

TERM: Through June 30, 2025



Office of Management and Enterprise services Information Services

Statement of Work Number: SOW0002718

Project Name: OWRB Azure IAAS and PAAS Instance Creation

Project Number: PRJ0553915

P-Code: 090P007824

Demand Number:

Revision: 1

This Statement of Work, entered into between the Office of Management and Enterprise Services (“OMES”) and Water Resources Board (“Agency”) (collectively, the “Parties”), is effective as of the last date executed, and sets forth the Parties’ agreement with respect to the above-referenced Project Name. The terms of this Statement of Work are incorporated into the Agreement for Shared Services entered into between the parties. For mutual consideration, the Parties agree as follows:

I. INTRODUCTION AND SCOPE OF WORK: (Provide a general description of the work, including the background, brief summary statement of any deliverables and tasks to be completed, ongoing support and maintenance requirements, knowledge transfer and other expected results of this Statement of Work.)

This SOW represents OMES Execution hours to partner with Phase 2 business partner to provide a modern cloud-based data repository for development of a new groundwater and stream water permitting suite of applications aligned with state standards and best practices. This data source will be public and employee facing.

We need Azure web applications for most of these new applications. We anticipate that the Azure App Services and Azure SQL environment will be the main repository of most freshwater and marginal water permits, water use statistics, and water well creation and decommissioning records used for decisions in water law, water policy, permitting, scientific studies, and water quantity in Oklahoma.

Basic Disaster Recovery (DR) process will be implemented with no additional costs. Other tiers are available at additional cost to agency if agency wish to increase DR options and levels.

In addition, OWRB will provide bi-weekly reports to OMES on funds spent with Phase 2, LLC and show progress against quarterly goals listed in the SW1025 (dated 01/02/2024) which covers \$1,573,000 funding.

Resources:



Part 810 - Enterprise Architecture, Cloud Engineer, Database Administrators - SQL & Oracle, Provisioning, Security, Network Engineer, Project Manager

Any Part Number with a Rate Amount listed as \$0 is due to one of the following:

- Allocated resource covered by a different interagency statement of work.
- Dedicated resource covered under agency's Shared Services' Agreement.
- Resource within scope of a contract wherein the agency issued the purchase order directly to the supplier.

II. PERIOD OF PERFORMANCE AND TIMELINE: (Detail the expected time period over which the work will occur.)

Statement of work will provide resources for the scope of work defined through the end of FY25. If additional resources are needed, a SOW Revision will be sent to agency for approval.

III.COSTS: (Define how costs are to be calculated, whether hourly cost for the required skill set and the cost amount, including one-time and recurring costs, as applicable. NOTE: One or more cost categories may not be applicable to a particular project. THE ONLY COSTS BILLED TO AGENCY WILL BE ACTUAL COSTS INCURRED BY OMES.)

One Time Costs associated with project completion

Part #	Part	Quantity	Rate	Amount
Total One Time Costs				\$0.00

Per hour costs associated with project completion

Part #	Part	Estimated Hours	Rate	Amount
810	Project-Consulting Specialist	193	\$110.00	\$21,230.00
Total Per Hour Costs				\$21,230.00



Monthly costs associated with project completion

Part #	Part	Quantity	Rate	Amount
628			Maint- Application Maint	\$0.00
			Total Monthly Costs	\$0.00

			Total Cost	\$21,230.00
--	--	--	-------------------	-------------

IV.Assumptions: (The Project scope and estimated costs include the following assumptions.)

Phase 2 business partner will be performing most of the development work aligned with OMES best practices and standards. Monthly application maintenance costs TBD once environments are stood up and actual capacity needs determined. Those Application Maintenance costs will then be captured for recovery via a statement of work revision. **Execution estimates will be rough order magnitude of +/- 10% (P90). **

V.MISCELLANEOUS:

No service hereunder shall be performed until this Statement of Work is signed by all Parties; however, the costs associated with the tasks set forth herein may require adjustment if this Statement of Work is not fully executed by the earlier of the end of the current fiscal year or within 30 days following execution on behalf of OMES. Notwithstanding the foregoing, the Agency is financially responsible for any planning and preparation costs incurred by OMES on the Agency's behalf and in advance of execution of this SOW. Tasks outside the scope of this Statement of Work will not be performed, and no additional terms or conditions will be added to this Statement of Work, unless agreed to in writing by the Parties. Either party may terminate this Statement of Work by providing at least thirty days' written notice to the other party, but Agency is obligated to pay for products and services delivered prior to the effective date of the termination. This is a P90 estimate, this estimate will be within +/- 10% of the final cost of this project. It is the Agency's responsibility to notify OMES of specific internal policies and regulations applicable to this work such as, but not limited to: IRS Publication 1075, Family Educational Rights and Privacy Act, Health Insurance Portability and Accountability Act / Health Information Technology for Economic and Clinical Health Act, Criminal Justice Information System, or Social Security Number Protection Act of 2010.

To the extent this Statement of Work includes goods leased by OMES and provided to Agency, Agency agrees to comply with lessee's obligations to lessor as set forth in the applicable lease agreement.

Tasks performed under the terms of this Statement of Work are accepted upon the earlier of the Parties' execution of an OMES Form 051 Certification of Completion and Acceptance or after 14 days of completion.



SIGNATURES:

The undersigned represent and warrant they are authorized, as representatives of the party on whose behalf they are signing, to sign this Statement of Work and to bind their respective party thereto.

<p>OMES:</p> <p>Authorized Signature</p> <p>Printed Name Joe McIntosh</p> <p>Title Chief Information Officer</p> <p>Date</p>	<p>AGENCY:</p> <p>Authorized Signature</p> <p>Printed Name Jennifer Castillo</p> <p>Title OWRB Board Chairman</p> <p>Date</p>
<p>OMES:</p> <p>Authorized Signature</p> <p>Printed Name</p> <p>Title</p> <p>Date</p>	<p>AGENCY:</p> <p>Authorized Signature</p> <p>Printed Name Suzanne Landess</p> <p>Title OWRB Board Secretary</p> <p>Date</p>

SEAL

Overview

Project Name	Project Manager	Portfolio
OWRB Azure IAAS and PAAS Instance Creation (PRJ0553915 - P-Code 7824)	Crystal Tillman	Operations
State	Phase	% Complete
Work in Progress	Planning	25
Approved Start Date	Approved End Date	Planned Cost
08/14/2024	12/16/2024	\$12,100.00
Planned Start Date	Planned End Date	Actual Cost
08/14/2024	10/16/2024	\$440.00
Actual Start Date	Actual End Date	
08/14/2024		

Summary

Executive Summary

Project stood up to plan and provide execution estimates for developing a modern cloud-based data repository for new groundwater and stream water permitting suite of applications aligned with state standards and best practices. This data source will work with the public and employee-facing Azure web applications for most of these new applications.

Phase 2 will be responsible for development work and work with OMES to setup Azure App Services and Azure SQL environment for the main repository of most freshwater and marginal water permits, water use statistics, and water well creation and decommissioning records used for decisions in water law, water policy, permitting, scientific studies, and water quality in Oklahoma.

Basic Disaster Recovery process will be included at no additional cost. Upgraded tiers and options are also available for additional cost if agency would like to pursue. Monthly Maintenance TBD once environments stood up and capacity for each environment determined.

Last Week's Achievements

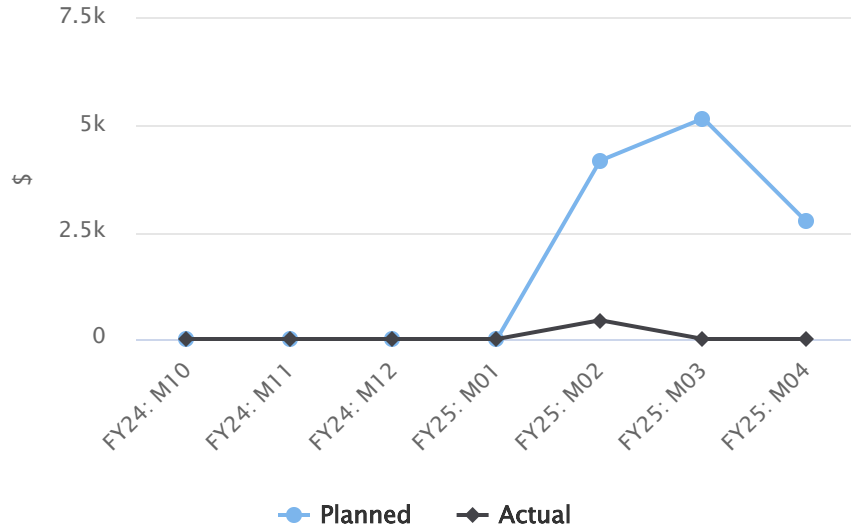
1. Held Planning session with planning project team.
2. submitted execution SOW for OWRB review/approval.

Key Activities Planned

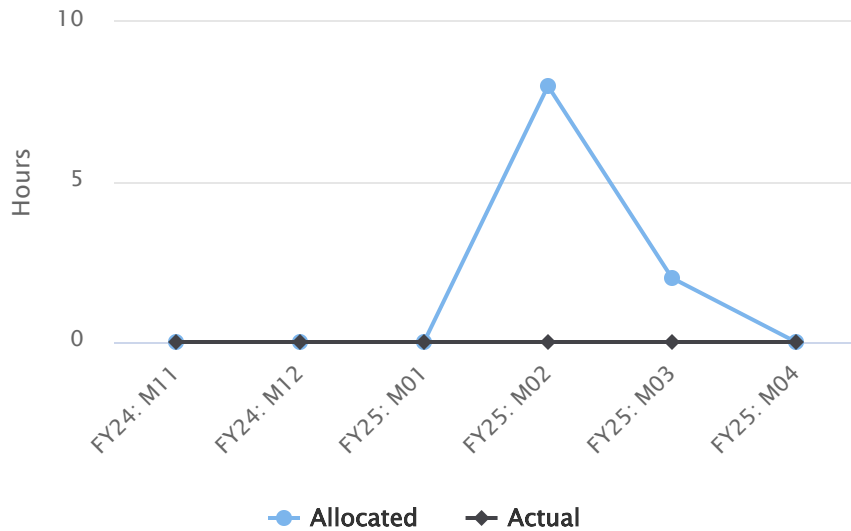
1. Secure OWRB Board Approval to proceed (meeting 9.17.24)

- 2. Obtained signed SOW
- 3. Engage identified resources for Execution

Cost (Planned vs. Actual)



Resource (Allocated vs. Actual)



Current Status

Status Comments

Overall



Execution SOW submitted to OWRB 8.20.24 for review and approval. OWRB Board approval required to proceed, Next board meeting scheduled 9.17.24.

Schedule 

Cost 

Resources 

Scope 


Status History 08/22/
2024

Overall 

Schedule 

Cost 

Resources 

Scope 

Key Milestones

Pending Completed

No Pending Key Milestones

Risks

Pending Completed

Short description	Probability	Risk status	State	Assigned to	Due date
WAF Rules solidified when switch from mo...	Low	Pending	Pending		

Issues

Pending Completed

No records in Issue Baseline using that filter

Decisions

Pending Completed

No records in Decision Baseline using that filter

Actions

Pending Completed

No records in Action Baseline using that filter

Request Changes

Pending Completed

No records in Request Change Baseline using that filter

AGENDA ITEM 3D(4)

INTERAGENCY AGREEMENT AMENDMENT

WITH: Department of Environmental Quality

PURPOSE: To extend term for a TMDL study for Boomer Lake , located in Stillwater, Ok. This will be a 2-year monitoring project to collect data needed to complete a TMDL. Work will be done on the lake and in the watershed.

AMOUNT: No cost

TERM: July 1, 2024 through June 30, 2025

Amendment of Contract

This Amendment of Contract is made for the contract of SWS Lakes - Boomer Lake and Watershed TMDL Monitoring (FY24/25), **EPA Strategic Plan Goal 5: Ensure Clean and Safe Water for All Communities** **EPA Strategic Plan Objective 5.2: Protect and Restore Waterbodies and Watersheds**, previously executed between the State of Oklahoma, ex.rel. The Department of Environmental Quality hereinafter referred to as "Department" and/or DEQ and **Oklahoma Water Resources Board** hereinafter referred to as "Contractor". In consideration of the provisions set forth herein; the parties mutually agree to the following contracting parties to amend the following that was previously executed. The amendments are as follows:

The current contract term ends June 30th, 2024. This is a no cost contract renewal for the term July 1, 2024 through June 30th, 2025.

All other terms and conditions that are not hereby amended are to remain in full force and effect.

In witness whereof, this Contract and Amendments is now consisting of five (5) pages has been executed and delivered effective as of the date first above written.

Electronic Signature page will replace this page if applicable.

**State of Oklahoma
Oklahoma Water Resources Board
3800 North Classen Boulevard
Oklahoma City, OK 73118**

**State of Oklahoma
Oklahoma Department of
Environmental Quality
707 N. Robinson, P.O. Box 1677,
Oklahoma City, Oklahoma, 73101-1677**

Signature of Authorized Representative

Signature of Authorized Representative

Printed Name of Authorized
Representative

Printed Name of Authorized
Representative

Title of Authorized Representative

Title of Authorized Representative

Project: 2 **Approved 10/2/23**

Agency: Oklahoma Department of Environmental Quality (DEQ)

Title: SWS Lakes - Boomer Lake and Watershed TMDL Monitoring (FY24/25)

EPA Strategic Plan Goal 5: Ensure Clean and Safe Water for All Communities

EPA Strategic Plan Objective 5.2: Protect and Restore Waterbodies and Watersheds

Table 1. Stations proposed for monitoring with their associated priority and cause codes.

No.	WBID	WATERBODY NAME	CAUSE
1	OK620900040190_00	Boomer Lake (3 sites and 1 bottom sample)	DO, Chlorophyll <i>a</i> and Turbidity
2	OK620900040180_00	Boomer Creek	WWAC (macroinvertebrates)
3	OK620900040180_00	Boomer Creek	WWAC (macroinvertebrates)

Problem Statement:

Boomer Lake, Oklahoma Waterbody ID (WBID) OK620900040190_00, is a 260-acre, hypereutrophic, urban lake located in the City of Stillwater, Oklahoma. Boomer Lake currently appears on the 303(d) list for several impairments including dissolved oxygen (DO), turbidity and chlorophyll *a*, (**Table 1**); however, these impairments have not been definitively documented therefore a Total Maximum Daily Load (TMDL) must be developed to further investigate these impairments.

The Oklahoma Water Resources Board (OWRB) in cooperation with the DEQ proposes to conduct monitoring on Boomer Lake and its watershed to verify water quality impairments in the lake and collect data for use in the TMDL development process.

Project Objectives:

The intent of this project is to collect water quality data to verify waterbody impairment and to support TMDL development for Boomer Lake. The data collection will be designed to assist in identifying the source(s) and extent of impairment to Boomer Lake. The specific objectives of the proposed sampling initiative are as follows:

- Establish if Boomer Lake is currently meeting its assigned beneficial uses, and
- Provide data for TMDL development in Boomer Lake; and
- Gather inflow, outflow, and elevation data; and
- Gather historical data (if available) to be used in Phase 1 of the TMDL process, and
- Gather watershed data to assist in TMDL development.

The specific waterbodies and associated cause codes (if existing) for which sampling is proposed are listed under Boomer Lake in **Table 1**. The OWRB proposes to monitor for all the causes listed for Boomer Lake. The DEQ State Environmental Laboratory will be utilized for all sample analysis. Oklahoma's Use Support Assessment Protocols (USAP) will be followed for the assessment of impairment status in both lake and streams. Furthermore, data will be analyzed to provide an estimate of nutrient and sediment loading to the lake, as well as a characterization of nutrient cycling and stressor-response relationships in the reservoir. Where USAPs do not exist, acceptable scientific methods will be followed to assess water quality. The methods to be utilized will be further explained in the Quality Assurance Project Plan (QAPP) for this project. A general description of monitoring efforts is included in **Task 2**. This monitoring plan is intended to be part of a multi-year effort.

Project Tasks:

Task 1. QAPP for all fieldwork and monitoring design

Before any data collection activities are undertaken, a Quality Assurance Project Plan will be written and submitted to EPA for approval

Task 2. Conduct Monitoring to Support TMDL Development

Streams listed in **Table 1** will be monitored monthly for total suspended solids, nutrients (phosphorus and nitrogen series), and general water quality variables (in-situ parameters and turbidity). To provide loading estimates for nutrients and sediments, five additional samples will be collected over the sampling period during targeted runoff events. Instantaneous discharge and stage will be measured during each site visit. Increased emphasis will be put on storm flow measurements to help fill in the higher flow regions of the rating curve. Stage will also be measured continuously by a telemetered stage recorder at all watershed monitoring locations. To aid in the collection of stormwater monitoring samples, all watershed sites will have a refrigerated auto-sampler installed in conjunction with the continuous stage recorder. Because turbidity is only assessable at base flow, additional turbidity samples may be taken to meet the data quality objective for completeness.

Boomer Lake will be monitored monthly for nutrients (phosphorus and nitrogen series) and general water quality variables (in-situ parameters). Turbidity samples will be collected at all sites during each sample event and suspended solids will also be collected to aid in verification of the turbidity listing and subsequent modeling for the reservoir. Three locations will be sampled to represent the lacustrine, transitional, and riverine zones of the lake. A bottom sample will be collected at the dam site to capture internal nutrient dynamics within the lake. In addition, chlorophyll-*a* samples will be collected at all sites during the sample period. A temperature string will be deployed to aid in determining lake stratification, mixing events, and its mictic nature in addition to evaluation of beneficial uses. HOB0® DO dataloggers will also be used to measure DO data at a finer temporal scale. A lake gauge will be installed to document lake elevation throughout the study period.

Task 3. Data Processing, Data Validation and Prepare Water Quality Data Report for Review

The OWRB will process, and quality assure all data according to the project's QAPP. Validated data will be used for analysis in the reporting process. A final water quality report will be provided for technical review by the TMDL Workgroup and EPA.

Measures of Success:

The overall measure of success for this project is to produce validated water quality data and final technical report needed to assess the impact of the pollutants of concern in Boomer Lake and support TMDL development. This includes the degree of impairment, as well as adequate data for allocation of the load to Boomer and assignment of load reductions within the watershed.

Outputs:

1. Project Monitoring Plan and QAPP
2. Water Quality Technical Report identifying:
 - Watershed description and characterization
 - Problem statement and conceptual model
 - Current waterbody condition
 - Magnitude and extent of impairment
 - Summary of pollutant sources and loadings
 - Data for model development, pollutant reduction scenarios, and waste load allocations

Project Management:

The DEQ will manage this project and will provide oversight for all project activities.

Project Duration:

TBD (30 months)

Project Milestones:

1. QAPP for all field work..... September 30, 2024
2. Install Monitoring Equipment..... September 30, 2024
3. Field monitoring and data Collection October 1, 2026
4. Water Quality Data Report for technical review..... April 30, 2027

Project Deliverables:

1. Annual Report..... June 30, 2024
 2. Semi-annual Report.....December 31, 2024
 3. AnnualReport..... June 30, 2025
 4. Semi-annual ReportDecember 31, 2025
 5. Annual Report June 30, 2026
 6. Semi-annual ReportDecember 31, 2026
 7. Final Report..... June 30, 2026
- F

Budget:

TOTAL.....\$185,400

Resource Allocation

\$92,700 FY 2024 Main Program, Contractual

\$92,700 FY 2025 Main Program, Contractual

\$185,400 Total Budget

Signature: *Bill Cauthron*
Email: bill.cauthron@owrb.ok.gov

Signature: 
Anil Pillai (Aug 26, 2024 10:24 CDT)
Email: anil.pillai@owrb.ok.gov

Signature: *Lance Phillips*
Lance Phillips (Sep 3, 2024 67:39 CDT)
Email: lance.phillips@owrb.ok.gov

Signature: *Jessica Billingsley*
Email: jessica.billingsley@owrb.ok.gov

Signature: *Lance Phillips*
Email: lance.phillips@owrb.ok.gov

Signature: 
Email: sara.gibson@owrb.ok.gov

AGENDA ITEM 3D(5)

STATE OF OKLAHOMA CONTRACT

WITH: Geotech Environmental Equipment, Inc.

PURPOSE: To assist in the process of replacing sensors in recording wells while maintaining the existing parts of the deployment (cables, connectors, telemetry, etc.) and expanding the network to include new wells.

AMOUNT: Not to exceed \$55,490.00

TERM: One-time purchase and delivery with no renewal options



**STATE OF OKLAHOMA CONTRACT WITH GEOTECH ENVIRONMENTAL
EQUIPMENT, INC.**

This State of Oklahoma Contract (“Contract”) is entered into between the State of Oklahoma by and through the Oklahoma Water Resources Board (“State”) and Geotech Environmental Equipment, Inc. (“Supplier”) and is effective as of the effective date set forth on a properly issued purchase order or, if no effective date is listed, the date of last signature (“Effective date”). This is a one-time purchase and delivery with no renewal options.

Purpose

The State is awarding the Contract to Supplier for the provision of a supplier to assist in the process of replacing sensors while maintaining the existing parts of the deployments and expanding the network to include new wells, as more particularly described in certain Contract Documents. Supplier submitted a proposal with no exceptions, vendor documents or confidentiality requests. Supplier did include a best and final offer. This Contract Document memorializes the agreement of the parties with respect to terms of the Contract that is being awarded to Supplier.

Now, therefore, in consideration of the foregoing and the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. The parties agree that Supplier has not yet begun performance of work under the Contract. Upon full execution of the Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
 - 2.1. SolicitationEV00000483, Attachment A;
 - 2.2. Requirements, Exhibit 1
 - 2.3. General Terms, Attachment B;
 - 2.4. Agency Terms, Attachment C;
 - 2.5. Information Technology terms, Attachment D;
 - 2.6. Price, Attachment E
3. The parties additionally agree:
 - 3.1. Except for information deemed confidential by the State pursuant to applicable law, rule, regulation or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.
 - 3.2. To the extent any term or condition in any Contract Document, including via a hyperlink or uniform resource locator, conflicts with an applicable Oklahoma and/or United States law

or regulation, such term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, the State or Customer makes no representation or warranty regarding the enforceability of such term or condition and the State or Customer does not waive the applicable Oklahoma and/or United States law or regulation which conflicts with the term or condition.

4. Payment obligations rest solely with the Oklahoma Water Resources Board. Please send invoices and billing inquiries to:

3800 N Classen Blvd
Oklahoma City OK 73118

AccountsPayable@owrb.ok.gov

5. The undersigned Agency hereby attests that any required terms and conditions based on a Federal Award applicable to this Contract are included herein.
6. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

SIGNATURES

The undersigned represent and warrant that they are authorized, as representatives of the party on whose behalf they are signing, to sign this Agreement and to bind their respective party thereto.

STATE OF OKLAHOMA
by and through the Water Resources Board:

Geotech Environmental Equipment, Inc.

By:

Name: Jennifer Castillo

Title: Chairman

Date:

By: Richard W Smith
Richard W Smith (Sep 9, 2024 16:52 MDT)

Name: Richard W Smith

Title: Sales Support

Date: Sep 9, 2024

The State Purchasing Director is signing solely to ensure state agency compliance with provisions of the Oklahoma Central Purchasing Act pursuant to 74 O.S., 85.5 concerning acquisitions by state agencies.

By: Richard W Smith
Richard W Smith (Sep 9, 2024 16:52 MDT)

Name: Richard W Smith

Title: Sales Support

Date: Sep 9, 2024

ATTEST:

Suzanne Landess, Secretary
(SEAL)

Date

ATTACHMENT A

This Solicitation is a Contract Document and is a request for proposal in connection with the Contract awarded by the Office of Management and Enterprise Services as more particularly described below. Any defined term used herein but not defined herein shall have the meaning ascribed in the General Terms or other Contract Document.

BACKGROUND

The Oklahoma Water Resources Board's WATER-Groundwater section maintains a statewide network of recorder wells utilizing In-Situ Level Troll 400, Level Troll 500 and In-Situ Aqua Troll 200 Data Loggers. These wells are widely distributed across the state of Oklahoma. We are in the process of replacing some of these sensors while maintaining the existing parts of the deployments (cables, connectors, telemetry, etc.) and expanding the network to include new wells. There are very specific requirements for the section to achieve these goals. The main requirements are that equipment fit within the existing network without the need for extensive development of infrastructure or procedures. This includes the ability to swap and replace sensors onto existing cables/connectors to maintain the existing network and allow equipment to be moved between sites as needed. New cabling and connectors must also be able to be deployed to replace damaged equipment. All new equipment must work with telemetry systems already in place and not require the purchase and installation of new equipment. Additionally, new equipment must not require the development of new data flow and maintenance procedures or require new software purchases. To meet these requirements, we believe In-Situ brand or highly comparable equipment is needed.

PURPOSE

The Contract is awarded on behalf of The Oklahoma Water Resources Board for a supplier to assist in the process of replacing sensors while maintaining the existing parts of the deployments (cables, connectors, telemetry, etc.) and expanding the network to include new wells. There are very specific requirements for the section to achieve these goals. The main requirements are that equipment fit within the existing network without the need for extensive development of infrastructure or procedures. This includes the ability to swap and replace sensors onto existing cables/connectors to maintain the existing network and allow equipment to be moved between sites as needed. New cabling and connectors must also be able to be deployed to replaced damaged equipment. All new equipment must work with telemetry systems already in place and not require the purchase and installation of new equipment. Additionally, new equipment must not require the development of new data flow and maintenance procedures or require new software purchases. To meet these requirements, we believe In-Situ brand or an approved equal equipment is needed.

1. Contract Term and Renewal Options

09/01/2020

003131

This is a one-time purchase and delivery with no renewal options.

2. Scope of work

Certain Contract requirements and terms are attached hereto as Exhibit 1, and Exhibit 2, and incorporated herein.

EXHIBIT 1 REQUIREMENTS

Equipment

1. Provide for a minimum twenty (20) In-Situ Level Troll 400 data loggers, five (5) 500 data loggers, and ten (10) Aqua Troll data loggers. If other units are provided, they must meet the parameter, accuracy, precision, and deployment needs of these units and be easily adaptable to established data flows. These amounts are stated to allow accurate bidding of pricing, but units should be priced per unit to allow utilization of funds up to the available amount.
2. The psi range for each unit will be specified and confirmed during the final ordering process and must be independent from pricing. However, we initially expect all units to be 30 psi.
3. Many of these units will be either replacement or standby units for existing installs and so must be compatible with In-Situ brand rugged twist lock cables which are already deployed in wells.
4. All In-Situ or comparable data loggers must have a 0.5 second logging rate, at least a 2MB memory.
5. All units must have an accuracy of +/- 0.05% full scale or better for pressure/depth, and where relevant must have a +/- 0.5% full scale for conductivity and +/- 0.1 °C for temperature.
6. Files must be CSV format.
7. Come with a minimum 3-year warranty.
8. Come with manufacturer technical support for setup and troubleshooting to ensure successful deployment.
9. Not require purchase of new propriety software.
10. Consist of all materials needed to deploy, install and maintain the recorder systems other than routine power tools and cables.

EXHIBIT 1 REQUIREMENTS

11. Some cabling is required for this bid and must be compatible with In-Situ brand rugged twist-lock cables and connectors. All twist-lock connections should be made of titanium. We need both vented and non-vented cables. The lengths and connectors are called out on the attached cost sheet and specified briefly below:

- **Vented Cables**

- Two (2) units of 200 ft length cable
- Two (2) units of 150 ft length cable
- Two (2) units of 100 ft length cable
- Two (2) units of 50 ft length cable
- Two (2) units of 25 ft length cable

- **Non-vented Cables**

- Four (4) units of 200 ft length cable
- Eight (8) units of 150 ft length cable
- Eight (8) units of 100 ft length cable
- Nine (9) units of 50 ft length cable
- Four (4) units of 25 ft length cable

ATTACHMENT B

STATE OF OKLAHOMA GENERAL TERMS

This State of Oklahoma General Terms (“General Terms”) is a Contract Document in connection with the Contract awarded by the State of Oklahoma by and through the Office of Management and Enterprise Services.

In addition to other terms contained in an applicable Contract Document, Supplier and State agree to the following General Terms:

1 Scope and Contract Renewal

- 1.1** Supplier may not add products or services to its offerings under the Contract without the State’s prior written approval. Such request may require a competitive bid of the additional products or services. If the need arises for goods or services outside the scope of the Contract, Supplier shall contact the State.
- 1.2** At no time during the performance of the Contract shall the Supplier have the authority to obligate any Customer for payment for any products or services (a) when a corresponding encumbering document is not signed or (b) over and above an awarded Contract amount. Likewise, Supplier is not entitled to compensation for a product or service provided by or on behalf of Supplier that is neither requested nor accepted as satisfactory.
- 1.3** If applicable, prior to any Contract renewal, the State shall subjectively consider the value of the Contract to the State, the Supplier’s performance under the Contract, and shall review certain other factors, including but not limited to the: a) terms and conditions of Contract Documents to determine validity with current State and other applicable statutes and rules; b) current pricing and discounts offered by Supplier; and c) current products, services and support offered by Supplier. If the State determines changes to the Contract are required as a condition precedent to renewal, the State and Supplier will cooperate in good faith to evidence such required changes in an Amendment. Further, any request for a price increase in connection with a renewal or otherwise will be conditioned on the Supplier providing appropriate documentation supporting the request.
- 1.4** The State may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If the State exercises such option to extend ninety (90) days, the State shall notify the

Supplier in writing prior to Contract end date. The State, at its sole option and to the extent allowable by law, may choose to exercise subsequent ninety (90) day extensions at the Contract pricing rate, to facilitate the finalization of related terms and conditions of a new award or as needed for transition to a new Supplier.

- 1.5 Supplier understands that supplier registration expires annually and, pursuant to OAC 260:115-3-3, Supplier shall maintain its supplier registration with the State as a precondition to a renewal of the Contract.

2 Contract Effectiveness and Order of Priority

- 2.1 Unless specifically agreed in writing otherwise, the Contract is effective upon the date last signed by the parties. Supplier shall not commence work, commit funds, incur costs, or in any way act to obligate the State until the Contract is effective.
- 2.2 Contract Documents shall be read to be consistent and complementary. Any conflict among the Contract Documents shall be resolved by giving priority to Contract Documents in the following order of precedence:
 - A. any Amendment;
 - B. any applicable Solicitation;
 - C. any Contract-specific terms contained in a Contract Document including, without limitation, information technology terms and terms specific to a statewide Contract or a State agency Contract;
 - D. the terms contained in this Contract Document;
 - E. any successful Bid as may be amended through negotiation and to the extent the Bid does not otherwise conflict with the Solicitation or applicable law;
 - F. any statement of work, work order, or other similar ordering document as applicable; and
 - G. other mutually agreed Contract Documents.
- 2.3 If there is a conflict between the terms contained in this Contract Document or in Contract-specific terms and an agreement provided by or on behalf of Supplier including but not limited to linked or supplemental documents which alter or diminish the rights of Customer or the State, the conflicting terms provided by Supplier shall not take priority over this Contract Document or

Acquisition-specific terms. In no event will any linked document alter or override such referenced terms except as specifically agreed in an Amendment.

- 2.4 Any Contract Document shall be legibly written in ink or typed. All Contract transactions, and any Contract Document related thereto, may be conducted by electronic means pursuant to the Oklahoma Uniform Electronic Transactions Act.

3 Modification of Contract Terms and Contract Documents

- 3.1 The Contract may only be modified, amended, or expanded by an Amendment. Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials made unilaterally by the Supplier, is a material breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including without limitation, any unauthorized written Contract modification, shall be void and without effect and the Supplier shall not be entitled to any claim under the Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the Contract.
- 3.2 Any additional terms on an ordering document provided by Supplier are of no effect and are void unless mutually executed. OMES bears no liability for performance, payment or failure thereof by the Supplier or by a Customer other than OMES in connection with an Acquisition.
- 3.3 Except for information deemed confidential by the State pursuant to applicable law, rule, regulation, or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.
- 3.4 Unless mutually agreed to in writing by the State of Oklahoma by and through the Office of Management and Enterprise Services, no Contract Document or other terms and conditions or clauses, including via a hyperlink or uniform resource locator, shall supersede or conflict with the terms of this Contract or expand the State's or Customer's liability or reduce the rights of Customer or the State. If Supplier is acting as a reseller, any third-party terms provided are also subject to the foregoing.
- 3.5 To the extent any term or condition in any Contract Document, including via a hyperlink or uniform resource locator, conflicts with an applicable Oklahoma and/or United States law or regulation, such term or condition is void and unenforceable. By executing any Contract Document which contains a

conflicting term or condition, the State or Customer makes no representation or warranty regarding the enforceability of such term or condition and the State or Customer does not waive the applicable Oklahoma and/or United States law or regulation which conflicts with the term or condition.

4 **Definitions**

In addition to any defined terms set forth elsewhere in the Contract, the Oklahoma Central Purchasing Act and the Oklahoma Administrative Code, Title 260, the parties agree that, when used in the Contract, the following terms are defined as set forth below and may be used in the singular or plural form:

- 4.1 **Acquisition** means items, products, materials, supplies, services and equipment acquired by purchase, lease purchase, lease with option to purchase, value provided or rental under the Contract.
- 4.2 **Amendment** means a mutually executed, written modification to a Contract Document.
- 4.3 **Bid** means an offer a Bidder submits in response to the Solicitation.
- 4.4 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 4.5 **Contract** means the written, mutually agreed and binding legal relationship resulting from the Contract Documents and an appropriate encumbering document as may be amended from time to time, which evidences the final agreement between the parties with respect to the subject matter of the Contract.
- 4.6 **Contract Document** means this document; any master or enterprise agreement terms entered into between the parties that are mutually agreed to be applicable to the Contract; any Solicitation; any Contract-specific terms; any Supplier's Bid as may be negotiated; any statement of work, work order, or other similar mutually executed ordering document; other mutually executed documents and any Amendment.
- 4.7 **Customer** means the governmental entity receiving goods or services contemplated by the Contract.
- 4.8 **Debarment** means action taken by a debaring official under federal or state law or regulations to exclude any business entity from inclusion on the Supplier list; bidding; offering to bid; providing a quote; receiving an award of contract with the State and may also result in cancellation of existing contracts with the State.

- 4.9 Destination** means delivered to the receiving dock or other point specified in the applicable Contract Document.
- 4.10 Governmental Entity** means any governmental entity specified as a political subdivision of the State pursuant to the Governmental Tort Claim Act including any associated institution, instrumentality, board, commission, committee, department, or other entity designated to act on behalf of the state.
- 4.11 Indemnified Parties** means the State and Customer and/or its officers, directors, agents, employees, representatives, contractors, assignees, and designees thereof.
- 4.12 Inspection** means examining and testing an Acquisition (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the Acquisition meets Contract requirements.
- 4.13 Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.
- 4.14 OAC** means the Oklahoma Administrative Code.
- 4.15 OMES** means the Office of Management and Enterprise Services.
- 4.16 Solicitation** means the document inviting Bids for the Acquisition referenced in the Contract and any amendments thereto.
- 4.17 State** means the government of the state of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the state of Oklahoma.
- 4.18 Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State.
- 4.19 Suspension** means action taken by a suspending official under federal or state law or regulations to suspend a Supplier from inclusion on the Supplier list; be eligible to submit Bids to State agencies and be awarded a contract by a State agency subject to the Central Purchasing Act.
- 4.20 Supplier Confidential Information** means certain confidential and proprietary information of Supplier that is clearly marked as confidential and agreed by the State Purchasing Director or Customer, as applicable, but does

not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.

4.21 Work Product means any and all deliverables produced by Supplier under a statement of work or similar Contract Document issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the Contract effective date including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided by or on behalf of Supplier under the Contract and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or with funds appropriated by or for Customer or Customer's benefit (a) by any Supplier personnel or Customer personnel or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

5 Pricing

- 5.1** Pursuant to 68 O.S. §§ 1352, 1356, and 1404, State agencies are exempt from the assessment of State sales, use, and excise taxes. Further, State agencies and political subdivisions of the State are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Any taxes of any nature whatsoever payable by the Supplier shall not be reimbursed.
- 5.2** Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price.
- 5.3** The price of a product offered under the Contract shall include and Supplier shall prepay all shipping, packaging, delivery and handling fees. All product

deliveries will be free on board Customer's Destination. No additional fees shall be charged by Supplier for standard shipping and handling. If Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

6 Ordering, Inspection, and Acceptance

- 6.1** Any product or service furnished under the Contract shall be ordered by issuance of a valid purchase order or other appropriate payment mechanism, including a pre-encumbrance, or by use of a valid Purchase Card. All orders and transactions are governed by the terms and conditions of the Contract. Any purchase order or other applicable payment mechanism dated prior to termination or expiration of the Contract shall be performed unless mutually agreed in writing otherwise.
- 6.2** Services will be performed in accordance with industry best practices and are subject to acceptance by the Customer. Notwithstanding any other provision in the Contract, deemed acceptance of a service or associated deliverable shall not apply automatically upon receipt of a deliverable or upon provision of a service.

Supplier warrants and represents that a product or deliverable furnished by or through the Supplier shall individually, and where specified by Supplier to perform as a system, be substantially uninterrupted and error-free in operation and guaranteed against faulty material and workmanship for a warranty period of the greater of ninety (90) days from the date of acceptance or the maximum allowed by the manufacturer. A defect in a product or deliverable furnished by or through the Supplier shall be repaired or replaced by Supplier at no additional cost or expense to the Customer if such defect occurs during the warranty period.

Any product to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the Customer at Destination. The Customer assumes no responsibility for a product until accepted by the Customer. Title and risk of loss or damage to a product shall be the responsibility of the Supplier until accepted. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.

Pursuant to OAC 260:115-9-1, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be notified as soon as is reasonably practicable. The Supplier shall retrieve and replace the Acquisition at Supplier's expense or, if unable to replace, shall issue a refund to Customer. Refund under this section shall not be an exclusive remedy.

- 6.3** Supplier shall deliver products and services on or before the required date specified in a Contract Document. Failure to deliver timely may result in liquidated damages as set forth in the applicable Contract Document. Deviations, substitutions, or changes in a product or service, including changes of personnel directly providing services, shall not be made unless expressly authorized in writing by the Customer. Any substitution of personnel directly providing services shall be a person of comparable or greater skills, education and experience for performing the services as the person being replaced. Additionally, Supplier shall provide staff sufficiently experienced and able to perform with respect to any transitional services provided by Supplier in connection with termination or expiration of the Contract.
- 6.4** Product warranty and return policies and terms provided under any Contract Document will not be more restrictive or more costly than warranty and return policies and terms for other similarly situated customers for a like product.

7 Invoices and Payment

- 7.1** Supplier shall be paid upon submission of a proper invoice(s) at the prices stipulated in the Contract in accordance with 74 O.S. §85.44B which requires that payment be made only after products have been provided and accepted or services rendered and accepted.

The following terms additionally apply:

- A.** An invoice shall contain the purchase order number, description of products or services provided and the dates of such provision.
- B.** Failure to provide a timely and proper invoice may result in delay of processing the invoice for payment. Proper invoice is defined at OAC 260:10-1-2.
- C.** Payment of all fees under the Contract shall be due NET 45 days. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.
- D.** The date from which an applicable early payment discount time is calculated shall be from the receipt date of a proper invoice. There is no obligation, however, to utilize an early payment discount.
- E.** If an overpayment or underpayment has been made to Supplier any subsequent payments to Supplier under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be

issued to Supplier.

- F. Supplier shall have no right of setoff.
- G. Because funds are typically dedicated to a particular fiscal year, an invoice will be paid only when timely submitted, which shall in no instance be later than six (6) months after the end of the fiscal year in which the goods are provided or services performed.
- H. The Supplier shall accept payment by Purchase Card as allowed by Oklahoma law.

8 Maintenance of Insurance, Payment of Taxes, and Workers' Compensation

8.1 As a condition of this Contract, Supplier shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set forth below and any approved subcontractor of Supplier shall procure and provide proof of the same coverage. The required insurance shall be underwritten by an insurance carrier with an A.M. Best rating of A- or better.

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a notice of cancellation and includes the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A. Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B. Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$2,000,000 per occurrence;

- C. Automobile Liability Insurance with limits of liability of not less than \$2,000,000 combined single limit each accident;
- D. If the Supplier will access, process, or store state data, then Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- E. Additional coverage required in writing in connection with a particular Acquisition.

8.2 Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or Supplier's employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, Supplier's employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.

8.3 Supplier agrees to indemnify Customer, the State, and its employees, agents, representatives, contractors, and assignees for any and all liability, actions, claims, demands, or suits, and all related costs and expenses (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

9 Compliance with Applicable Laws

9.1 As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:

- A. Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
- B. Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA

List of Violating Facilities under nonexempt federal contracts, grants or loans;

- C. Prospective participant requirements set at 2 C.F.R. part 376 in connection with Debarment, Suspension and other responsibility matters;
 - D. 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
 - E. Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;
 - F. Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
 - G. Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
 - H. Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at www.dhs.gov/E-Verify;
 - I. Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
 - J. Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.
- 9.2** The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations.

As applicable, the Supplier shall adhere to the State Information

Security Policy, Procedures, Guidelines
set forth at

https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG_0.pdf

. Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.

- 9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.
- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.

- 9.10** If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant, Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

10 Audits and Records Clause

- 10.1** As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, 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. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.
- 10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.
- 10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

11 Confidentiality

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with

and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer's prior express written permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information.

- 11.2** Supplier shall establish, maintain and enforce agreements with all such persons and entities that have access to State and citizen data and records to fulfill Supplier's duties and obligations under the Contract and to specifically prohibit any sale, assignment, conveyance, provision, release, dissemination or other disclosure of any State or citizen data or records except as required by law or allowed by written prior approval of the Customer.
- 11.3** Supplier shall immediately report to the Customer any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Supplier shall also promptly furnish to Customer full details of the unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination, or attempt thereof, and use its best efforts to assist the Customer in investigating or preventing the reoccurrence of such event in the future. The Supplier shall cooperate with the Customer in connection with any litigation and investigation deemed necessary by the Customer to protect any State or citizen data and records and shall bear all costs associated with the investigation, response and recovery in connection with any breach of State or citizen data or records including but not limited to credit monitoring services with a term of at least three (3) years, all notice-related costs and toll free telephone call center services.
- 11.4** Supplier further agrees to promptly prevent a reoccurrence of any unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access,

acquisition, disclosure or other dissemination of State or citizen data and records.

- 11.5** Supplier acknowledges that any improper use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State data or records to others may cause immediate and irreparable harm to the Customer and certain beneficiaries and may violate state or federal laws and regulations. If the Supplier or its affiliates, parent company, subsidiaries, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors improperly use, appropriate, sell, assign, convey, provide, release, access, acquire, disclose or otherwise disseminate such confidential information to any person or entity in violation of the Contract, the Customer will immediately be entitled to injunctive relief and/or any other rights or remedies available under this Contract, at equity or pursuant to applicable statutory, regulatory, and common law without a cure period.
- 11.6** The Supplier shall immediately forward to the State Purchasing Director, and any other applicable person listed in the Notices section(s) of the Contract, any request by a third party for data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.
- 11.7** Customer may be provided access to Supplier's Confidential Information. State agencies are subject to the Oklahoma Open Records Act and Supplier acknowledges information marked confidential information will be disclosed to the extent permitted under the Open Records Act and in accordance with this section. Nothing herein is intended to waive the State Purchasing Director's authority under OAC 260:115-3-9 in connection with Bid information requested to be held confidential by a Bidder. Notwithstanding the foregoing, Supplier Confidential Information shall not include information that: (i) is or becomes generally known or available by public disclosure, commercial use or otherwise and is not in contravention of this Contract; (ii) is known and has been reduced to tangible form by the receiving party before the time of disclosure for the first time under this Contract and without other obligations of confidentiality; (iii) is independently developed without the use of any of Supplier Confidential Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

11.8 Except for information deemed confidential by the State pursuant to applicable law, rule, regulation, or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to the Supplier.

12 Conflict of Interest

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Prompt disclosure is required under this section if the activity or interest is related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.

13 Assignment and Permitted Subcontractors

13.1 Supplier's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Supplier assign its rights to payment, in whole or in part, under the Contract, Supplier shall provide the State and all affected Customers with written notice of the assignment. Such written notice shall be delivered timely and contain details sufficient for affected Customers to perform payment obligations without any delay caused by the assignment.

13.2 Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.

13.3 If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written

approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

13.4 All payments under the Contract shall be made directly to the Supplier, except as provided in 13.1 above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.

13.5 Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

14 Background Checks and Criminal History Investigations

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

15 Patents and Copyrights

Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party. Should any third party threaten or make a claim that any portion of a product or service provided by Supplier under the Contract infringes that party's patent, intellectual property, copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this section is not an exclusive remedy and is not intended to operate as a waiver of legal or equitable remedies because of acceptance of relief provided by Supplier.

16 Indemnification

16.1 Acts or Omissions

- A.** Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
- B.** To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents, representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable

option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

16.2 Infringement

Supplier shall indemnify the Indemnified Parties, as applicable, for all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising from or in connection with Supplier's breach of its representations and warranties in the Contract or alleged infringement of any patent, intellectual property, copyright or other property right in connection with a product or service provided under the Contract. Supplier's duty under this section is reduced to the extent a claimed infringement results from: (a) a Customer's or user's content; (b) modifications by Customer or third party to a product delivered under the Contract or combinations of the product with any non-Supplier-provided services or products unless Supplier recommended or participated in such modification or combination; (c) use of a product or service by Customer in violation of the Contract unless done so at the direction of Supplier, or (d) a non-Supplier product that has not been provided to the State by, through or on behalf of Supplier as opposed to its combination with products Supplier provides to or develops for the State or a Customer as a system.

16.3 Notice and Cooperation

In connection with indemnification obligations under the Contract, the parties agree to furnish prompt written notice to each other of any third-party claim. Any Customer affected by the claim will reasonably cooperate with Supplier and defense of the claim to the extent its interests are aligned with Supplier. Supplier shall use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim against Indemnified Parties that are not a State agency, where relief against the Indemnified Parties is limited to monetary damages that are paid by the defending party under indemnification provisions of the Contract.

16.4 Coordination of Defense

In connection with indemnification obligations under the Contract, when a State agency is a named defendant in any filed or threatened lawsuit, the defense of the State agency shall be coordinated by the Attorney General of

Oklahoma, or the Attorney General may authorize the Supplier to control the defense and any related settlement negotiations; provided, however, Supplier shall not agree to any settlement of claims against the State without obtaining advance written concurrence from the Attorney General. If the Attorney General does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall have authorization to equally participate in any proceeding related to the indemnity obligation under the Contract and shall remain responsible to indemnify the applicable Indemnified Parties.

16.5 Limitation of Liability

- A.** With respect to any claim or cause of action arising under or related to the Contract, neither the State nor any Customer shall be liable to Supplier for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages.
- B.** Notwithstanding anything to the contrary in the Contract, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

17 Termination for Funding Insufficiency

- 17.1** Notwithstanding anything to the contrary in any Contract Document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency,

Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

17.2 Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded.

17.3 The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

18 Termination for Cause

18.1 Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.

18.2 The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines

that an administrative error in connection with award of the Contract occurred prior to Contract performance.

18.3 Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

18.4 The Supplier's repeated failure to provide an acceptable product or service; Supplier's unilateral revision of linked or supplemental terms that have a materially adverse impact on a Customer's rights or obligations under the Contract (except as required by a governmental authority); actual or anticipated failure of Supplier to perform its obligations under the Contract; Supplier's inability to pay its debts when due; assignment for the benefit of Supplier's creditors; or voluntary or involuntary appointment of a receiver or filing of bankruptcy of Supplier shall constitute a material breach of the Supplier's obligations, which may result in partial or whole termination of the Contract. This subsection is not intended as an exhaustive list of material breach conditions. Termination may also result from other instances of failure to adhere to the Contract provisions and for other reasons provided for by applicable law, rules or regulations; without limitation, OAC 260:115-9-1 is an example.

19 Termination for Convenience

19.1 The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days' written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.

19.2 Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been

accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

20 Suspension of Supplier

- 20.1** Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.
- 20.2** Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.
- 20.3** Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into the Contract. A determination that Supplier knowingly rendered an erroneous certification, in

addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

22 Certification Regarding State Employees Prohibition From Fulfilling Services

Pursuant to 74 O.S. § 85.42, the Supplier certifies that no person involved in any manner in development of the Contract employed by the State shall be employed to fulfill any services provided under the Contract.

23 Force Majeure

23.1 Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other similar casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. If a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable.

23.2 Subject to the conditions set forth above, non-performance as a result of a force majeure event shall not be deemed a default. However, a purchase order or other payment mechanism may be terminated if Supplier cannot cause delivery of a product or service in a timely manner to meet the business needs of Customer. Supplier is not entitled to payment for products or services not received and, therefore, amounts payable to Supplier during the force majeure event shall be equitably adjusted downward.

23.3 Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality,

indemnification, data security or breach notification obligations set forth herein.

24 Security of Property and Personnel

In connection with Supplier's performance under the Contract, Supplier may have access to Customer personnel, premises, data, records, equipment and other property. Supplier shall use commercially reasonable best efforts to preserve the safety and security of such personnel, premises, data, records, equipment, and other property of Customer. Supplier shall be responsible for damage to such property to the extent such damage is caused by its employees or subcontractors and shall be responsible for loss of Customer property in its possession, regardless of cause. If Supplier fails to comply with Customer's security requirements, Supplier is subject to immediate suspension of work as well as termination of the associated purchase order or other payment mechanism.

25 Notices

All notices, approvals or requests allowed or required by the terms of any Contract Document shall be in writing, reference the Contract with specificity and deemed delivered upon receipt or upon refusal of the intended party to accept receipt of the notice. In addition to other notice requirements in the Contract and the designated Supplier contact provided in a successful Bid, notices shall be sent to the State at the physical address set forth below. Notice information may be updated in writing to the other party as necessary. Notwithstanding any other provision of the Contract, confidentiality, breach and termination-related notices shall not be delivered solely via e-mail.

If sent to the State:

State Purchasing Director
2401 N. Lincoln Blvd., Second Floor
Oklahoma City, Oklahoma 73105

With a copy, which shall not constitute notice, to:

Purchasing Division Deputy General Counsel
2401 N. Lincoln Blvd., Second Floor
Oklahoma City, Oklahoma 73105

26 Miscellaneous

26.1 Choice of Law and Venue

Any claim, dispute, or litigation relating to the Contract Documents, in the singular or in the aggregate, shall be governed by the laws of the State without regard to application of choice of law principles. Pursuant to 74 O.S. §85.7(F),

where federal granted funds are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure benefit of such federal funds to the State. Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents, shall be in Oklahoma County, Oklahoma. The State expressly declines any terms that minimize its rights under Oklahoma law, including but not limited to, Statutes of Limitations.

26.2 No Guarantee of Products or Services Required

The State shall not guarantee any minimum or maximum amount of Supplier products or services required under the Contract.

26.3 Employment Relationship

The Contract does not create an employment relationship. Individuals providing products or performing services pursuant to the Contract are not employees of the State or Customer and, accordingly are not eligible for any rights or benefits whatsoever accruing to such employees.

26.4 Transition Services

If transition services are needed at the time of Contract expiration or termination, Supplier shall provide such services on a month-to-month basis, at the contract rate or other mutually agreed rate. Supplier shall provide a proposed transition plan, upon request, and cooperate with any successor supplier and with establishing a mutually agreeable transition plan. Failure to cooperate may be documented as poor performance of Supplier.

26.5 Publicity

The existence of the Contract or any Acquisition is in no way an endorsement of Supplier, the products or services and shall not be so construed by Supplier in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales, promotion, and other publicity matters relating to the Contract wherein the name of the State or any Customer is mentioned or language used from which, in the State's judgment, an endorsement may be inferred or implied. Supplier further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the Contract or any Acquisition hereunder without obtaining the prior written approval of the State.

26.6 Open Records Act

Supplier acknowledges that all State agencies and certain other Customers are subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 *et seq.*

Supplier also acknowledges that compliance with the Oklahoma Open Records Act and all opinions of the Oklahoma Attorney General concerning the Act is required.

26.7 Failure to Enforce

Failure by the State or a Customer at any time to enforce a provision of, or exercise a right under, the Contract shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Contract at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Contract.

26.8 Mutual Responsibilities

- A. No party to the Contract grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.
- B. The Contract is a non-exclusive contract and each party is free to enter into similar agreements with others.
- C. The Customer and Supplier each grant the other only the licenses and rights specified in the Contract and all other rights and interests are expressly reserved.
- D. The Customer and Supplier shall reasonably cooperate with each other and any Supplier to which the provision of a product and/or service under the Contract may be transitioned after termination or expiration of the Contract.
- E. Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by a party is required under the Contract, such action shall not be unreasonably delayed or withheld.

26.9 Invalid Term or Condition

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, no representation or warranty is made regarding the enforceability of such term or condition. Likewise, any applicable State or federal law or regulation which conflicts with the Contract

or any non-conflicting applicable State or federal law or regulation is not waived.

26.10 Severability

If any provision of a Contract Document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

26.11 Section Headings

The headings used in any Contract Document are for convenience only and do not constitute terms of the Contract.

26.12 Sovereign Immunity

Notwithstanding any provision in the Contract, the Contract is entered into subject to the State's Constitution, statutes, common law, regulations, and the doctrine of sovereign immunity, none of which are waived by the State nor any other right or defense available to the State.

26.13 Survival

As applicable, performance under all license, subscription, service agreements, statements of work, transition plans and other similar Contract Documents entered into between the parties under the terms of the Contract shall survive Contract expiration. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.

26.14 Entire Agreement

The Contract Documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid. The Supplier's representations and certifications, including any completed electronically, are incorporated by reference into the Contract.

26.15 Gratuities

The Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Supplier, its employee, agent, or another representative violated any federal, State or local law, rule or ordinance by offering or giving a gratuity to any State employee directly involved in the Contract. In addition, Suspension or Debarment of the Supplier may result from such a violation.

26.16 Import/Export Controls

Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under the Contract (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

ATTACHMENT C

AGENCY TERMS

Oklahoma Water Resources Board (OWRB): also referenced as the agency. OWRB is organized according to operational needs identified by the statutory responsibilities outlined in it empowering legislation. The organization consists of the Office of Executive Director, Administrative Services Division, Finance Assistance Division, Water Quality Division and Water Right Division and Engineering and Planning Division, each of which is responsible for the management of specific environmental program areas: For more information please visit our agency website : <https://www.owrb.ok.gov/>

FEDERAL FUNDS PROVISIONS

FEDERAL FUNDS: This contract may be subject to Federal Funds and subject to the following:

- i. The Davis Bacon Act
- ii. Fair Labor Standards Act of 1938, as Amended
- iii. McNamara-O'Hara Service Contract Act of 1965, as Amended
- iv. Contract Work Hours and Safety Standards Act, as Amended
- v. Walsh-Healey Public Contracts Act
- vi. Copeland Anti-Kickback Act

Audit With Federal Funds: Organizations that expend five hundred thousand dollars (\$500,000.00) or more in a year in federal funds from all sources shall have a certified independent audit conducted in accordance with OMB Circular A-133, (June 26, 2003 Revision), "Audits of States, Local Governments and Non-Profit Organizations," pursuant to the Single Audit Act of 1984 31 U.S.C. 7501 et seq., and subsequent amendments thereto.

Equal Opportunity/Non-Discrimination: The Contractor shall at all times comply with all federal laws relating to nondiscrimination, including, but not limited to, Presidential Executive Order 11246, as amended, and the Civil Rights Act of 1964, 42 U.S.C. §2000 et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §701 et seq.; the Americans With Disabilities Act of 1990, 42 U.S.C. §12101 et seq.; Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq.; the Age Discrimination in Employment Act, 42 U.S.C. §6101 et seq.; and all amendments to these acts, and all requirements imposed by the regulations issued pursuant to these acts, including, but not limited to, providing equal opportunity, both to those seeking employment and those seeking services, without regard to race, color, religion, sex, national origin, age, or handicap.

Lobbying Activities: The Contractor certifies the following:

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, renewal, amendment, or modification of any federal grant or cooperative agreement;

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Debarment, Suspension, And Other Responsibility Matters: In accordance with Presidential Executive Order 12549, the Contractor certifies that neither it nor its principals are presently debarred, suspended or otherwise ineligible for participation in federal assistance programs.

Compliance With State And Federal Laws: The Contractor shall comply with all applicable state and federal laws, rules and regulations relevant to the performance of the Contract. Compliance shall be the responsibility of the Contractor, without reliance on or direction by the OWRB.

Conduct On Government Property: Contractor, Contractor's Personnel and Subcontractors shall follow the rules below while working on government property:

- i. Contractor personnel shall present a neat, clean and well-groomed appearance at all times.
- ii. Contractor will provide uniforms or visible identification to personnel to be worn on OWRB property during normal business hours.
- iii. Contractor shall ensure that employees are available for each shift. When Contractor's personnel fail to report, the contractor will provide a replacement. The contractor will provide OWRB with the names and telephone numbers of equivalent representatives who are authorized to provide replacement personnel. OWRB must be able to reach the contractor's competent representative within 30 minutes and shall not be required to call more than three phone numbers in order to make contact.
- iv. Contractor and Contractor's personnel shall not be under the age of 18 years.
- v. Due to the increase of violence in the workplace, The Contractor and all Contractor's personnel shall meet the following requirements. The Contractor and Contractor's personnel shall have no history of a violent offense, and not be on probation for any criminal offense. In the event an employee is convicted of a violent act, or put on

probation for any criminal offense, The Contractor and Contractor's personnel shall notify OWRB immediately and dismiss the employee from duties at OWRB.

- vi. Contractor and Contractor's personnel must have a valid photo identification card and driver's license or other state or federally issued legally accepted identification documents and driver's license
- vii. Contractor and Contractor's personnel are prohibited from having firearms or other weapons in their possession, whether licensed or not'.
- viii. OWRB reserves the right to require the contractor to remove any of Contractor's personnel from OWRB Property, who endangers persons or property, displays impolite and socially unacceptable behavior, or whose continued employment under this contract is inconsistent with the interest of OWRB.

- ix. Eating or smoking by Contractor and Contractor's personnel while in the performance of their duties shall be prohibited. Smoking is prohibited by state law in, on or within 25 yards of state property.
- x. If Contractor and Contractor's personnel are allowed a break or lunch period during the course of their duties eating will be allowed in designated areas only.
- xi. Contractor and Contractor's personnel are prohibited from possessing controlled substances or intoxicating beverages while on duty.
- xii. Contractor and Contractor's personnel must treat OWRB Employees and/or visitors in a friendly and courteous professional manner at all times. Profanity will not be tolerated.

Delivery Terms

Bid prices must be FOB destination. All shipping, packaging, handling, and delivery charges must be paid for by the vendor. The units must be delivered within 30 days of a written or verbal request by the OWRB. Batch delivery of units is possible, and preferred, if agreed upon with OWRB during the bid process to facilitate delays due to supply chain issues. If allowed, batch sizes and delivery schedule will be at the determination of OWRB. Each batch of units must be delivered within 30 days of a written or verbal request by the OWRB. Each batch of units may be invoiced separately and will be paid in accordance with the provisions of this solicitation.

Warranty

Each item will have a minimum two-year warranty for parts, labor, and return shipping.

ATTACHMENT D

STATE OF OKLAHOMA INFORMATION TECHNOLOGY TERMS

The parties further agree to the following terms (“Information Technology Terms”), as applicable, for any Acquisition of products or services with an information technology or telecommunication component. Pursuant to the Oklahoma Information Technology Consolidation and Coordination Act (“The Act” or “Act”), OMES- Information Services (“OMES-IS”) is designated to purchase information technology and telecommunication products and services on behalf of the State. The Act directs OMES-IS to acquire necessary hardware, software and services and to authorize the use by other State agencies. OMES, as the owner of information technology and telecommunication assets and contracts on behalf of the State, allows other State agencies to use the assets while retaining ownership and the right to reassign the assets, at no additional cost, upon written notification to Supplier. OMES-IS is the data custodian for State agency data; however, such data is owned by the respective State agency.

1 DEFINITIONS

- 1.1 **Customer Data** means all data supplied by or on behalf of a Customer in connection with the Contract, excluding any confidential information of Supplier. Customer Data includes both Non-Public Data and Personal Data.
- 1.2 **Data Breach** means the unauthorized access or the reasonable suspicion of unauthorized access, by an unauthorized person that results in the use, destruction, loss, alteration, disclosure, or theft of Customer Data.
- 1.3 **Host** includes the terms Hosted or Hosting and means the accessing, processing or storing of Customer Data.
- 1.4 **Intellectual Property Rights** means the worldwide legal rights or interests evidenced by or embodied in any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery or improvement including any patents, trade secrets and know-how; any work of authorship including any copyrights, Moral Rights or neighboring rights; any trademark, service mark, trade dress, trade name or other indicia of source or origin; domain name registrations; and any other proprietary or similar rights. Intellectual Property Rights of a party also includes all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.
- 1.5 **Non-Public Data** means Customer Data, other than Personal Data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by Customer because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. Non-Public Data includes any data deemed confidential pursuant to the Contract, otherwise identified by Customer as Non-Public Data, or that a reasonable person would deem confidential.
- 1.6 **Personal Data** means Customer Data that contains 1) any combination of an individual’s name, social security numbers, driver’s license, state/federal identification number,

account number, credit or debit card number and/or 2) data subject to protection under a federal, state or local law, rule, regulation or ordinance.

- 1.7 **Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, loss, theft, or destruction of information or interference with the Hosted environment used to perform the services.
- 1.8 **Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State. A Supplier with whom the State enters into an awarded Contract shall also be known as a Contractor.
- 1.9 **Supplier Intellectual Property** means all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Supplier and identified in writing as such (a) prior to providing any services or Work Product to Customer and prior to receiving any documents, materials, information or funding from or on behalf of a Customer relating to the services or Work Product, or (b) after the effective date of the Contract if such tangible or intangible items or things were independently developed by Supplier outside Supplier's provision of services or Work Product for Customer under the Contract and were not created, prepared, developed, invented or conceived by any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.
- 1.10 **Third Party Intellectual Property** means the Intellectual Property Rights of any third party that is not a party to the Contract, and that is not directly or indirectly providing any goods or services to a Customer under the Contract.

2 **TERMINATION OF MAINTENANCE AND SUPPORT SERVICES**

Customer may terminate maintenance or support services without an adjustment charge, provided any of the following circumstances occur:

- 2.1 Customer removes the product for which the services are provided, from productive use; or,
- 2.2 The location at which the services are provided is no longer controlled by Customer (for example, because of statutory or regulatory changes or the sale or closing of a facility).
- 2.3 If Customer chooses to renew maintenance or support after maintenance has lapsed, Customer may choose to pay the additional fee, if any, associated with renewing a license after such maintenance or support has lapsed, or to purchase a new license. Any amount paid to Supplier in the form of prepaid fees that are unused when services under the Contract or purchase order are terminated shall be refunded to Customer.

3 **COMPLIANCE AND ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY**

- 3.1** State procurement of information technology is subject to certain federal and State laws, rules and regulations related to information technology accessibility, including but not limited to Oklahoma Information Technology Accessibility Standards (“Standards”) set forth at <https://oklahoma.gov/omes/services/information-services/is/policies-and-standards/accessibility-standards.html>. Supplier shall provide a Voluntary Product Accessibility Template (“VPAT”) describing accessibility compliance via a URL linking to the VPAT and shall update the VPAT as necessary in order to allow a Customer to obtain current VPAT information as required by State law. If products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Supplier. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum.

All representations contained in the VPAT provided will be relied upon by the State or a Customer, as applicable, for accessibility compliance purposes.

4 MEDIA OWNERSHIP (Disk Drive and/or Memory Chip Ownership)

- 4.1** Any disk drives and memory cards purchased with or included for use in leased or purchased products under the Contract remain the sole and exclusive property of the Customer.
- 4.2** Personal information may be retained within electronic media devices and components; therefore, electronic media shall not be released either between Customers or for the resale, of refurbished equipment that has been in use by a Customer, by the Supplier to the general public or other entities. This provision applies to replacement devices and components, whether purchased or leased, supplied by Supplier, its agents or subcontractors during the downtime (repair) of products purchased or leased through the Contract. If a device is removed from a location for repairs, the Customer shall have sole discretion, prior to removal, to determine and implement sufficient safeguards (such as a record of hard drive serial numbers) to protect personal information that may be stored within the hard drive or memory of the device.

5 OFFSHORE SERVICES

No offshore services are provided for under the Contract. State data shall not be used or accessed internationally for troubleshooting or any other use not specifically provided for herein without the prior written permission, which may be withheld in the State’s sole discretion, from the appropriate authorized representative of the State. Notwithstanding the above, back office administrative functions of the Supplier may be located offshore and the follow-the-sun support model may be used by the Supplier to the extent allowed by law applicable to any Customer data being accessed or used.

6 COMPLIANCE WITH TECHNOLOGY POLICIES

- 6.1** The Supplier agrees to adhere to the State of Oklahoma “Information Security Policy, Procedures, and Guidelines” available at <https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>.

Supplier’s employees and subcontractors shall adhere to the applicable State IT

Standards, policies, procedures and architectures as set forth at <https://oklahoma.gov/omes/services/information-services.html> or as otherwise provided by the State.

- 6.2 Supplier shall comply with applicable Federal Information Processing Standards including, without limitation, FIPS 200, FIPS 140-2 or successor standards and all recommendations from the National Institute of Standards and Technology. The confidentiality of Customer Data shall be protected and maintained in accordance with these standards as well as other applicable Customer standards.

7 EMERGING TECHNOLOGIES

The State reserves the right to enter into an Addendum to the Contract at any time to allow for emerging technologies not identified elsewhere in the Contract Documents if there are repeated requests for such emerging technology or the State determines it is warranted to add such technology.

8 EXTENSION RIGHT

In addition to extension rights of the State set forth in the Contract, the State Chief Information Officer reserves the right to extend any Contract at his or her sole option if the State Chief Information Officer determine such extension to be in the best interest of the State.

9 SOURCE CODE ESCROW

Pursuant to 62 O.S. § 34.31, if customized computer software is developed or modified exclusively for a State agency, the Supplier has a continuing obligation to comply with such law and place the source code for such software and any modifications thereto into escrow with an independent third-party escrow agent. Supplier shall pay all fees charged by the escrow agent and enter into an escrow agreement, the terms of which are subject to the prior written approval of the State, including terms that provide the State receives ownership of all escrowed source code upon the occurrence of any of the following:

- 9.1 A bona fide material default of the obligations of the Supplier under the agreement with the applicable Customer;
- 9.2 An assignment by the Supplier for the benefit of its creditors;
- 9.3 A failure by the Supplier to pay, or an admission by the Supplier of its inability to pay, its debts as they mature;
- 9.4 The filing of a petition in bankruptcy by or against the Supplier when such petition is not dismissed within sixty (60) days of the filing date;
- 9.5 The appointment of a receiver, liquidator or trustee appointed for any substantial part of the Supplier's property;
- 9.6 The inability or unwillingness of the Supplier to provide the maintenance and support services in accordance with the agreement with the agency;
- 9.7 Supplier's ceasing of maintenance and support of the software; or

9.8 Such other condition as may be statutorily imposed by the future amendment or enactment of applicable Oklahoma law.

10 COMMERCIAL OFF THE SHELF SOFTWARE OR SUPPLIER TERMS

If Supplier specifies terms and conditions or clauses in an electronic license, subscription, maintenance, support or similar agreement, including via a hyperlink or uniform resource locator address to a site on the internet, that conflict with the terms of this Contract, the additional terms and conditions or conflicting clauses shall not be binding on the State and the provisions of this Contract shall prevail. Further, no such terms and conditions or clauses shall expand the State's or Customer's liability or reduce the rights of Customer or the State.

11 OWNERSHIP RIGHTS

Any software developed, modified, or customized by the Supplier in accordance with a mutually negotiated statement of work pursuant to this Contract is for the sole and exclusive use of the State including but not limited to the right to use, reproduce, re-use, alter, modify, edit, or change the software as it sees fit and for any purpose. The parties mutually agree the State as a licensee of the Supplier does not make a claim of ownership to the existing Intellectual Property of Supplier. Moreover, except with regard to any deliverable based on Supplier Intellectual Property, the State shall be deemed the sole and exclusive owner of all right, title, and interest therein, including but not limited to all source data, information and materials furnished to the State, together with all plans, system analysis, and design specifications and drawings, completed programs and documentation thereof, reports and listing, all data and test procedures and all other items pertaining to the work and services to be performed pursuant to this Contract including all copyright and proprietary rights relating thereto. With respect to Supplier Intellectual Property, the Supplier grants the State, for no additional consideration, a perpetual, irrevocable, royalty-free license, solely for the internal business use of the State, to use, copy, modify, display, perform, transmit and prepare derivative works of Supplier Intellectual Property embodied in or delivered to the State in conjunction with the products.

Except for any Supplier Intellectual Property, all work performed by the Supplier of developing, modifying or customizing software and any related supporting documentation shall be considered as Work for Hire (as defined under the U.S. copyright laws) and, as such, shall be owned by and for the benefit of State.

In the event that it should be determined that any portion of such software or related supporting documentation does not qualify as "Work for Hire", Supplier hereby irrevocably grants to the State, for no additional consideration, a non-exclusive, irrevocable, royalty-free license to use, copy, modify, display, perform, transmit and prepare derivative works of any such software and any Supplier Intellectual Property embodied in or delivered to the State in conjunction with the products.

Supplier shall assist the State and its agents, upon request, in preparing U.S. and foreign copyright, trademark, and/or patent applications covering software developed, modified or customized for the State when made in accordance with a mutually negotiated statement of work pursuant to this Contract. Supplier shall sign any such applications, upon request, and deliver them to the State. The State shall bear all expenses that incurred in connection with such copyright, trademark, and/or patent applications.

If any Acquisition pursuant to this Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation owned by the State may be shared with other publicly funded agencies at the discretion of the State without permission from or additional compensation to the Supplier.

12 INTELLECTUAL PROPERTY OWNERSHIP TO WORK PRODUCT

The following terms apply to ownership and rights related to Intellectual Property:

- 12.1** As to the Intellectual Property Rights to Work Product between Supplier and Customer, Customer shall be the exclusive owner and not Supplier. Supplier specifically agrees that the Work Product shall be considered “works made for hire” and that the Work Product shall, upon creation, be owned exclusively by Customer. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Supplier agrees that all right, title and interest in and to all ownership rights and all Intellectual Property Rights in the Work Product is effectively transferred, granted, conveyed, assigned, and relinquished exclusively to Customer, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Supplier acknowledges that Supplier and Customer do not intend Supplier to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.) and upon reasonable prior notice to Supplier, to all Supplier materials, premises and computer files containing the Work Product. Supplier and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted under the Contract to any Third-Party Intellectual Property, except as may be incorporated in the Work Product by Supplier.
- 12.2** Supplier, upon request and without further consideration, shall perform any acts that may be deemed reasonably necessary or desirable by Customer to evidence more fully the transfer of ownership and/or registration of all Intellectual Property Rights in all Work Product to Customer to the fullest extent possible including, but not limited to, the execution, acknowledgement and delivery of such further documents in a form determined by Customer. In the event Customer shall be unable to obtain Supplier’s signature due to the dissolution of Supplier or Supplier’s failure to respond to Customer’s repeated requests for such signature on any document reasonably necessary for any purpose set forth in the foregoing sentence, Supplier hereby irrevocably designates and appoints Customer and its duly authorized officers and agents as Supplier’s agent and Supplier’s attorney-in-fact to act for and in Supplier’s behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by Supplier, provided however that no such grant of right to Customer is applicable if Supplier fails to execute any document due to a good faith dispute by Supplier with respect to such document. It is understood that such power is coupled with an interest and is therefore irrevocable. Customer shall have the full and sole power to prosecute such applications and to take all other action concerning the Work Product, and Supplier shall cooperate, at Customer’s sole expense, in the preparation and prosecution of all such applications and in any legal actions and proceedings concerning the Work Product.

- 12.3** Supplier hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Work Product which Supplier may now have or which may accrue to Supplier's benefit under U.S. or foreign copyright or other laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. Supplier acknowledges the receipt of equitable compensation for its assignment and waiver of such Moral Rights.
- 12.4** All documents, information and materials forwarded to Supplier by Customer for use in and preparation of the Work Product shall be deemed the confidential information of Customer, subject to the license granted by Customer to Supplier hereunder. Supplier shall not otherwise use, disclose, or permit any third party to use or obtain the Work Product, or any portion thereof, in any manner without the prior written approval of Customer.
- 12.5** These provisions are intended to protect Customer's proprietary rights pertaining to the Work Product and the Intellectual Property Rights therein and any misuse of such rights would cause substantial and irreparable harm to Customer's business. Therefore, Supplier acknowledges and stipulates that a court of competent jurisdiction may immediately enjoin a material breach of the Supplier's obligations with respect to confidentiality provisions of the Contract and the Work Product and a Customer's Intellectual Property Rights, upon a request by Customer, without requiring proof of irreparable injury, as same is presumed.
- 12.6** Upon the request of Customer, but in any event upon termination or expiration of this Contract or a statement of work, Supplier shall surrender to Customer all documents and things pertaining to the Work Product, generated or developed by Supplier or furnished by Customer to Supplier, including all materials embodying the Work Product, any Customer confidential information and Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete. This section is intended to apply to all Work Product as well as to all documents and things furnished to Supplier by Customer or by anyone else that pertains to the Work Product.
- 12.7** Customer hereby grants to Supplier a non-transferable, non-exclusive, royalty-free, fully paid license to use any Work Product solely as necessary to provide services to Customer. Except as provided in this section, neither Supplier nor any subcontractor shall have the right to use the Work Product in connection with the provision of services to its other customers without the prior written consent of Customer, which consent may be withheld in Customer's sole discretion.
- 12.8** To the extent that any Third Party Intellectual Property is embodied or reflected in the Work Product or is necessary to provide services, Supplier shall obtain from the applicable third party for the Customer's benefit, an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for Customer's internal business purposes; likewise, with respect to any Supplier Intellectual Property embodied or reflected in the Work Product or necessary to provide services, Supplier grants to Customer an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for the Customer's internal business purposes. Each such license shall allow the applicable Customer to (i) use, copy, modify, display, perform (by any means), transmit and prepare derivative works of any Third Party Intellectual Property or Supplier Intellectual Property embodied in or delivered to Customer in conjunction with the Work

Product and (ii) authorize others to do any or all of the foregoing. Supplier agrees to notify Customer on delivery of the Work Product or services if such materials include any Third Party Intellectual Property. The foregoing license includes the right to sublicense third parties, solely for the purpose of engaging such third parties to assist or carry out Customer's internal business use of the Work Product. Except for the preceding license, all rights in Supplier Intellectual Property remain in Supplier. On request, Supplier shall provide Customer with documentation indicating a third party's written approval for Supplier to use any Third Party Intellectual Property that may be embodied or reflected in the Work Product.

12.9 Supplier agrees that it shall have written agreement(s) that are consistent with the provisions hereof related to Work Product and Intellectual Property Rights with any employees, agents, consultants, contractors or subcontractors providing services or Work Product pursuant to the Contract, prior to the provision of such services or Work Product and that it shall maintain such written agreements at all times during performance of this Contract which are sufficient to support all performance and grants of rights by Supplier. Copies of such agreements shall be provided to the Customer promptly upon request.

12.10 To the extent not inconsistent with Customer's rights in the Work Product or other provisions, nothing in this Contract shall preclude Supplier from developing for itself, or for others, materials which are competitive with those produced as a result of the services provided under the Contract, provided that no Work Product is utilized, and no Intellectual Property Rights of Customer therein are infringed by such competitive materials. To the extent that Supplier wishes to use the Work Product or acquire licensed rights in certain Intellectual Property Rights of Customer therein in order to offer competitive goods or services to third parties, Supplier and Customer agree to negotiate in good faith regarding an appropriate license and royalty agreement to allow for such.

12.11 If any Acquisition pursuant to the Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation and materials owned by a Customer may be shared with other publicly funded agencies at the discretion of such Customer without permission from or additional compensation to the Supplier.

13 HOSTING SERVICES

A Supplier shall be responsible for the obligations set forth in in this Contract, including those obligations related to breach reporting and associated costs when a Supplier Hosting Customer Data or providing products or services pursuant to an Acquisition, contributes to, or directly causes a Data Breach or a Security Incident. Likewise, Supplier shall be responsible for the obligations set forth in in this Contract, including those obligations related to breach reporting and associated costs when a Supplier's affiliate or subcontractor contributes to, or directly causes a Data Breach or a Security Incident.

14 CHANGE MANAGEMENT

When a scheduled change is made to products or services provided to a Customer that impacts the Customer's system related to such product or service, Supplier shall provide two (2) weeks' prior written notice of such change. When the change is an emergency change, Supplier shall provide twenty-four (24) hours' prior written notice of the change. Repeated failure to provide such notice may be an evaluation factor (as indicative of Supplier's past performance) upon

renewal or if future bids submitted by Supplier are evaluated by the State.

15 SERVICE LEVEL DEFICIENCY

In addition to other terms of the Contract, in instances of the Supplier's repeated failure to provide an acceptable level of service or meet service level agreement metrics, service credits shall be provided by Supplier and may be used as an offset to payment due.

16 OWNERSHIP OF IT AND TELECOMMUNICATION ASSETS

Notwithstanding any other provision in the Contract and pursuant to the Oklahoma Information Technology Consolidation and Coordination Act, all information technology and telecommunication assets and contracts on behalf of appropriated agencies of the State belong to OMES-IS. OMES-IS allows other State agencies to use the assets while retaining ownership and the right to reassign the assets, at no additional cost, upon written notification to Supplier.

17 CUSTOMER DATA

17.1 The parties agree to the following provisions in connection with any Customer Data accessed, processed transmitted, or stored by or on behalf of the Supplier and the obligations, representations and warranties set forth below shall continue as long as the Supplier has an obligation under the Contract.

17.2 Customer will be responsible for the accuracy and completeness of all Customer Data provided to Supplier by Customer. Customer shall retain exclusive ownership of rights, title, and interest in Customer Data. Non-Public Data and Personal Data shall be deemed to be Customer's confidential information. Supplier shall restrict access to Customer Data to their employees with a need to know (and advise such employees of the confidentiality and non-disclosure obligations assumed herein).

17.3 Supplier shall promptly notify the Customer upon receipt of any requests from unauthorized third parties which in any way might reasonably require access to Customer Data or Customer's use of the Hosted environment. Supplier shall notify the Customer by the fastest means available and also in writing pursuant to Contract notice provisions and the notice provision herein. Except to the extent required by law, Supplier shall not respond to subpoenas, service or process, Freedom of Information Act or other open records requests, and other legal request related to Customer without first notifying the Customer and obtaining the Customer's prior approval, which shall not be unreasonably withheld, of Supplier's proposed responses. Supplier agrees to provide its completed responses to the Customer with adequate time for Customer review, revision and approval.

17.4 Supplier will use commercially reasonable efforts to prevent the loss of or damage to Customer Data in its possession and will maintain commercially reasonable back-up procedures and copies to facilitate the reconstruction of any Customer Data that may be lost or damaged by Supplier. Supplier will promptly notify Customer of any loss, damage to, or unauthorized access of Customer Data. Supplier will use commercially reasonable efforts to reconstruct any Customer Data that has been lost or damaged by Supplier as a result of its negligence or willful misconduct. If Customer Data is lost or damaged for reasons other than as a result of Supplier's negligence or willful misconduct, Supplier, at

the Customer's expense, will, at the request of the State, use commercially reasonable efforts to reconstruct any Customer Data lost or damaged.

18 DATA SECURITY

- 18.1** Supplier will use commercially reasonable efforts, consistent with industry standards, to provide security for the Hosted environment and Customer Data and to protect against both unauthorized access to the Hosting environment, and unauthorized communications between the Hosting environment and the Customer's browser. Supplier shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.
- 18.2** All Personal Data and Non-public Data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of Personal Data. All Personal Data and Non-Public Data shall be subject to controlled access. Any stipulation of responsibilities shall be included in a Statement of Work and will identify specific roles and responsibilities.
- 18.3** Supplier represents and warrants to the Customer that the Hosting equipment and environment will be routinely checked with a commercially available, industry standard software application with up-to-date virus definitions. Supplier will regularly update the virus definitions to ensure that the definitions are as up-to-date as is commercially reasonable. Supplier will promptly purge all viruses discovered during virus checks. If there is a reasonable basis to believe that a virus may have been transmitted to Customer by Supplier, Supplier will promptly notify Customer of such possibility in a writing that states the nature of the virus, the date on which transmission may have occurred, and the means Supplier has used to remediate the virus. Should the virus propagate to Customer's IT infrastructure, Supplier is responsible for costs incurred by Customer for Customer to remediate the virus.
- 18.4** At no time shall any Customer Data or processes – that either belong to or are intended for the use of the State - be copied, disclosed, or retained by Supplier or any party related to Supplier for subsequent use in any transaction that does not include the State unless otherwise agreed to by the State.
- 18.5** Supplier shall provide its services to Customer and its users solely from data centers in the U.S. Storage of Customer Data at rest shall be located solely in data centers in the U.S. Supplier shall not allow its personnel or contractors to store Customer Data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. Supplier shall permit its personnel and contractors to access Customer Data remotely only as required to fulfill Supplier's obligations under the Contract.
- 18.6** Supplier shall allow the Customer to audit conformance to the Contract terms. The Customer may perform this audit or contract with a third party at its discretion and at Customer's expense.

- 18.7 Supplier shall perform an independent audit of its data centers at least annually at its expense and provide a redacted version of the audit report upon request. Supplier may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit.
- 18.8 Any remedies provided are not exclusive and are in addition to other rights and remedies available under the terms of the Contract, at law or in equity.

19 SECURITY ASSESSMENT

- 19.1 The State requires any entity or third-party Supplier Hosting Oklahoma Customer Data to submit to a State Certification and Accreditation Review process to assess initial security risk. Supplier submitted to the review and met the State's minimum security standards at time the Contract was executed. Failure to maintain the State's minimum security standards during the term of the contract, including renewals, constitutes a material breach. Upon request, the Supplier shall provide updated data security information in connection with a potential renewal. If information provided in the security risk assessment changes, Supplier shall promptly notify the State and include in such notification the updated information; provided, however, Supplier shall make no change that results in lessened data protection or increased data security risk. Failure to provide the notice required by this section or maintain the level of security required in the Contract constitutes a material breach by Supplier and may result in a whole or partial termination of the Contract.
- 19.2 Any Hosting entity change must be approved in writing prior to such change. To the extent Supplier requests a different sub-contractor than the third-party Hosting Supplier already approved by the State, the different sub-contractor is subject to the State's approval. Supplier agrees not to migrate State's data or otherwise utilize the different third-party Hosting Supplier in connection with key business functions that are Supplier's obligations under the contract until the State approves the third-party Hosting Supplier's State Certification and Accreditation Review, which approval shall not be unreasonably withheld or delayed. In the event the third-party Hosting Supplier does not meet the State's requirements under the State Certification and Accreditation Review, Supplier acknowledges and agrees it will not utilize the third-party Supplier in connection with key business functions that are Supplier's obligations under the contract, until such third party meets such requirements.

20 SECURITY INCIDENT OR DATA BREACH NOTIFICATION

- 20.1 Supplier shall inform Customer of any Security Incident or Data Breach.
- 20.2 Supplier may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. If a Security Incident involves Customer Data, Supplier will coordinate with Customer prior to any such communication.
- 20.3 Supplier shall report a Security Incident to the Customer identified contact set forth herein within five (5) days of discovery of the Security Incident or within a shorter notice

period required by applicable law or regulation (i.e., HIPAA requires notice to be provided within 24 hours).

- 20.4 Supplier shall maintain processes and procedures to identify, respond to and analyze Security Incidents; (ii) make summary information regarding such procedures available to Customer at Customer's request, (iii) mitigate, to the extent practicable, harmful effects of Security Incidents that are known to Vendor; and (iv) documents all Security Incidents and their outcomes.
- 20.5 If Supplier has reasonable belief or actual knowledge of a Data Breach, Supplier shall (1) promptly notify the appropriate Customer identified contact set forth herein within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the Data Breach in a timely manner.

21 DATA BREACH NOTIFICATION AND RESPONSIBILITIES

This section only applies when a Data Breach occurs with respect to Personal Data or Non-Public Data within the possession or control of Supplier.

- 21.1 Supplier shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
- 21.2 Unless otherwise stipulated, if a Data Breach is a direct result of Supplier's breach of its obligation to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) credit monitoring services required by state or federal law; (4) a website or toll-free numbers and call center for affected individuals required by state law – all not to exceed the agency per record per person cost calculated for data breaches in the United States on the most recent Cost of Data breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by Supplier based on root cause.
- 21.3 If a Data Breach is a direct result of Supplier's breach of its obligations to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall indemnify and hold harmless the Customer against all penalties assessed to Indemnified Parties by governmental authorities in connection with the Data Breach.

22 SUPPLIER REPRESENTATIONS AND WARRANTIES

Supplier represents and warrants the following:

- 22.1 The product and services provided in connection with Hosting services do not infringe a third party's patent or copyright or other intellectual property rights.
- 22.2 Supplier will protect Customer's Non-Public Data and Personal Data from unauthorized dissemination and use with the same degree of care that each such party uses to protect

its own confidential information and, in any event, will use no less than a reasonable degree of care in protecting such confidential information.

22.3 The execution, delivery and performance of the Contract and any ancillary documents and the consummation of the transactions contemplated by the Contract or any ancillary documents by Supplier will not violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third parties retained or utilized by Supplier to provide goods or services for the benefit of the Customer.

22.4 Supplier shall not knowingly upload, store, post, e-mail or otherwise transmit, distribute, publish or disseminate to or through the Hosting environment any material that contains software viruses, malware or other surreptitious code designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or circumvent any "copy-protected" devices, or any other harmful or disruptive program.

23 INDEMNITY

Supplier agrees to defend, indemnify and hold the State, its officers, directors, employees, and agents harmless from all liabilities, claims, damages, losses, costs, expenses, demands, suits and actions (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification), excluding damages that are the sole fault of Customer, arising from or in connection with Supplier's breach of its express representations and warranties in these Information Technology Terms and the Contract. If a third party claims that any portion of the products or services provided by Supplier under the terms of another Contract Document or these Information Technology Terms infringes that party's patent or copyright, Supplier shall defend, indemnify and hold harmless the State and Customer against the claim at Supplier's expense and pay all related costs, damages, and attorney's fees incurred by or assessed to, the State and/or Customer. The State and/or Customer shall promptly notify Supplier of any third-party claims and to the extent authorized by the Attorney General of the State, allow Supplier to control the defense and any related settlement negotiations. If the Attorney General of the State does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall be granted authorization to equally participate in any proceeding related to this section, but Supplier shall remain responsible to indemnify Customer and the State for all associated costs, damages and fees incurred by or assessed to the State and/or Customer. Should the software become, or in Supplier's opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated in connection with Hosting services, Supplier may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.

24 TERMINATION, EXPIRATION AND SUSPENSION OF SERVICE

24.1 During any period of service suspension, Supplier shall not take any action to intentionally disclose, alter or erase any Customer Data.

24.2 In the event of a termination or expiration of the Contract, the parties further agree:

Supplier shall implement an orderly return of Customer Data in a format specified by the Customer and, as determined by the Customer:

- a. return the Customer Data to Customer at no additional cost, at a time agreed to by the parties and the subsequent secure disposal of State Data;
- b. transitioned to a different Supplier at a mutually agreed cost and in accordance with a mutually agreed data transition plan and the subsequent secure disposal of State Data or
- c. a combination of the two immediately preceding options.

24.3 Supplier shall not take any action to intentionally erase any Customer Data for a period of:

- a. 10 days after the effective date of termination, if the termination is in accordance with the contract period;
- b. 30 days after the effective date of termination, if the termination is for convenience; or
- c. 60 days after the effective date of termination if the termination is for cause.

After such period, Supplier shall, unless legally prohibited or otherwise stipulated, delete all Customer Data in its systems or otherwise in its possession or under its control.

24.4 The State shall be entitled to any post termination or expiration assistance generally made available with respect to the services.

24.5 Disposal by Supplier of Customer Data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the Customer, shall be performed in a secure manner. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to Customer within thirty (30) calendar day of its request for disposal of data.

25 GENERAL INFORMATION SECURITY REQUIREMENTS

25.1 No employee of Contractor or its subcontractors will be granted access to State of Oklahoma agency information systems without the prior completion and approval of applicable logon authorization and acceptable use requests.

25.2 Contractor or its subcontractors will notify applicable State of Oklahoma agencies when employees who have access to agency information systems are terminated.

25.3 Contractor or its subcontractors will disclose to Client any suspected breach of the security of the information system or the data contained therein in the most expedient time possible and without unreasonable delay and will cooperate with Client during the investigation of any such incident.

- 25.4 Contractor or its subcontractors agree to adhere to the State of Oklahoma “Information Security Policy, Procedures, and Guidelines” available at: <https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>

26 HIPAA REQUIREMENTS

- 26.1 Contractor shall agree to use and disclose Protected Health Information in its possession or control in compliance with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 C.F.R. Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The definitions set forth in the Privacy Rule are incorporated by reference into this Contract (45 C.F.R. §§ 160.103 and 164.501).
- 26.2 If applicable, Contractor will sign and adhere to a Business Associate Agreement (BAA). The Business Associate Agreement provides for satisfactory assurances that Contractor will use the information only for the purposes for which it was engaged. Contractor agrees it will safeguard the information from misuse and will comply with HIPAA as it pertains to the duties stated within the contract. Failure to comply with the requirements of this standard may result in funding being withheld from Contractor, and/or full audit and inspection of Contractor’s security compliance as it pertains to this contract.
- 26.3 Business Associate Terms Definitions:
- a. Unless otherwise defined in this BAA, all capitalized terms used in this BAA have the meanings ascribed in the HIPAA Regulations, provided; however, that “PHI” and “ePHI” shall mean Protected Health Information and Electronic Protected Health Information, respectively, as defined in 45 C.F.R. § 160.103, limited to the information Business Associate received from or created or received on behalf of the applicable State of Oklahoma agency as a Business Associate. “Administrative Safeguards” shall have the same meaning as the term “administrative safeguards in 45 C.F.R. § 164.304, with the exception that it shall apply to the management of the conduct of Business Associate’s workforce, not the State of Oklahoma agency workforce, in relation to the protection of that information.
 - b. Business Associate. “Business Associate” shall generally have the same meaning as the term “Business Associate” at 45 C.F.R. 160.103, and in reference to the party to this agreement, shall mean the entity whose name appears below.
 - c. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “Covered Entity” at 45 C.F.R. 160.103.
 - d. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164, all as may be amended.
 - e. The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of

Privacy Practices, Protected Health Information, required by law, Secretary, Security Incident, Sub-Contractor, Unsecured PHI, and Use.

26.4 Obligations of Business Associate: Business Associate may use Electronic PHI and PHI (collectively, “PHI”) solely to perform its duties and responsibilities under this Agreement and only as provided in this Agreement. Business Associate acknowledges and agrees that PHI is confidential and shall not be used or disclosed, in whole or in part, except as provided in this Agreement or as required by law. Specifically, Business Associate agrees it will, as applicable:

- a. use or further disclose PHI only as permitted in this Agreement or as Required by Law, including, but not limited to the Privacy and Security Rule;
- b. use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- c. implement and document appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of PHI that it creates, receives, maintains, or transmits for or on behalf of Covered Entity in accordance with 45 C.F.R. 164;
- d. implement and document administrative safeguards to prevent, detect, contain, and correct security violations in accordance with 45 C.F.R. 164;
- e. make its applicable policies and procedures required by the Security Rule available to Covered Entity solely for purposes of verifying BA’s compliance and the Secretary of the Department of Health and Human Services (HHS);
- f. not receive remuneration from a third party in exchange for disclosing PHI received from or on behalf of Covered Entity;
- g. in accordance with 45 C.F.R. 164.502(e)(1) and 164.308(b), if applicable, require that any Sub-Contractors that create, receive, maintain or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information; this shall be in the form of a written HIPAA Business Associate Contract and a fully executed copy will be provided to the Contract Monitor;
- h. report to Covered Entity in writing any use or disclosure of PHI that is not permitted under this Agreement as soon as reasonably practicable but in no event later than five calendar days from becoming aware of it and mitigate, to the extent practicable and in cooperation with Covered Entity, any harmful effects known to it of a use or disclosure made in violation of this Agreement;
- i. promptly report to Covered Entity in writing and without unreasonable delay and in no case later than five calendar days any successful Security Incident, as defined in the Security Rule, with respect to Electronic PHI;
- j. with the exception of law enforcement delays that satisfy the requirements of 45 C.F.R. 164.412, notify Covered Entity promptly, in writing and without

unreasonable delay and in no case later than five calendar days, upon the discovery of a breach of Unsecured PHI. Such notice shall include, to the extent possible, the name of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach. Business Associate shall also, to the extent possible, furnish Covered Entity with any other available information that Covered Entity is required to include in its notification to Individuals under 45 C.F.R. § 164.404(c) at the time of Business Associate's notification to Covered Entity or promptly thereafter as such information becomes available. As used in this Section, "breach" shall have the meaning given such term at 45 C.F.R. 164.402;

- k. to the extent allowed by law, indemnify and hold Covered Entity harmless from all claims, liabilities costs, and damages arising out of or in any manner related to the unauthorized disclosure by Business Associate of any PHI resulting from the negligent acts or omissions of Business Associate or to the breach by Business Associate of any applicable obligation related to PHI;
- l. provide access to PHI it maintains in a Designated Record Set to Covered Entity, or if directed by Covered Entity to an Individual in order to meet the requirements of 45 C.F.R. 164.524. In the event that any Individual requests access to PHI directly from Business Associate, Business Associate shall forward such request to Covered Entity within five working days of receiving a request. This shall be in the form of a written HIPAA Business Associate Contract and a fully executed copy will be provided to the Contract Monitor. Any denials of access to the PHI requested shall be the responsibility of Covered Entity;
- m. make PHI it maintains in a Designated Record Set available to Covered Entity for amendment and incorporate any amendments to PHI in accordance with 45 C.F.R. 164.526;
- n. document disclosure of PHI it maintains in a Designated Record Set and information related to such disclosure as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI, in accordance with 45 C.F.R. 164.528, and within five working days of receiving a request from Covered Entity, make such disclosure documentation and information available to Covered Entity. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall forward within five working days of receiving a request such request to Covered Entity;
- o. make its internal practices, books, and records related to the use and disclosure of PHI received from or created or received by Business Associate on behalf of Covered Entity available to the Secretary of the Department of HHS, authorized governmental officials, and Covered entity for the purpose of determining Business Associate's compliance with the Privacy Rule. Business Associate shall give Covered Entity advance written notice of requests from HHS or government officials and provide Covered Entity with a copy of all documents made available; and

- p. require that all of its Sub-Contractors, vendors, and agents to whom it provides PHI or who create, receive, use, disclose, maintain, or have access to Covered Entity's PHI shall agree in writing to requirements, restrictions, and conditions at least as stringent as those that apply to Business Associate under this Agreement, including but not limited to implementing reasonable and appropriate safeguards to protect PHI, and shall require that its Sub-Contractors, vendors, and agents agree to indemnify and hold harmless Covered Entity for their failure to comply with each of the provisions of this Agreement.

26.5 Permitted Uses and Disclosures of PHI by Business Associate: Except as otherwise provided in this Agreement, Business Associate may use or disclose PHI on behalf of or to provide services to Covered Entity for the purposes specified in this Agreement, if such use or disclosure of PHI would not violate the Privacy Rule if done by Covered Entity. Unless otherwise limited herein, Business Associate may:

- a. use PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate;
- b. disclose PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that; (i) the disclosures required by law; or (ii) Business Associate obtains reasonable assurances from any person to whom the PHI is disclosed that such PHI will be kept confidential and will be used or further disclosed only as Required by Law or for the purpose(s) for which it was disclosed to the person, and the person commits to notifying Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached;
- c. disclose PHI to report violations of law to appropriate federal and state authorities; or
- d. aggregate the PHI with other data in its possession for purposes of Covered Entity's Health Care Operations;
- e. make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures;
- f. de-identify any and all PHI obtained by Business Associate under this BAA, and use such de-identified data, all in accordance with the de-identification requirements of the Privacy Rule [45 C.F.R. § (d)(1)].

26.6 Obligations of Covered Entity

- a. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of protected health information.

- c. Covered Entity shall not request Business Associate use or disclose PHI in any manner that would violate the Privacy Rule if done by Covered Entity.
- d. Covered Entity agrees to timely notify Business Associate, in writing, of any arrangements between Covered Entity and the Individual that is the subject of PHI that may impact in any manner the use and/or disclosure of the PHI by Business Associate under this BAA.
- e. Covered Entity shall provide the minimum necessary PHI to Business Associate.

26.7 Term and Termination:

- a. Obligations of Business Associate upon Termination. Upon termination of this Agreement for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall as applicable:
 - i. retain only that PHI that is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - ii. return to Covered Entity (or, if agreed to by Covered Entity, destroy) the remaining PHI that the Business Associate still maintains in any form;
 - iii. continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
 - iv. not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at above under “Permitted Uses and Disclosures By Business Associate” that applied prior to termination; and
 - v. return to Covered Entity (or, if agreed to by Covered Entity, destroy) the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- b. All other applicable obligations of Business Associate under this Agreement shall survive termination.
- c. Should the applicable State of Oklahoma agency become aware of a pattern of activity or practice that constitutes a material breach of a material term of this BAA by Business Associate, the agency shall provide Business Associate with written notice of such a breach in sufficient detail to enable Contractor to understand the specific nature of the breach. The Client shall be entitled to terminate the Underlying Contract associated with such breach if, after the applicable State of Oklahoma agency provides the notice to Business Associate, Business Associate fails to cure the breach within a reasonable time period not less than thirty (30) days specified in such notice; provided, however, that such

time period specified shall be based on the nature of the breach involved per 45 C.F.R. §§ 164.504(e)(1)(ii)(A),(B) & 164.314 (a)(2)(i)(D).

26.8 Miscellaneous Provisions:

- a. No Third-Party Beneficiaries: Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- b. Business Associate recognizes that any material breach of this Business Associate Terms section or breach of confidentiality or misuse of PHI may result in the termination of this Agreement and/or legal action. Said termination may be immediate and need not comply with any termination provision in the parties' underlying agreement, if any.
- c. The parties agree to amend this Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the Privacy Rule and related laws and regulations.
- d. The applicable State of Oklahoma agency shall make available its Notice of Privacy Practices.
- e. Any ambiguity in this Agreement shall be resolved in a manner that causes this Agreement to comply with HIPAA.
- f. If Business Associate maintains a designated record set in an electronic format on behalf of Covered Entity, then Business Associate agrees that within 30 calendar days of expiration or termination of the parties' agreement, Business Associate shall provide to Covered Entity a complete report of all disclosures of and access to the designated record set covering the three years immediately preceding the termination or expiration. The report shall include patient name, date and time of disclosures/access, description of what was disclosed/accessed, purpose of disclosure/access, name of individual who received or accessed the information, and, if available, what action was taken within the designated record set.
- g. Amendment: To the extent that any relevant provision of the HIPAA Regulations is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to these revised obligations. The parties agree to amend this Agreement from time to time as is necessary for Covered Entity or to comply with the requirements of the Privacy Rule and related laws and regulations.

27 **42 C.F.R. PART 2 RELATED PROVISIONS**

- 27.1** Confidentiality of Information. Contractor's employees and agents shall have access to private data to the extent necessary to carry out the responsibilities, limited by the terms of this Agreement. Contractor accepts the responsibilities for providing adequate administrative supervision and training to their employees and agents to ensure

compliance with relevant confidentiality, privacy laws, regulations and contractual provisions. No private or confidential data collected, maintained, or used shall be disseminated except as authorized by statute and by terms of this Agreement, whether during the period of the Agreement or thereafter. Furthermore, Contractor:

- 27.2 Acknowledges that in receiving, transmitting, transporting, storing, processing, or otherwise dealing with any information received pursuant to this agreement that identifies or otherwise relates to the individuals under the care of or in the custody of a State of Oklahoma agency, it is fully bound by the provisions of the federal regulations governing the confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2 and the HIPAA, 45 C.F.R. 45 Parts 142, 160, and 164, Title 43 A § 1-109 of Oklahoma Statutes, and may not use or disclose the information except as permitted or required by this Agreement or by law;
- 27.3 Acknowledges that pursuant to 43A O.S. §1-109, all mental health and drug or alcohol treatment information and all communications between physician or psychotherapist and patient are both privileged and confidential and that such information is available only to persons actively engaged in treatment of the client or consumer or in related administrative work. Contractor agrees that such protected information shall not be available or accessible to staff in general and shall not be used for punishment or prosecution of any kind;
- 27.4 Agrees to resist any efforts in judicial proceedings to obtain access to the protected information except as expressly provided for in the regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2;
- 27.5 Agrees to, when applicable and to the extent within Contractor's control, use appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the State of Oklahoma agency and to use appropriate safeguards to prevent the unauthorized use or disclosure of the protected health information, and agrees that protected information will not be placed in the Child Protective Services (CPS) record of any individual involved with the Oklahoma Department of Human Services (DHS).
- 27.6 Agrees to report to the State of Oklahoma agency any use or disclosure or any security incident involving protected information not provided for by this Agreement. Such a report shall be made immediately when an employee becomes aware of such a disclosure, use, or security incident.
- 27.7 Agrees to provide access to the protected information at the request of the State of Oklahoma agency or to an authorized individual as directed by the State of Oklahoma agency, in order to meet the requirement of 45 C.F.R. §164.524 which provides clients with the right to access and copy their own protected information;
- 27.8 Agrees to make any amendments to the protected information as directed or agreed to by the State of Oklahoma agency, pursuant to 45 C.F.R. §164.526;
- 27.9 Agrees to make available its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of protected information received from the

State of Oklahoma agency or created or received by the Contractor on behalf of the State of Oklahoma agency, to the State of Oklahoma agency and to the Secretary of the Department of Health and Human Services for purpose of the Secretary determining the giving party's compliance with HIPAA;

- 27.10** Agrees to provide the State of Oklahoma agency, or an authorized individual, information to permit the State of Oklahoma agency to respond to a request by an individual for an accounting of disclosures in accordance with 45 C.F.R. §164.528.

28 DATA SECURITY

The Contractor agrees to, when applicable and to the extent within Contractor's control, maintain the data in a secure manner compatible with the content and use. The Contractor will, when applicable to the extent within Contractor's control, control access to the data in Contractor's possession or control compliance with the terms of this Agreement. Only the Contractor's personnel whose duties require the use of such information, will have regular access to the data. The Contractor's employees will be allowed access to the data only for the purpose set forth in this Agreement.

- 28.1** Data Destruction. Contractor agrees to, when applicable and to the extent within Contractor's control, follow State of Oklahoma agency policies regarding secure data destruction.
- 28.2** Use of Information. Contractor agrees that the information received or accessed through this Agreement shall not be used to the detriment of any individual nor for any purpose other than those stated in this Agreement.
- 28.3** Redislosure of Data. The Contractor agrees not to redisclose any information to a third party not covered by the Agreement unless written permission by the State of Oklahoma agency is received and redisclosure is permitted under applicable law.

29 FEDERAL TAX INFORMATION REQUIREMENTS IRS PUBLICATION 1075

- 29.1** PERFORMANCE: If Contractor takes possession or control of Federal Tax Information in performance of this contract, the Contractor agrees to, when applicable and to the extent within Contractor's control, comply with and assume responsibility for compliance by officers or employees with the following requirements:
- 29.2** All work will be performed under the supervision of the State of Oklahoma.
- 29.3** The contractor and contractor's officers or employees to be authorized access to FTI must meet background check requirements defined in IRS Publication 1075. The contractor will maintain a list of officers or employees authorized access to FTI. Such list will be provided to the agency and, upon request, to the IRS.
- 29.4** FTI in hardcopy or electronic format shall be used only for the purpose of carrying out the provisions of this contract. FTI in any format shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection or disclosure of FTI to anyone other than the contractor or the contractor's officers or employees authorized is prohibited.

- 29.5** FTI will be accounted for upon receipt and properly stored before, during, and after processing. In addition, any related output and products require the same level of protection as required for the source material.
- 29.6** The contractor will certify that FTI processed during the performance of this contract will be completely purged from all physical and electronic data storage with no output to be retained by the contractor at the time the work is completed. If immediate purging of physical and electronic data storage is not possible, the contractor will certify that any FTI in physical or electronic storage will remain safeguarded to prevent unauthorized disclosures.
- 29.7** Any spoilage or any intermediate hard copy printout that may result during the processing of FTI will be given to the agency. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and will provide the agency with a statement containing the date of destruction, description of material destroyed, and the destruction method.
- 29.8** All Contractor computer systems receiving, processing, storing, or transmitting FTI must meet the requirements in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to FTI.
- 29.9** No work involving FTI furnished under this contract will be subcontracted without the prior written approval of the IRS.
- 29.10** Contractor will ensure that the terms of FTI safeguards described herein are included, without modification, in any approved subcontract for work involving FTI.
- 29.11** To the extent the terms, provisions, duties, requirements, and obligations of this contract apply to performing services with FTI, the contractor shall assume toward the subcontractor all obligations, duties and responsibilities that the agency under this contract assumes toward the contractor, and the subcontractor shall assume toward the contractor all the same obligations, duties and responsibilities which the contractor assumes toward the agency under this contract.
- 29.12** In addition to the subcontractor's obligations and duties under an approved subcontract, the terms and conditions of this contract apply to the subcontractor, and the subcontractor is bound and obligated to the contractor hereunder by the same terms and conditions by which the contractor is bound and obligated to the agency under this contract.
- 29.13** For purposes of this contract, the term "contractor" includes any officer or employee of the contractor with access to or who uses FTI, and the term "subcontractor" includes any officer or employee of the subcontractor with access to or who uses FTI.
- 29.14** The agency will have the right to void the contract if the contractor fails to meet the terms of FTI safeguards described herein.

30 CRIMINAL/CIVIL SANCTIONS

- 30.1** Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that FTI disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any FTI for a purpose not authorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution.
- 30.2** Each officer or employee of a contractor to whom FTI is or may be accessible shall be notified in writing that FTI accessible to such officer or employee may be accessed only for a purpose and to the extent authorized herein, and that access/inspection of FTI without an official need-to-know for a purpose not authorized herein constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.
- 30.3** Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that any such unauthorized access, inspection or disclosure of FTI may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each unauthorized access, inspection, or disclosure, or the sum of actual damages sustained as a result of such unauthorized access, inspection, or disclosure, plus in the case of a willful unauthorized access, inspection, or disclosure or an unauthorized access/inspection or disclosure which is the result of gross negligence, punitive damages, plus the cost of the action. These penalties are prescribed by IRC sections 7213, 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.
- 30.4** Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- 30.5** Granting a contractor access to FTI must be preceded by certifying that each officer or employee understands the agency's security policy and procedures for safeguarding FTI. A contractor and each officer or employee must maintain their authorization to access FTI through annual recertification of their understanding of the agency's security policy and procedures for safeguarding FTI. The initial certification and recertifications must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, a contractor and each officer or employee must be advised of the provisions of IRC sections 7213, 7213A, and 7431 (see IRS Publication 1075, Exhibit 4, Sanctions for Unauthorized Disclosure, and IRS Publication 1075, Exhibit 5, Civil Damages for Unauthorized Disclosure). The training on the agency's security policy and procedures provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. For the initial certification and the annual recertifications, the contractor and each officer or employee must sign, either with ink or

electronic signature, a confidentiality statement certifying their understanding of the security requirements.

31 INSPECTION

The IRS and the Agency, with 24-hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. Based on the inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with FTI safeguard requirements.

32 SSA REQUIREMENTS

- 32.1** PERFORMANCE: If Contractor takes possession or control of in SSA provided information in the performance of this contract, the contractor agrees to, where applicable and to the extent within Contractor's control comply with and assume responsibility for compliance by his or her employees with the following requirements:
- 32.2** All work will be done under the supervision of the State of Oklahoma.
- 32.3** Any SSA provided information made available shall be used only for carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the Contractor is prohibited.
- 32.4** All SSA provided information shall be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
- 32.5** No work involving SSA provided information furnished under this contract shall be subcontracted without prior written approval by the applicable State of Oklahoma agency and the SSA.
- 32.6** The Contractor shall maintain a list of employees authorized access. Such list shall be provided upon request to the applicable State of Oklahoma agency or the SSA.
- 32.7** Contractor or agents may not legally process, transmit, or store SSA-provided information in a cloud environment without explicit permission from SSA's Chief Information Officer. Proof of this authorization shall be provided to the Contractor by the applicable State of Oklahoma agency prior to accessing SSA provided information.
- 32.8** Contractor shall provide security awareness training to all employees, contractors, and agents who access SSA-provided information. The training should be annual, mandatory, and certified by the personnel who receive the training. Contractor is also required to certify that each employee, contractor, and agent who views SSA-provided information certify that they understand the potential criminal, civil, and administrative sanctions or penalties for unlawful assess and/or disclosure.

- 32.9** Contractor shall require employees, contractors, and agents to sign a non-disclosure agreement, attest to their receipt of Security Awareness Training, and acknowledge the rules of behavior concerning proper use and security in systems that process SSA-provided information. Contractor shall retain non-disclosure attestations for at least five (5) to seven (7) years for each employee who processes, views, or encounters SSA-provided information as part of their duties.
- 32.10** The applicable State of Oklahoma agency shall provide the Contractor a copy of the SSA exchange agreement and all related attachments before initial disclosure of SSA data. Contractor is required to follow the terms of the applicable State of Oklahoma agency's data exchange agreement with the SSA. Prior to signing this Agreement, and thereafter at SSA's request, the applicable State of Oklahoma agency shall obtain from the Contractor a current list of the employees of such Contractor with access to SSA data and provide such list to the SSA.
- 32.11** Where the Contractor processes, handles, or transmits information provided to the applicable State of Oklahoma agency by SSA or has authority to perform on the agency's behalf, the applicable State of Oklahoma agency shall clearly state the specific roles and functions of the Contractor within the Agreement.
- 32.12** SSA requires all parties subject to this Agreement to exercise due diligence to avoid hindering legal actions, warrants, subpoenas, court actions, court judgments, state or Federal investigations, and SSA special inquiries for matters pertaining to SSA-provided information.
- 32.13** SSA requires all parties subject to this Agreement to agree that any Client-owned or subcontracted facility involved in the receipt, processing, storage, or disposal of SSA-provided information operate as a "de facto" extension of the Client and is subject to onsite inspection and review by the Client or SSA with prior notice.
- 32.14** If the Contractor must send a Contractor computer, hard drive, or other computing or storage device offsite for repair, the Contractor must have a non-disclosure clause in their contract with the vendor. If the Contractor used the item in a business process that involved SSA-provided information and the vendor will retrieve or may view SSA-provided information during servicing, SSA reserves the right to inspect the Contractor's vendor contract. The Contractor must remove SSA-provided information from electronic devices before sending it to an external vendor for service. SSA expects the Contractor to render SSA-provided information unrecoverable or destroy the electronic device if they do not need to recover the information. The same applies to excessed, donated, or sold equipment placed into the custody of another organization.
- 32.15** In the event of a suspected or verified data breach involving SSA provided information, the Contractor shall notify the Client immediately.
- 32.16** The Client shall have the right to void the contract if the contractor fails to provide the safeguards described above.

33 CRIMINAL/CIVIL SANCTIONS

The Act specifically provides civil remedies, 5 U.S.C. Sec. 552a(g), including damages, and criminal penalties, 5 U.S.C. Sec. 552a(i), for violations of the Act. The civil action provisions are premised violations of the Act committed by parties subject to this Agreement or regulations promulgated thereunder. An individual claiming such a violation by parties subject to this Agreement may bring civil action in a federal district court. If the individual substantially prevails, the court may assess reasonable attorney fees and other litigation costs. In addition, the court may direct the parties subject to this Agreement to grant the plaintiff access to his/her records, and when appropriate direct an amendment or correction of records subject to the Act. Actual damages may be awarded to the plaintiff for intentional or willful refusal by parties subject to this Agreement to comply with the Act.

33.1 Civil Remedies

- a. In any suit brought under the provisions of 5 U.S.C. § 552a(g)(1)(C) or (D) in which the court determines that the parties subject to this Agreement acted in a manner which was intentional or willful, shall be liable in an amount equal to the sum of
- b. actual damages sustained by the individual because of the refusal or failure, but in no case, shall a person entitled to recovery receive less than the sum of \$1,000; and
- c. the costs of the action together with reasonable attorney fees as determined by the court.
- d. An action to enforce any liability created under 5 U.S.C. § 552a may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where parties subject to this Agreement have materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under 5 U.S.C. § 552a, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action because of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

33.2 Criminal Penalties

- a. Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(1).

- b. Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(2).
- c. Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(3).

34 CHILD SUPPORT FPLS REQUIREMENTS

- 34.1** Contractor, when applicable and to the extent within Contractor's control, and the applicable State of Oklahoma agency must comply with the security requirements established by the Social Security Act, the Privacy Act of 1974, the Federal Information Security Management Act of 2002 (FISMA), 42 United States Code (USC) 654(26), 42 UCS 654a(d)(1)-(5), the U.S. Department of Health and Human Services (HHS), the U.S. Department of Health and Human Services Administration of Children and Families Office of Child Support Enforcement Security Agreement and the Automated Systems for Child Support Enforcement: A Guide for States Section H Security and Privacy. Contractor and applicable State of Oklahoma agency also agree to use Federal Parent Locator Service (FPLS) information and Child Support (CS) program information solely for the authorized purposes in accordance with the terms in this agreement. The information exchanged between state Child Support agencies and all other state program information must be used for authorized purposes and protected against unauthorized access to reduce fraudulent activities and protect the privacy rights of individuals against unauthorized disclosure of confidential information.
- 34.2** This is applicable to the personnel, facilities, documentation, data, electronic and physical records and other machine-readable information systems of the applicable State of Oklahoma agency and Contractor, including, but not limited to, state employees and contractors working with FPLS information and CS program information and state CS agency data centers, statewide centralized data centers, contractor data centers, state Health and Human Services' data centers, comprehensive tribal agencies, data centers serving comprehensive tribes, and any other individual or entity collecting, storing, transmitting or processing FPLS information and CS program information. This is applicable to all FPLS information, which consists of the National Directory of New Hires (NDNH), Debtor File, and the Federal Case Registry (FCR). The NDNH, Debtor File and FCR are components of an automated national information system.
- 34.3** This is also applicable to all CS program information, which includes the state CS program information, other state and tribal program information, and confidential information. Confidential information means any information relating to a specified individual or an individual who can be identified by reference to one or more factors specific to him or her, including but not limited to the individual's Social Security number, residential and mailing addresses, employment information, and financial information. Ref. 45 Code of Federal Regulations (CFR) 303.21(a).

35 FERPA REQUIREMENTS

- 35.1** If Contractor takes possession or control of Information covered by FERPA in performance of this Agreement, Contractor agrees to, when applicable and to the extent within Contractor's control comply with and assume responsibility for compliance by its employees with the Family Educational Rights and Privacy Act; (20 U.S.C. § 1232g; 34 CFR Part 99) ("FERPA") and the Oklahoma Student Data Accessibility, Transparency, and Accountability Act of 2013; (70 O.S. § 3-168), where personally identifiable student education data is exchanged.

36 CJIS REQUIREMENTS

- 36.1** INTRODUCTION - This section shall be applicable to the extent that Contractor takes possession or control of CJIS data. The use and maintenance of all items of software or equipment offered for purchase herein must be in compliance with the most current version of the U.S. Department of Justice, Federal Bureau of Investigation ("FBI"), Criminal Justice Information Services (CJIS) Division's CJIS Security Policy ("CJIS Security Policy" or "Security Policy" herein).
- 36.2** The Entity or Affiliate acquiring the data or system is hereby ultimately responsible for compliance with the CJIS Security Policy and will be subject to an audit by the State of Oklahoma CJIS Systems Officer ("CSO") and the FBI CJIS Division's Audit Staff.
- 36.3** CJIS SECURITY POLICY REQUIREMENTS GENERALLY - The CJIS Security Policy outlines a number of administrative, procedural, and technical controls agencies must have in place to protect Criminal Justice Information ("CJI"). Our experience is that agencies will generally have many of the administrative and procedural controls in place but will need to implement additional technical safeguards in order to be in complete compliance with the mandate. A Criminal Justice Agency ("CJA") and certain other governmental agencies procuring technology equipment and services that could be used in hosting or connecting or transmitting or receiving CJI data may need to use the check list herein to make sure that the software, equipment, location, security, and persons having the ability to access CJI will meet the CJIS requirements per the then current CJIS Security Policy. A completed Appendix H to said Security Policy will need to be signed by Vendor or a 3rd party if it has access to CJI, such as incident to the maintenance or support of the purchased hardware or software within which resides CJI. Per Appendix "A" to said Security Policy, "access to CJI is the physical or logical (electronic) ability, right or privilege to view, modify or make use of CJI."
- 36.4** DIRECTIVE CONCERNING ACCESS TO CRIMINAL JUSTICE INFORMATION AND TO HARDWARE OR SOFTWARE WHICH INTERACTS WITH CJI AND CERTIFICATION- The FBI CJIS Division provides state-of-the-art identification and information services to the local, state, tribal, federal, and international criminal justice communities for criminal justice purposes, as well as the noncriminal justice communities for noncriminal justice purposes.
- 36.5** This Directive primarily concerns access to CJI and access to hardware and software in the use, retention, transmission, reception, and hosting of CJI for criminal justice purposes and not for noncriminal justice purposes. In that regard, this Directive is not only applicable to such data, but also to the hardware and software interacting with such data, their location(s), and persons having the ability to access such data. The CJIS data applicable to the Security Policy is the data described as such in said Policy plus all data

transmitted over the Oklahoma Law Enforcement Telecommunications System (“OLETS”) which is operated by DPS.

36.6 In order to have access to CJI or to the aforesaid hardware or software, the vendor must be familiar with the FBI CJIS Security Policy, including but not limited to the following portions of said Security Policy:

- a. the Definitions and Acronyms in §3 & Appendices “A” & “B”;
- b. the general policies in §4;
- c. the Policies in §5;
- d. the appropriate forms in Appendices “D”, “E”, “F” & “H”; and
- e. the Supplemental Guidance in Appendices “J”.

36.7 This FBI Security Policy is located and may be downloaded at:

- a. <https://www.fbi.gov/services/cjis/cjissecurity-policy-resource-center><https://www.fbi.gov/services/cjis/cjissecurity-policy-resource-center>.
- b. By executing the Contract to which this Directive is attached, the vendor hereby CERTIFIES that the foregoing directive has and will be followed, including but not limited to full compliance with the FBI CJIS Security Policy, as amended and as applicable.

37 NOTICES

37.1 In addition to notice requirements under the terms of the Contract otherwise, the following individuals shall also be provided the request, approval or notice, as applicable:

Chief Information Officer
3115 N. Lincoln Blvd
Oklahoma City, OK 73105

With a copy, which shall not constitute notice, to:

OMES Deputy General Counsel
3115 North Lincoln Blvd
Oklahoma City, Oklahoma 73105

<i>Attachemnt A: ITEMS (Please Bid on the Following)</i>	<i>SKU # *</i>	<i>feet per cable</i>	<i>QTY.</i>	<i>Price</i>	<i>Cost</i>
Vulink Telemetry System	0094840		62	895	55490
Shipping (Freight Estimate)					
Total					\$55,490.00

3. SUMMARY DISPOSITION AGENDA ITEMS

WATER RIGHTS ADMINISTRATION DIVISION
AND
ENGINEERING AND PLANNING DIVISION

September 17, 2024

WATER RIGHTS ADMINISTRATION DIVISION
Applications for Temporary Permits to Use Groundwater

September 17, 2024

APP. NO. & DATE FILED	NAME OF APPLICANT	NUMBER OF WELLS	COUNTY & BASIN	LAND DEDICATED	PURPOSE & AMOUNT RECOMMENDED
2023-565 6/7/2023	Edward W. Granger	4	Caddo County, Rush Springs Sandstone	80 acres Section 32, T9N, R10WIM	Irrigation 80 a.f.
2023-619 8/31/2023	Thomas Public Works Authority	2	Custer County, Rush Springs Sandstone	160 acres Section 29, T15N, R14WIM	Public Water Supply 320 a.f.
2023-674 11/16/2023	Angels Gate, LLC	1	Grady County, Rush Springs Sandstone	2.5 acres Section 31, T4N, R7WIM	Agriculture 1 a.f.

WATER RIGHTS ADMINISTRATION DIVISION
Applications to Amend Temporary Permits to Use Groundwater

September 17, 2024

APP. NO. & DATE FILED	NAME OF APPLICANT	NUMBER OF WELLS	COUNTY & BASIN	LAND DEDICATED	PURPOSE & AMOUNT RECOMMENDED
1979-535B 5/3/2024	Jonathan Austin Wingard	3	Custer County, Rush Springs Sandstone	91.21 acres Section 21, T14N, R14WIM	Irrigation and Agriculture 182.42 a.f.

WATER RIGHTS ADMINISTRATION DIVISION
Applications for Regular Permits to Use Groundwater

September 17, 2024

APP. NO. & DATE FILED	NAME OF APPLICANT	NUMBER OF WELLS	COUNTY & BASIN	LAND DEDICATED	PURPOSE & AMOUNT RECOMMENDED
2022-568 10/10/2022	Steve Frantz	1	Beaver County, Ogallala Panhandle	316 acres Section 25, 36, T3N, R21ECM	Irrigation 320 a.f.
2023-631 9/15/2023	Dakota Kinder	4	Tillman County, Tillman Terrace	480 acres Section 15, T1N, R18WIM	Irrigation and Agriculture 477 a.f.
2024-513 1/30/2024	A & K Land and Cattle, LLC	6	Texas County, Ogallala Panhandle	627.4 acres Section 13,14, 15, T3N, R18ECM; Section 18, T3N, R19ECM	Irrigation 1,254.8 a.f.
2024-549 3/12/2024	A & K Land and Cattle, LLC	2	Texas County, Ogallala Panhandle	480 acres Section 4, 5, T4N, R19ECM	Irrigation 960 a.f.
2024-553 3/19/2024	Bobby and Annette Landreth	4	Blaine County, North Canadian River A & T	480 acres Section 21, T15N, R10WIM	Irrigation 320 a.f.
2024-562 4/2/2024	Kenny and Roberta Lunsford	2	Texas County, Ogallala Panhandle	160 acres Section 21, T6N, R13ECM	Irrigation 320 a.f.
2024-580 6/7/2024	A & K Land and Cattle, LLC	1	Texas County, Ogallala Panhandle	160 acres Section 22, T4N, R18ECM	Irrigation 320 a.f.
2024-584 4/24/2024	SAW Farming, a Kansas General Partnership	2	Texas County, Ogallala Panhandle	160 acres Section 17, T5N, R18ECM	Irrigation 320 a.f.

WATER RIGHTS ADMINISTRATION DIVISION
Applications to Amend Regular Permits to Use Groundwater

September 17, 2024

APP. NO. & DATE FILED	NAME OF APPLICANT	NUMBER OF WELLS	COUNTY & BASIN	LAND DEDICATED	PURPOSE & AMOUNT RECOMMENDED
2004-563B 3/25/2024	C.L. Chapman Revocable Trust	1	Texas County, Ogallala Panhandle	160 acres Sections 12, T2N, R14ECM	Irrigation 320 a.f.

WATER RIGHTS ADMINISTRATION DIVISION
Applications for Term/Seasonal Permits to Use Stream Water

September 17, 2024

APP. NO. & DATE FILED	NAME OF APPLICANT	POINTS OF DIVERSION	COUNTY & STREAM SYSTEM	PURPOSE & AMOUNT RECOMMENDED
2024-005 4/25/2024	KAW Nation	One point of diversion on KAW Lake in Section 27, T27N, R4EIM	Kay County SS 2-12	Irrigation 17.22 a.f.

**WATER RIGHTS ADMINISTRATION DIVISION
Well Driller and Pump Installer Licensing**

September 17, 2024

DPC NUMBER	NAME OF FIRM	CERTIFIED ACTIVITIES	OPERATORS
New Licenses, Accompanying Operator Certificates and Activities:			
New Operators, License Name Change, and/or Activities for Existing Licenses:			
DPC-0658	WSB	Groundwater Wells And Monitoring Wells	Joseph Stearns OP-2548
DPC-0658	WSB	Groundwater Wells	Chancy Maxey OP-2549
DPC-0283	Envirotech Engineering & Consulting	Monitoring Wells	William Cosper OP-2550
DPC-0283	Envirotech Engineering & Consulting	Monitoring Wells	Shon Jessee OP-2551
DPC-1006	Whiterock Resources	Monitoring Wells	Kefner Fisher OP-2552

ENGINEERING AND PLANNING DIVISION
Applications to Construct, Enlarge, Repair or
Alter Dam and/or Spillway

September 17, 2024

NID. NO. & COUNTY	NAME OF APPLICANT & NAME OF PROJECT	PLANS & SPECS PREPARED BY	HAZARD CLASSIFICATION	LEGAL DESCRIPTION
OK30601	Freeman Blue Bend Ranch, LLC	Joe Howell, PE	Low	Section 8, T3S, R7EIM
Johnston County	Freeman Blue Bend Dam	Fox Engineering, Inc.		

The applicant requests the approval for modifications made during construction to a previously approved application. The changes involve alterations to the low hazard-potential dam, which primarily serves the purpose of fish and wildlife. The top of the dam and the auxiliary spillway elevation were raised by 2 feet, and the primary spillway elevation was raised by 1 foot during construction, increasing the height and storage. As a result, the dam's current height is 42 feet, with a normal impoundment capacity of 189 acre-feet and a maximum capacity of 371 acre-feet.

**ENGINEERING AND PLANNING DIVISION
Floodplain Administrator Accreditation Applications**

September 17, 2024

NUMBER	NAME OF COMMUNITY	FLOODPLAIN ADMINISTRATOR
FPA-547	Kay County	Holly Wallen

**WATER RIGHTS ADMINISTRATION DIVISION
ENGINEERING AND PLANNING DIVISION
STRATEGIC PLANNING FACILITATION**

September 17, 2024

CONTRACT FOR PROFESSIONAL SERVICES

This Contract for Professional Services (“Contract”) between Freese and Nichols, Inc., an independent contractor, (“Contractor”), and the Oklahoma Water Resources Board (“OWRB”), an agency of the State of Oklahoma,

WITNESSETH:

WHEREAS, 27A O.S. § 1-3-101(C) provides that OWRB has the jurisdictional area of environmental responsibility in the State of Oklahoma for, among other things, flood plain management; and

WHEREAS, OWRB is authorized pursuant to 82 O.S. § 1085.2 to aid counties, incorporated cities and towns and special purpose districts in promoting and developing flood control; and

WHEREAS, in carrying out its statutory authority, among other things OWRB acts as the state coordinating agency for the National Flood Insurance Program (“NFIP”) and intends to perform NFIP Strategic Planning for FEMA following the ASFPM guidelines.

WHEREAS, Contractor currently employs Freese and Nichols Inc. (FNI) who is a registered professional engineering firm, and is currently supporting the Oklahoma Flood Plan.

WHEREAS, Contractor and OWRB are agreeable to entering into this Contract whereby OWRB will obtain the services of Contractor upon the terms which follow; and

WHEREAS, this Contract is authorized by 82 O.S. § 1085.2.

NOW, THEREFORE, IT IS AGREED by and between Contractor and OWRB as follows:

1. **SERVICES TO BE PROVIDED BY CONTRACTOR.** It is our understanding of the scope of work under this proposal is to facilitate OWRBs development of a plan to document and report the program’s current status, establish a vision for an effective program, and identify opportunities to leverage best practices that will help the state align their program with community needs as well as FEMA’s Tiered State Framework.

Contractor shall provide to OWRB the following professional services in connection with the

development of the NFIP Strategic Planning Facilitation. FNI will plan and facilitate a half-day in-person workshop with OWRB that will help the state formalize their Floodplain Management Program strategic plan following the ASFPM Guidance. FNI will also host a one-hour virtual follow-up meeting after the workshop.

2. **OBLIGATIONS OF OWRB.** If necessary in order to perform the assignments given to Contractor, OWRB will provide meeting space and audio visual equipment necessary to conduct the half-day workshop. OWRB will OWRB will be responsible for Plan development and preparation.

3. **COMPENSATION TO CONTRACTOR.**

a. Compensation for Services. For all services performed by Contractor during the period of this Contract, OWRB shall pay to Contractor FNI proposes to provide services as described herein for the lump sum fee of Nine Thousand Nine Hundred Seventy-Five Dollars (\$9,975).

b. Reimbursement for actual, necessary expenses. Whenever approved by the Chief of the Planning and Management Division or her designee in advance of the travel and incurring of expenses, Contractor shall also be reimbursed for (i) Contractor's out-of-pocket expenses incurred in travel necessary for Contractor's performance under this Contract, as limited by and in accordance with the State Travel Reimbursement Act, 74 O.S. § 500.1 et seq., and (ii) to the extent authorized and permitted by state law including but not limited to 74 O.S. § 500.9A.

c. Limit on compensation and reimbursement. Notwithstanding any other provision of this paragraph 3, the total amount paid to Contractor under this Contract, including any and all amounts as compensation for services and reimbursement for travel and other necessary expenses, shall not exceed Nine Thousand Nine Hundred Seventy-Five Dollars (\$9,975).

d. Invoices; payment procedure. On or before February 14, 2025, Contractor shall submit an invoice to OWRB for services performed and expenses incurred which are attributable to the NFIP Strategic Plan Facilitation. The invoice shall be in form and content acceptable to the OWRB; among other requirements, the invoice shall contain information about dates and hours worked and a general description of the services provided. If the invoice is unacceptable to OWRB, OWRB shall return the invoice to Contractor with the reason for rejection of the invoice.

e. Compensation and reimbursement subject to appropriation of funds. It is understood and agreed that funding for this Contract depends upon and is subject to State and/or Federal appropriations. In the event funds to finance this Contract become unavailable, either in full or in part, for whatever reason as determined by OWRB, OWRB may unilaterally terminate the Contract or reduce the consideration upon notice in writing to the Contractor. OWRB shall be the final authority as to the availability of funds. In the event of non-appropriation or discontinuance of funding for this Contract, the Contractor will be paid for production or services provided up to the effective date of termination.

4. **TERM OF CONTRACT.** This Contract shall become effective when all necessary signatures and approvals are obtained, and shall be in full force and effect until June 30, 2025 unless terminated earlier as provided herein. This Contract may be amended, extended or renewed upon mutual agreement of the parties. OWRB and Contractor further agree that this Contract may

be terminated at any time during its term by mutual agreement of the parties to terminate, or may be terminated unilaterally by either party upon thirty (30) days advance written notice of termination by the terminating party to the other party.

5. **INDEPENDENT CONTRACTOR STATUS.** For all purposes, Contractor is an independent contractor. It is expressly understood and intended that neither Contractor shall be, an employee of OWRB for any purpose. OWRB will not provide Contractor with worker's compensation coverage. OWRB will not provide to Contractor any benefits that are accorded to state employees, whether full time employees, temporary employees, seasonal employees or other categories of employees recognized by the Oklahoma Personnel Act or otherwise by any court cases. Contractor is solely responsible for the payment of any required State and Federal income or other taxes, periodic withholding thereof, and all other liabilities of independent contractors, including but not limited to the payment of workers compensation insurance, other taxes, Social Security payments and adjustments relating to retirement benefits. Contractor is not authorized to operate any motor vehicle of the State, nor may ride in a motor vehicle of the State as necessary to provide the services set forth in this Contract. Contractor shall have the right to control and determine the method and means of performing the services described in paragraph 1 above; OWRB shall not have the right to control or determine such method or means. Contractor retains the right to perform services for other parties.

6. **AUDIT.** Contractor agrees that all records and other items of the Contractor relating to Contractor's professional services under this Contract shall be subject to examination by OWRB, the State Purchasing Director of the Central Purchasing Division of the Office of Management and Enterprise Services, and the State Auditor and Inspector of the State of Oklahoma. Access to such items shall be made available during reasonable business hours to any proper representative of these agencies or officials for inspection, copying and audit purposes. The term "records" includes books, documents, accounting procedures and practices, claims, and other data regardless of type whether in written form, computer data, or other form of Contractor relating to this Contract. Contractor shall maintain accurate records and documentation of all expenditures of time and resources in fulfilling its obligations under this Contract and shall retain all records relative to this Contract for a period of time not less than three (3) years following completion and/or termination of this Contract. If an audit, litigation or other action involving the records is commenced before the end of the foregoing three (3) year period, then the records shall be maintained for three (3) years after 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.

7. **CONTRACT SUBJECT TO OKLAHOMA LAW AND APPROVING AUTHORITIES; SEVERABILITY.** This Contract shall be governed by and subject to the laws of the State of Oklahoma. The terms and conditions stated in any corresponding state purchasing and acquisition documentation, Purchase Order, and approval of any necessary authorities, are incorporated by reference herein and made a part hereof. If any provision of this Contract shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Contract and this Contract shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

AGREED to by the parties on the dates specified below.

Freese and Nichols, Inc.



Jennifer Wasinger, Vice President/Principal

09/04/2024

Date

OKLAHOMA WATER RESOURCES BOARD

ATTEST:

Jennifer Castillo
Chairman

Date

Suzanne Landess
Secretary

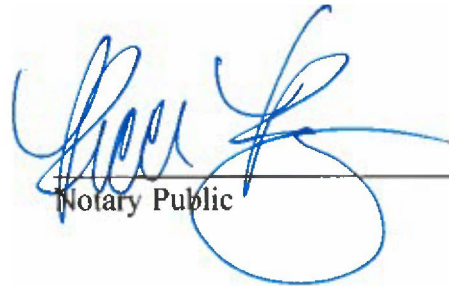
(SEAL)

STATE OF OKLAHOMA)
) ss
COUNTY OF OKLAHOMA)

The foregoing instrument was acknowledged before me on S.:)1!1\$1 2024

by

Jennifer Wasinger in her capacity as a Vice President/Principal of Freese and Nichols Inc.



Notary Public

(SEAL)

My commission expires:

q3-11-2026 **R EDING**
St ry Public
Comm : ' Oklahoma
Cehim, E' lfp n #18002873
res 03-11-2026