

AGENDA
SHAWNEE AIRPORT AUTHORITY
DECEMBER 18, 2023 AT 6:00 PM
COMMISSION CHAMBERS AT CITY HALL
16 WEST 9TH STREET
SHAWNEE, OKLAHOMA

Official action can only be taken on items which appear on the agenda. The public body may adopt, approve, ratify, deny, defer, recommend, amend, strike, or continue any agenda item. When more information is needed to act on an item, the public body may refer the matter to Staff or back to Committee or the recommending body. Under certain circumstances, items are deferred to a future date or stricken from the agenda entirely.

CALL TO ORDER

DECLARATION OF QUORUM

1. Consider approval of Consent Agenda:
 - a. Minutes from the November 20, 2023 regular meeting.
 - b. Confirm action taken by the City Commission on Agenda Item No. 7 regarding approval of a proposal with H.W. Lochner to provide Design Engineering Services in support of Siting and Bidding Services for a Temporary Terminal Building at Shawnee Regional Airport (SNL).
 - c. Confirm action taken by the City Commission on Agenda Item No. 8 regarding award of Temporary Airport Terminal Facility.
2. New Business
3. Adjournment

Respectfully submitted,



Lisa Lasyone, MMC, City Clerk

The City of Shawnee encourages participation from its citizens in public meetings. If participation is not possible due to a disability, notify the City Clerk, in writing, at least forty-

eight hours prior to the scheduled meeting, and necessary accommodations will be made. (ADA 28 CFR 36)

DRAFT

SHAWNEE AIRPORT AUTHORITY PROCEEDINGS

NOVEMBER 20, 2023 AT 6:00 PM

The Shawnee Airport Authority of the City of Shawnee, County of Pottawatomie, State of Oklahoma, met in Regular Session in the Commission Chambers at City Hall, 16 West 9th Street, Shawnee, Oklahoma on, Monday, November 20, 2023 at 6:00 PM, pursuant to notice duly posted as prescribed by law on Thursday, November 16, 2023 at 5:19 PM. Mayor Bolt presided and called the meeting to order. Upon roll call, the following members were in attendance.

Ed Bolt
Chairman/Mayor

Daniel Matthews
Trustee Ward 1

Cami Engles
Trustee Ward 2

Vacant
Trustee Ward 3

Darren Rutherford
Trustee Ward 4

Absent
Trustee Ward 5

Lauren Richter
Trustee Ward 6

ABSENT: Mark Sehorn

CALL TO ORDER

DECLARATION OF QUORUM

1. Consider approval of Consent Agenda:

- a. Consideration of approval of the Minutes from the October 16, 2023 Regular Meeting.
- b. Acknowledge the Airport Advisory Board Minutes from the June 21, 2023 and the August 16, 2023 Rescheduled Regular Meetings.
- c. Acknowledge the Schedule of Regular Meetings for 2024 for The Board of City Commissioners, The Board of Trustees of the Shawnee Airport

Authority, and The Board of Trustees of the Shawnee Municipal Authority.

A motion was made by Trustee Matthews, seconded by Trustee Engles, to approve Consent Agenda Item Nos. 1(a-c). Motion carried 5-0-0.

AYE: Matthews, Engles, Bolt, Rutherford, Richter

NAY: None

ABSTAIN: None

2. New Business

There was no new business.

3. Adjournment

There being no further business to be considered, the meeting was adjourned by power of the Chair. (7:38 p.m.)

ED BOLT, MAYOR
CHAIRMAN

ATTEST:

LISA LASYONE, MMC, CITY CLERK
SECRETARY

TASK ORDER 08 AGREEMENT (the "Agreement")

Owner: City of Shawnee, Oklahoma

Client: Shawnee Regional Airport

Consultant: **H.W. Lochner, Inc. ("Lochner")**

Date: _____

Referenced Master-On-Call (MOC) Agreement: **City of Shawnee – 5-Year MOC Agreement Dated July 15, 2019.**

Task Order Project: **Task Order 08 – Siting and Bidding Services of a Temporary Terminal Building at Shawnee Regional Airport (SNL).**

Lochner and the Client (collectively, the "Parties" and individually, a "Party") agree as follows:

1. Task Order Agreement. This Agreement is a contract between Lochner and the Client for Lochner to perform engineering design services outlining the scope, schedule and fee on the Project. This Task Order assumes the terms and conditions of the above referenced MOC Agreement.

Article I Scope of Services

WHEREAS, the Owner has agreed to employ the Consultant to provide the engineering services required by performing engineering, designs, construction plans, contract documents/technical specifications, tabulation of construction quantities, and engineer's opinion of probable construction cost. The Consultant shall also assist the Owner with bidding services. The Owner may add to this Agreement by Supplement the additional services for construction observation and inspection services and construction closeout services for the proposed Project upon completion of the Design Phase services.

All services will be performed in accordance with good engineering practice and applicable published design criteria of the FAA, primarily FAA Advisory Circulars. *Where applicable, Oklahoma Department of Transportation (ODOT) and local design standards will be utilized. If local design standards are not available, Oklahoma City Standards shall be used.*

- AC 150/5300-13B "Airport Design"
- AC 150/5370-2G "Operational Safety on Airports During Construction"
- Advisory Circular 150/5370-10H "Standard Specifications for Construction of Airports."
- *Oklahoma Department of Transportation 2019 Standard Specifications for Highway Construction*
- *Oklahoma City Standard Specifications for the Construction of Public Improvements*

The following is a detailed description of the specific engineering services that are a duty of this Agreement.

*The Scope of work is for bidding documents for the siting and utility connections for an Owner-supplied modular building. Information regarding the dimensions, power requirements, orientation, and other pertinent details specific to the temporary building will be provided by the Owner. **At the Owner's request, an ADA compliant ramp and sidewalk for access to the building are not included in this Scope.** Access for the delivery of the modular building will be the responsibility of others. The Scope includes that the location of the modular building will be prepared by placing a layer of rock over a separator fabric directly on the existing grass adjacent to the apron pavement. It is assumed that the modular building manufacturer or supplier will coordinate and make provisions for access to the location; deliver, set, level, and anchor the building; provide and install skirting; provide and install ADA accessible ramp; provide required HVAC; provide anticipated electrical loading; and submit a plan detailing the layout of the specific unit to be delivered. The project may be funded with federal funds; therefore, FAA's standard federal provisions will be included within the bidding documents, including Buy American Requirements, Davis Bacon Wage Rates, etc. It is assumed that if federal funds are utilized for the project, that the total federal funding will be less than \$250,000; therefore, a Disadvantaged Business Enterprise (DBE) goal will not apply to the project. If federal funds utilized are \$250,000 or greater, a DBE goal and program update will be required and may be added to this agreement by supplement.*

Items excluded from this Scope of work that may be added by Supplemental Agreement include the following:

- Survey
- Geotechnical Investigation
- Sidewalk Design
- ADA ramp access
- Access for delivery of the modular building
- Coordination for delivery of the modular building
- Foundation and anchoring design – a gravel pad will be provided in the siting drawings
- DBE goal and program update
- Fence, sidewalk, or curb modifications
- Temporary fencing
- Modifications to the layout of the interior of the modular building
- Area lighting
- Site Drainage Considerations
- Permitting
- Preparation of grant applications

A. BASIC SERVICES

1. Design Phase-Preliminary

- a. Coordination with the Sponsor regarding project scope, schedule, and budget.
- b. Conduct a site visit to evaluate siting, and utility needs. *Owner will identify utility locations for tie-in.*

- c. Prepare agreement for design and engineering services.
- d. Terminal Siting Determination. *The location of the temporary building will be based on the Owner-designated preferred location, as depicted in Exhibit A. Consultant shall evaluate the preferred location to ensure required separation distances from adjacent buildings are met. Building siting shall be conducted based on a visual site visit and aerial imagery. No survey shall be conducted. Owner shall confirm selected siting meets slope requirements for Owner-supplied modular building. If required building separation distances cannot be met at the preferred location, additional siting options for evaluation may be added to this scope by Supplemental Agreement.*
- e. Evaluation of Utility Service Needs and Tie-In. *The Owner will locate and identify existing utilities (water, sanitary sewer, and power) that are to be utilized for connection of the temporary building to the utility services. The Owner will provide the Consultant with locations on the temporary building where water, sewer, and power will connect. The Owner will provide the Consultant details of the number and size of HVAC units and anticipated equipment that will require electrical connection for the temporary building for the Consultant to determine required power connections. The Owner will be responsible for payment of new connection fees and meters as required for utilities.*
- f. Evaluate necessary permits, processes, and design standards for utilities.
- g. *The Owner shall be responsible for submitting and paying for necessary permits for the temporary building.*

2. Design Phase – Plans and Specifications

- a. Prepare and submit FAA form 7460-1 for temporary construction through FAA's OE/AAA website, *as is required for construction work on airport property.*
- b. Prepare and submit FAA form 7460-1 for temporary building, through FAA's OE/AAA website, *as is required for the erection and placement of a new structure on airport property.*
- c. Prepare Construction Plans and Contract Documents/Technical Specifications for the Project.

1) The Construction Plans will generally include the following:

- Title Sheet
- General Airport Layout Plan and General Notes
- Construction Safety and Phasing Plan
- Construction Safety and Phasing Plan notes and details per AC 150/5370-2
- Summary of Quantities and Pay Item Notes
- Building Siting
- Utility Tie-Ins

2) Prepare Contract Documents/Technical Specifications to satisfy project specific needs.

- 3) Submit preliminary (90% completion) Construction Plans, Contract Documents/Technical Specifications, and updated engineer's opinion of probable construction cost to the Sponsor for review and comment. PDF copies will be submitted electronically with hard copies provided upon request.
- 4) Finalize Construction Plans and Contract Documents/Technical Specifications with consideration of preliminary (90% completion) review comments.
- 5) Submit Construction Plans and Contract Documents/ Technical Specifications to the Sponsor for final approval and authorization to advertise. PDF copies will be submitted electronically with hard copies provided upon request.

4. Bidding Phase

- a. Assist the Sponsor with advertisement for bids. The Consultant shall prepare the advertisement and send the "Notice to Bidders" to prospective Contractors. *(The Sponsor shall place the advertisement in the appropriate media.)*
- b. Distribute Construction Plans and Contract Documents/Technical Specifications to plan holding houses and prospective Bidders.
- c. Answer questions and clarify points pertaining to the Construction Plans and Contract Documents/Technical Specifications during the Bidding Services phase.
- d. Attend and conduct one pre-bid conference at the Airport.
- e. Prepare and distribute pre-bid meeting minutes.
- f. Prepare and issue addenda during the Bidding Phase as required.
- g. *Bids will be opened during a regularly scheduled City Commission meeting. The Consultant will not be in attendance during the meeting where bids are opened.*
- h. *The Consultant will attend one (1) City Commission meeting for the bid award.*
- i. Tabulate and analyze bid results, review Contractor's qualifications, and make recommendation of contract award.

B. SPECIAL SERVICES

1. Field Survey – Engineering Design

- a. *Field Surveys will not be conducted.*

2. Geotechnical Investigation

- a. *Geotechnical investigation will not be conducted.*

3. *Disadvantaged Business Enterprise*

- a. *DBE Goal calculation and program update may be added by supplement if anticipated federal funding equals or exceeds \$250,000.*

C. CONSTRUCTION SERVICES

May be added by Supplement.

**ARTICLE II
TIME SCHEDULE**

The Consultant agrees to proceed with the services immediately upon receipt of a written Notice to Proceed (NTP) by the Owner, and to employ such personnel as required to complete the Scope of Services in accordance with the following time schedule:

SCHEDULED PERFORMANCE IN CALENDAR DAYS

A. BASIC SERVICES

1. Preliminary Phase As Required
2. Design Phase – Plans and Specifications
c.3) Submit Preliminary Plans and Specifications 90 Calendar Days After
Completion of Item 1
c.5) Submit Final Plans and Specifications 30 Calendar Days After
Receipt of Review Comments for Item 2.c.3)
3. Bidding Phase As Required

B. CONSTRUCTION SERVICES

May be added by supplement.

The schedule presented above does not include review time by the Owner, FAA or other interested agencies.

**ARTICLE III
COMPENSATION**

The Owner agrees to compensate the Consultant for performing engineering services as described herein on the following basis:

COMPENSATION SCHEDULE

A. BASIC SERVICES

1. Preliminary Phase \$10,100.00 Not to Exceed
2. Design Phase – Plans and Specifications \$17,400.00 Not to Exceed
3. Bidding Phase \$10,500.00 Not to Exceed
- Total Basic Services** **\$38,000.00 Not to Exceed**

B. CONSTRUCTION SERVICES

May be added by supplement.

The Consultant shall not proceed with the services described herein until written authorization in the form of a Notice to Proceed is received from the Owner.

For Item A. Basic Services, partial payment shall be made to the Consultant for those portions of the services completed. The Consultant shall submit to the Owner a monthly statement showing the actual hours expended and the portion of compensation requested for each element and phase of the services. The request for partial payments will not be in excess of the value of the services completed at the time the statement is rendered. The compensation requested shall be based on the direct salary costs and the Overhead, Administrative Expenses, and Profit Multiplier as outlined in the Master On Call Agreement Dated July 15, 2019 and included as Attachment "A," and actual out-of-pocket expenses at the current rate allowed by the Internal Revenue Service and General Services Administration.

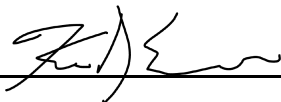
Travel on and off the Project site required of Consultant personnel will be compensated at the current rate allowed by the Internal Revenue Service.

Costs other than personnel services incurred by the Consultant will be documented in the written statement and will be at the cost to the Consultant from the vendor.

Progress payments shall be made to the Consultant within thirty (30) calendar days of receipt of a proper billing statement.

H.W. LOCHNER, INC.

CITY OF SHAWNEE, OKLAHOMA

By: 

By: _____

Title: Vice President

Title: _____

Date: 11/22/23

Date: _____

DERIVATION OF CONSULTANT PROJECT COSTS

BASIC SERVICES

Shawnee Regional Airport Temporary Terminal Siting and Utility Tie-In

SHAWNEE REGIONAL AIRPORT SHAWNEE, OKLAHOMA

November 22, 2023

1. DIRECT SALARY COSTS:

<u>TITLE</u>	<u>HOURS</u>	<u>RATE/HOUR</u>	<u>COST (\$)</u>
Principal	2	\$225.75	\$ 451.50
Project Manager	53	\$195.65	\$ 10,369.45
Senior Electrical Engineer	0	\$195.65	\$ -
Senior Design Engineer	4	\$150.50	\$ 602.00
Design Engineer	43	\$126.42	\$ 5,436.06
Senior Airport Planner	0	\$129.43	\$ -
Environmental Scientist	0	\$120.40	\$ -
Engineer Intern	116	\$96.32	\$ 11,173.12
Design Technician	91	\$81.27	\$ 7,395.57
Administrative Assistant	30	\$69.23	\$ 2,076.90
Total Fully-Burdened Salary Costs			= \$ 37,504.60

2. OUT-OF-POCKET EXPENSES:

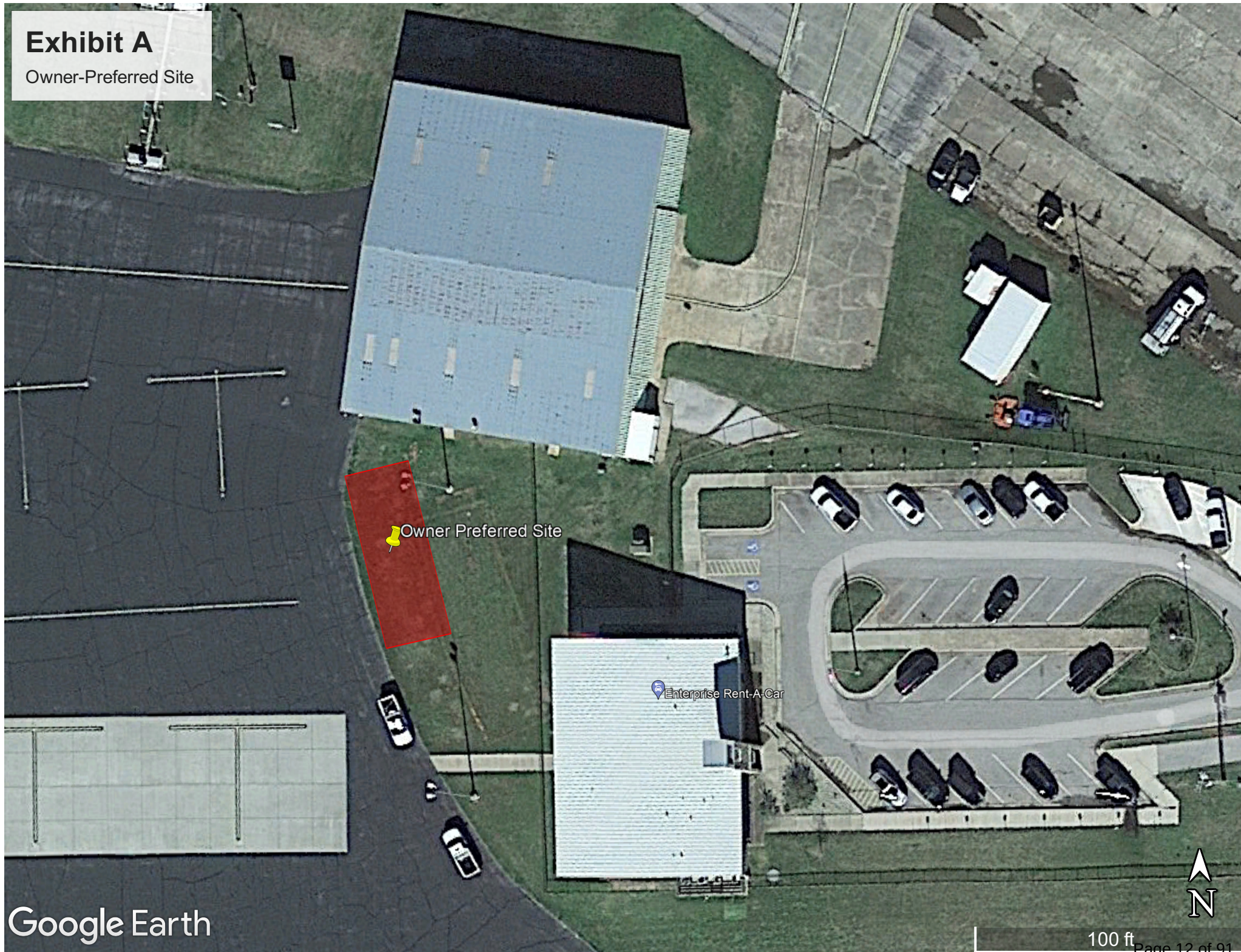
a. Mileage	270	miles @ \$0.655/mile =	\$ 176.85
b. Meals	3	@ \$59.00/day =	\$ 177.00
c. Motel	0	days @ \$123.00/day =	\$ -
d. Mailing & Misc. Expenses		=	\$ 141.55
Total Out-of-Pocket Expenses =			\$ 495.40

3. TOTAL FEE:

Items 1 and 2 \$ 38,000.00

Exhibit A

Owner-Preferred Site



ATTACHMENT “A” **LOCHNER 2020 COMPENSATION RATES**

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal	\$75.00
Project Manager	\$65.00
Sr. Electrical Engineer	\$65.00
Sr. Design Engineer	\$50.00
Design Engineer	\$42.00
Sr. Airport Planner	\$43.00
Environmental Scientist	\$40.00
Engineer Intern	\$32.00
Design Tech	\$27.00
Administrative Assistant	\$23.00
Sr. Construction Inspector	\$45.00
Construction Inspector	\$38.00
Overhead, Administrative Expenses, and Profit Multiplier	3.01

RFP# 2023-1010 Temporary Airport Terminal Score Sheet

<u>Mobile Modular Lease</u>	<u>Mobile Modular Used Purchase</u>	<u>Mobile Modular New Purchase</u>	<u>Cooley Const. Lease</u>	<u>Cooley Const. Lease to Own</u>	<u>HWH Lease</u>	<u>Sustainable Modular Lease</u>	<u>Sustainable Modular Purchase</u>
52	52	52	85	85	42	95	95
90	90	90	83	83	75	83	83
96	93	92	92	78	86	84	82
95	94	94	49	49	61	70	68
83.25	82.25	82	77.25	73.75	66	83	82



**Request for Proposals for:
Temporary Airport Terminal Facility
Shawnee Regional Airport
RFP# 2023-1010**

Sealed Proposals Due Monday, November 20, 2023, at 4:00 p.m. Central

Issued By:
City of Shawnee, Oklahoma

City of Shawnee, Oklahoma
Request for Proposals

Temporary Airport Terminal Facility

Released: *October 24, 2023*

Submittal shall be sent to:
City of Shawnee
Attn: City Clerk
16 W 9th Street
Shawnee, OK 74801

Sealed Envelope should be clearly marked:
RFP# 2023-1010 Temporary Airport Terminal
Facility

SUBMITTAL COVER SHEET

The Entity and the Officer with authority to commit for the Entity are:

RESPONDENT: Mobile Modular Management Corporation	FEDERAL ID OR SOCIAL SECURITY NO. 94-2579843	
STREET ADDRESS: 2849 E Main St	P.O. BOX:	ZIP: 75050
CITY & STATE & ZIP: Grand Prairie, TX	TELEPHONE NO. 214-304-1682	TOLL FREE TEL. NO (800)
NAME & TITLE OF PERSON SIGNING: Paul Crabtree, Regional Director Central	FAX NUMBER: 281-487-9213	E-MAIL: megan.poore@mgrc.com
PROPOSAL IS FROM A/AN: (☒) Corporation organized and existing under the laws of the STATE OF <u>California</u> (☐) Partnership (☐) Individual		

NON-COLLUSION

The undersigned certifies that the Entity has not entered into any agreement of any nature whatsoever to fix, maintain, increase or reduce the prices or competition regarding the items covered by this proposal invitation.

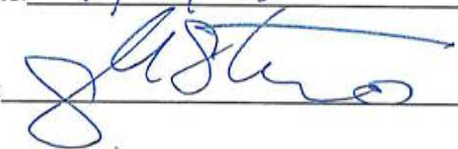
PROPOSAL CERTIFICATION

The Undersigned certifies that to the best of their knowledge:

- () There is no officer or employee of the City of Shawnee who has, or whose relative has, a substantial interest in any contract award subsequent to this proposal.
- () The names of any and all public officers or employees of the City of Shawnee have, or whose relative has, a substantial interest in any contract award subsequent to this proposal are identified by name as part of this submittal.
- () The undersigned further certifies that the Entity IS NOT currently debarred, suspended, or proposed for debarment by any federal or State agency. The undersigned agrees to notify the City of Shawnee of any change in this status, should one occur, until such time as an award has been made under this action.

Date: 11/14/23

Entity Name: Mobile Modular Management Corporation

By: 

Print Name: Paul Crabtree

City of Shawnee, Oklahoma

RFP# 2023-1010 Temporary Airport Terminal Facility

SIGNATURE PAGE

compliance with this RFP, the undersigned agrees to furnish the services in accordance with the attached Proposal or as mutually agreed upon by subsequent negotiation.

Mobile Modular Management Corporation
Respondent/Vendor Submitting Proposal

349 E Main St
Address

Grand Prairie TX 75050
City State Zip

14-304-1682
Phone Number

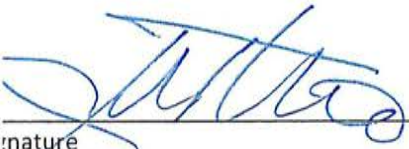
281-487-9222
Fax Number

egan.poore@mgrc.com
Email

www.mobilemodular.com
Web Address

Paul Crabtree
Authorized Person Submitting RFP (Print)

Regional Director, Central
Title


Signature

11/16/22
Date

STATEMENT OF NEED

The City of Shawnee requests proposals for the lease or purchase of temporary building(s) to serve as a temporary Airport Terminal Building. This request stems from the destruction of City of Shawnee owned facilities at the Shawnee Municipal Airport, related to the Severe Weather Event on April 19-20, 2023-FEMA Disaster DR-4706-OK. While the request indicates "portable" buildings, the City of Shawnee seeks the most cost-effective solution to its short- and long-term needs for facilities to serve the administrative and office functions of the City of Shawnee and the Shawnee Airport Authority. Draft layout for these facilities are provided as Attachment E.

The objective of this Request for Proposals is to identify a provider of temporary and/or portable buildings to be leased or purchased that can offer the highest quality product and installation/maintenance services at the lowest cost to the City of Shawnee. This objective is similar for all goods and services placed on a competitive bidding / request for proposal approach by the City of Shawnee. The City of Shawnee does prefer to lease the temporary building but is ultimately seeking the most cost economical solution for temporary facilities. The services provided will be in accordance with the Leasing Contract and attachments executed between the City of Shawnee and the Respondent/Vendor.

CALENDAR OF EVENTS

Listed below are the dates and times by which stated actions must be taken or completed. If the City of Shawnee determines, in its sole discretion, that it is necessary to change any of the dates and times, it will issue an Addendum to this Request. All listed times are applicable local times for Shawnee, Oklahoma.

Date / Time

October 28, 2023

November 6, 2023 at 10 a.m.

November 13, 2023 at 5 p.m.

November 20, 2023 at 4 p.m.

November 21, 2023

TBD

Action

Advertising of Request for Qualifications

Optional Pre-Proposal Meeting

Last day and time for Respondents to submit questions

Deadline for Submittals

Proposal Evaluation

Anticipated Award of Contract

1. SCOPE OF SERVICES. The following summary is intended to provide a general understanding of the City of Shawnee's expectations and is not all inclusive.
 - 1.1. Provide temporary facilities designed to meet the short-term and long-term needs described in the additional specifications (Attachment E). The Temporary Facility will be installed on property owned by the Shawnee Airport Authority, located at 2202 Airport Drive, Shawnee, OK 74804, at a site prepared for the purpose of supporting the facility by the City of Shawnee.
 - 1.2. The following items must be considered in providing the pricing. All spaces and square footage mentioned are to be considered *Conditioned* spaces.
 - 1.2.1. Office spaces to support the Shawnee Regional Airport Terminal, including:
 - 1.2.1.1. Customer service counter
 - 1.2.1.2. Pilot lounge
 - 1.2.1.3. Breakroom, storage, and workstation spaces.
 - 1.2.2. Two functional ADA compliant restrooms.
 - 1.3. All deliveries shall be freight prepaid, FOB destination and shall be included in all pricing offered.
 - 1.4. Proposals shall include pricing to deliver, anchor, set-up, and establish functionality necessary for operation of the building(s).
 - 1.5. Facility shall contain method to tie into and connect to provided water tap and connect to provided sewer tap. Connection shall be made by the City of Shawnee. Proposal shall include schematic layout for all water and sewer connections that will be required.
 - 1.6. Permanent electrical power connection to be provided by the City of Shawnee. The proposed facility shall be wired and ready for an electrical service with a single point of connection. Proposal shall include schematic layout indicating the connection point, type of connection point, and rating of the service connection.
 - 1.7. Facility shall include HVAC equipment installed, connected, and functional providing for all *conditioned* spaces. If power will be required to be connected directly to HVAC equipment by the City of Shawnee, the proposal shall indicate this fact, the location of the connection, the size and type of connection, and the rating of the electrical utilization.
 - 1.8. Facility shall include applicable warranties for all items provided by the respondent/vendor.
 - 1.9. Respondent/Vendor is requested to offer the "basic" proposed facility and is invited to add options so long as the cost of the options can be separated from the basic facility.
 - 1.10. Unauthorized modifications of specifications, forms or terms may render the proposal invalid.
 - 1.11. Proposals may be either for lease (minimum of twenty-four [24] months), for purchase, lease to purchase, or both lease and purchase of the proposed facility. Respondent/Vendors are encouraged to include all options that they provide in their proposals.

2. SUBMITTAL REQUIREMENTS, FORMAT, AND PREPARATION GUIDELINES

2.1. Format and Preparation Guidelines

2.1.1. Submittal Remittance

Send Sealed Submittal To

City of Shawnee
Attn: City Clerk
16 West 9th Street
Shawnee, Oklahoma 74801

Clearly Marked on Outside Envelope
RFP# 2023-1010 Temporary Airport Terminal Facility
Due Date: November 20, 2023 at 5:00 p.m. Central

2.2. Instructions to Respondent/Vendors

- 2.2.1. Respondents are to submit one (1) original complete submittals with signatures in blue ink and one (1) electronic form of the complete submittal package that can be reproduced. All copies shall be the exact format as the original including the binding requirements in Section 2.4.2.
 - 2.2.2. At due date and time, all submittals received by the due date will be opened for the sole purpose of recording the names of the individuals or Respondent/Vendors submitting written responses.
 - 2.2.3. If the submittal is mailed, sufficient time must be allowed to ensure the City of Shawnee's proper receipt of the package by the time specified above. Allow an additional 24 hours for the City of Shawnee's internal mail process. It is the responsibility of the Respondent/Vendors to ensure that the properly marked and sealed submittal arrives at the City of Shawnee. Submittals received after the due date and time will be returned to Respondent unopened.
 - 2.2.4. Any submittal not prepared and received in accordance with provisions stated herein will be considered an informal response and any/or all of the submittal may be rejected.
 - 2.2.5. Withdrawal of submittal will be accepted until the submission due date and time above. No submittal may be withdrawn after the deadline.
 - 2.2.6. Each Respondent/Vendor will pay all costs associated with the preparation of the submittal, and, if applicable, subsequent oral presentations if requested by the City of Shawnee.
 - 2.2.7. This file becomes a matter of public record and is open for review by the public upon the full execution of the agreement.
 - 2.2.8. The City of Shawnee will not be liable for any error or omission in any response. Respondent/Vendor will not be allowed to alter proposal documents after the deadline for response submission, except under the following condition: the City of Shawnee reserves the right to make corrections or clarifications to the RFP due to patent errors identified in responses by the City of Shawnee or Respondent/Vendors. The City of Shawnee, at its option, has the right to request clarification or additional information from any respondent.
- ## 2.3. Submittal Content: The following information must, but not limited to, be included in the submittal packet:
- 2.3.1. Signed Submittal Cover Sheet.

- 2.3.2. Acknowledgement of number and date of addenda received. (Attachment C)
- 2.3.3. Illustration of proposed facility including the floor plan and general design features.
- 2.3.4. Draft agreements. Draft agreements shall include any proposed:
 - 2.3.4.1. Lease agreement,
 - 2.3.4.2. Lease to purchase agreement, and/or
 - 2.3.4.3. Purchase agreement.
 - 2.3.4.4. All draft agreements shall include proposed pricing. Pricing shall include all of the following items at minimum:
 - 2.3.4.4.1. Set up of facility,
 - 2.3.4.4.2. Build-out of facility,
 - 2.3.4.4.3. Any delivery, tear down, and haul off fees related to the facility,
 - 2.3.4.4.4. Any costs or fees related to damage or wear and tear to the facility,
 - 2.3.4.4.5. Any other costs or fees that may be applicable.
 - 2.3.4.5. All draft agreements shall include full warranty coverage provided by respondent/vendor.
- 2.3.5. If the Respondent fails to supply all required information, the submission may be deemed non- responsive at the discretion of the City of Shawnee.
- 2.3.6. Attachment A: Certification for Contracts, Grants, Loans, and Cooperative Agreements as required by the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352
- 2.3.7. Attachment B: No Proposal Notification, if necessary
- 2.3.8. Attachment D: Non-Collusion Affidavit

2.4. Submittal Format

- 2.4.1. Submittal shall be prepared simply and economically, providing a straightforward, concise description of the Respondent's ability to meet the requirements of this RFP. Emphasis shall be on the quality, completeness, clarity of content, responsiveness to the requirements and an understanding of the City of Shawnee's needs.
- 2.4.2. Submittals should be printed on letter size paper (8 ½" x 11") and bound with a spiral type binding that will allow the submittal to lie flat when open. Do not staple or use metal-ring hard cover binders.
- 2.4.3. Submittals are to be double sided with each side counted as a page. Table of Contents, 1 page Cover Letter, Submittal Cover Sheet and Divider tabs do not count toward total page count.
- 2.4.4. Each complete submittal will contain a maximum of thirty (30) pages, a cover letter, the Submittal cover sheet, the relevant requested Submittal information, and the required signature page. Brevity is a plus.

2.4.5. At the discretion of the respondent, a maximum of ten (10) additional qualifications related or marketing informational pages can be included in the submittal.

2.5. Interpretation or Correction

2.5.1. The City of Shawnee is not liable for interpretations/misinterpretations or other errors or omissions made by the Respondent in responding to this Request. Any required addendum to the RFP and all clarifications, answers to questions, or changes to this RFP shall be provided through a City of Shawnee-issued Addendum, which shall be distributed to vendors by fax and posted on the City of Shawnee website found at:

https://www.shawneeok.org/services/current_bids_proposals/index.php

Any clarifications, answers, or changes provided in any manner other than a formally issued addendum, are to be considered "unofficial" and shall not bind the City of Shawnee to any requirements, terms or conditions not stated herein.

2.5.2. The City of Shawnee shall make every possible, good faith effort to issue any and all addenda(s) no later than seven (7) days prior to the due date for proposals. Any addendum issued after this date, shall be for material, necessary clarifications to the Request for Qualifications.

2.5.3. Any person, Respondent/Vendor or corporation submitting a response is deemed to have read, understood and agreed to all terms, conditions and requirements set forth in the specifications. Respondent agrees to conform in general to the terms of these specifications, details of which will be set forth in a signed agreement mutually acceptable to and executed by the City of Shawnee and the Respondent.

2.5.4. From the date of issuance until the City of Shawnee takes final agency action, the Respondent must not discuss their submittal or any part thereof with any employee, agent, or representative of the City of Shawnee except as expressly requested by the City of Shawnee in writing. Violation of this restriction will result in rejection of the Respondent's response.

2.5.5. No negotiations, decisions, or actions shall be initiated or executed by the Respondent as a result of any discussions with any the City of Shawnee employee. All inquiries, requests for clarification, change of condition or requirement, specification omissions, doubt as to meaning, or requests for additional information must be submitted, in writing, or via email to Danny Vise, Jr. email address: Danny.Vise@Shawneeok.org. In the written request, the Respondent must identify him/herself and provide the page number, section, and paragraph of the conditions or requirements in question. The Respondent must also recommend specific written changes to the specified condition(s) or requirement(s).

2.5.6. All written inquiries or requests for changes or information must be received by Danny Vise, Jr: Danny.Vise@Shawneeok.org, no later than the scheduled date shown in the Calendar of Events outlined in this document. All Respondent inquiries or requests, the City of Shawnee responses to these inquiries or requests, and other needs as may apply will be provided to all prospective Respondents by addendum. All addenda issued by the City of Shawnee shall become a part of the RFP, and Respondents shall acknowledge receipt of each addendum by number and date in its response.

2.5.7. Inquiries concerning this Request for Proposals should be addressed as follows:

City of Shawnee
Attn: Danny Vise, Jr
16 W. 9th Street
Shawnee, OK 74801

2.6. Confidential Information, Trade Secrets, and Proprietary Information

- 2.6.1. The designation of certain information as trade secrets and/or privileged or confidential proprietary information shall only apply to the technical portion of the Proposal. The cost Proposal will not be considered confidential under any circumstance. Any Proposal copyrighted or marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.
- 2.6.2. The Respondent must clearly designate the part of the Proposal that contains a trade secret and/or privileged or confidential proprietary information as "confidential" in order to claim protection, if any, from disclosure. The Respondent shall mark the cover sheet of the Proposal with the following legend, specifying the specific section(s) of his Proposal sought to be restricted in accordance with the conditions of the legend: "The data contained in pages ____ of the Proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential information and such data shall only be disclosed for evaluation purposes, provided that if a contract is awarded to this Respondent as a result of or in connection with the submission of this Proposal, the City of Shawnee shall have the right to use or disclose the data therein to the extent provided in the contract. This restriction does not limit the City of Shawnee's right to use or disclose data obtained from any source, including the Respondent, without restrictions." Further, to protect such data, each page containing such data shall be specifically identified and marked "CONFIDENTIAL".
- 2.6.3. Respondents must be prepared to defend the reasons why the material should be held confidential. If a competing respondent or other person seeks review or copies of another respondent's confidential data, the City of Shawnee will notify the City of Shawnee of the asserted data of the request. If the City of Shawnee of the asserted data does not want the information disclosed, it must agree to indemnify the City of Shawnee and hold the City of Shawnee harmless against all actions or court proceedings that may ensue (including attorney's fees), which seek to order the City of Shawnee to disclose the information. If the City of Shawnee of the asserted data refuses to indemnify and hold the state harmless, the City of Shawnee may disclose the information.
- 2.6.4. The City of Shawnee reserves the right to make any Proposal, including proprietary information contained therein, available to City of Shawnee personnel, or other City of Shawnee and state agencies or organizations for the sole purpose of assisting the City of Shawnee in its evaluation of the Proposal. The City of Shawnee shall require said individuals to protect the confidentiality of any specifically identified proprietary information or privileged business information obtained as a result of their participation in these evaluations.
- 2.6.5. If your Proposal contains confidential information, you should also submit a redacted copy along with your Proposal. If you do not submit the redacted copy, you will be required to submit this copy within 48 hours of notification from the City of Shawnee. When submitting your redacted copy, you should clearly mark the cover as such "REDACTED COPY" - to avoid having this copy reviewed by an evaluation committee member. The redacted copy should also state which sections or information have been removed.

2.7. Provisions for Recommendation: It is understood that the City of Shawnee reserves the right to the following:

- 2.7.1. Reject any and/or all Proposal submittals.
- 2.7.2. Accept any submittal or portion thereof most advantageous to the City of Shawnee.
- 2.7.3. Revise the RFP and/or issue addenda to the RFP, in the event it becomes necessary to revise any or part of the RFP. Addenda will be provided to all those who received the RFP.

2.7.4. Cancel or re-issue the Request for Proposals, in whole or in part, prior to execution of a contract.

2.7.5. Negotiate with the Respondent.

2.7.6. Award contract based on the overall best business decision for the City of Shawnee including Respondent/Vendor location or services offered.

2.7.7. Waive any informalities or regularities.

2.7.8. Request additional information or require a meeting with the Respondent for clarification.

2.7.9. Modify timelines, as issued in the form of an addendum.

3. EVALUATION CRITERIA AND SELECTION PROCESS

3.1. All proposals shall be initially evaluated based on criteria listed below by members of an advisory evaluation committee. Such advisory committee shall consist of individuals who have expertise regarding, or some experience with, the subject matter of the RFP or individuals who could be characterized as recipients, beneficiaries, or users of the RFP's subject matter. All qualified proposals shall be evaluated by the committee using a point earned matrix. Evaluations and selection of the successful Respondent shall be based on the information submitted in the proposal.

3.2. In determining the Respondent/Vendor services whose Proposals are in the best interests of the City of Shawnee and a Quality Based Selection. The following criteria, among possible others, will be considered:

Meeting the legal qualifications and terms and conditions specified	10 pts
Completeness of Exhibit A, the Proposal Form	10 pts
Socioeconomic Respondent/Vendors	5 pts
Ability to deliver the facilities in a timely and responsive manner	10 pts
Respondent/Vendor's ability and capacity to perform the work.	20 pts
Time schedule and experience at timely delivery of design documents.	10 pts
Respondent/Vendor's experience	10 pts
Respondent/Vendor's ability to demonstrate understanding of project requirements.	10 pts
Financial Controls	15 pts

Ability to accurately estimate and complete the project within available budget

Maximum Point Total

100 pts

3.3. By submitting a response to this RFP, the Respondent accepts the evaluation process and acknowledges and accepts that determination of the most qualified Respondent/Vendor(s) will require subjective judgments by the City of Shawnee.

3.4. It is incumbent upon each respondent to furnish complete and relevant information to receive proper consideration. The committee could develop a short list for Respondent/Vendors to interview. The number of shortlisted Respondent/Vendors will depend on the number of responses received.

3.5. The City of Shawnee reserves the right to reject any or all proposals and issue subsequent Requests for Qualifications and negotiate any and all provisions contained herein.

3.6. If an agreement for services cannot be reached with the selected Respondent/Vendor, the City of Shawnee will begin negotiations with another Respondent/Vendor that the selection committee believes is the next best alternative. The same process will be repeated with the other Respondent/Vendors if no such agreement can be

reached. Upon successful negotiations with a Respondent/Vendor, the City of Shawnee may enter into a contract with the selected Respondent/Vendor. The City of Shawnee reserves the right to not select a Respondent/Vendor as part of this process.

- 3.7. Acceptance of a proposal shall be by written notice to the Respondent/Vendor submitting the accepted proposal and by simultaneously notifying in writing the other Respondent/Vendor s that their proposals were not accepted.
- 3.8. The contract will be awarded to the form whose proposal conforms to this RFP and is most advantageous and cost effective for the City of Shawnee.

GENERAL TERMS AND CONDITIONS

- 4.1. Respondent/Vendors are cautioned to read the information contained in this RFP carefully and to submit a complete response to all requirements and questions as directed. This RFP will be superseded by any future contract agreement and its related contract documents.
- 4.2. The selected Respondent/Vendor will provide the required temporary building within ninety (90) days of a signed agreement or notice to proceed.
- 4.3. Upon delivery, set up, and completed installation the respondent/vendor shall request the City of Shawnee to approve the condition of the facility. The City of Shawnee reserves the right to request modifications and repairs to the facility at any time.
- 4.4. Governing Law and Venue: This RFP and resulting contract, if any, and any disputes there under will be governed by the laws of the State of Oklahoma and the City of Shawnee, Oklahoma.
- 4.5. Appropriated Funds: The purchase of any service which arises from this solicitation, is contingent upon the availability of appropriated funds. If funds are withdrawn or do not become available, the City of Shawnee can cancel the service contract by giving the Respondent/Vendor written notice of its intention to cancel not less than ninety (90) days prior to the end of the term without penalty. Upon cancellation of the contract, the City of Shawnee shall not be responsible for any payment of any services received that occur after the end of the current contract period.
- 4.6. Sales and Use Tax: The City of Shawnee as a public entity and in some cases exempt from state and local sales taxes.
- 4.7. Invoices and Payment: Payment terms on services that have been received and accepted by the City of Shawnee will be net forty-five (45) days.
 - 4.7.1. The Proposal Request (with the Respondent's Proposal), unless otherwise modified in writing, and the contract constitute the complete project. The contract prices constitute the total compensation payable to Respondent/Vendor and the cost of all of the work and materials, taxes, permits and incidentals must be included into the Proposal submitted by the Respondent/Vendor and included into those items listed on the Proposal Request.
 - 4.7.2. Any additional supporting data required by the City of Shawnee in order to substantiate Respondent/Vendor's request for payment shall be furnished by Respondent/Vendor at no cost to the City of Shawnee.
 - 4.7.3. The City of Shawnee may withhold from payment to Respondent/Vendor as may be necessary to protect itself from loss on account of:

- 4.7.3.1. Defective and/or inferior work;
 - 4.7.3.2. Damage to the property of the City of Shawnee or others caused by Respondent/Vendor;
 - 4.7.3.3. Failure by Respondent/Vendor to make payments properly to subcontractors or to pay for labor, materials or equipment used on this project;
 - 4.7.3.4. Failure by Respondent/Vendor to pay taxes due on materials used on this project;
 - 4.7.3.5. Damage by Respondent/Vendor to another Respondent/Vendor;
 - 4.7.3.6. Insolvency;
 - 4.7.3.7. Bankruptcy, voluntary or involuntary;
 - 4.7.3.8. Revocation of corporate status;
 - 4.7.3.9. Failure to follow corporate formalities;
 - 4.7.3.10. Unprofessional Respondent/Vendor activities;
 - 4.7.3.11. Unworkmanlike performance; and/or
 - 4.7.3.12. Fraud and/or misrepresentation of any kind.
- 4.8. Observance of the City of Shawnee Rules and Regulations: Respondent/Vendor agrees that at all times its employees will observe and comply with all policies and procedures of the City of Shawnee, including but not limited to smoking, parking and security directives. The Respondent/Vendor will be required to follow the City of Shawnee policies in dealing with improper conduct and discrimination and shall report all incidents or injuries to the City of Shawnee.
- 4.9. Non-Exclusive Contract: This is not an exclusive contract and will not restrict in any way the City of Shawnee's rights to contract with other Respondent/Vendors for services and/or commodities similar to those specified within this RFP.
- 4.10. Limitations of Remedies and Indemnification: Any Respondent/Vendor awarded the RFP accepts full responsibility for acts or conduct of its employees or agents, or services rendered, and agrees to indemnify, defend and hold harmless the City of Shawnee and its officers, agents and employees from any and all claims, demands, damages, actions and costs or expenses in connection therewith that may relate to any subsequent agreement, or acts of the Respondent/Vendor's employees or agents. the City of Shawnee will not be liable for any damage or injury to the Respondent/Vendor's employees or its properties. the City of Shawnee does not agree to indemnify the vendor.
- 4.11. The Respondent/Vendor may not assign, transfer, convey or otherwise dispose of this agreement or any right, title or interest herein without the prior written consent of the City of Shawnee. Any contract resulting from this RFP may only be amended in writing and signed by the Respondent/Vendor and the City of Shawnee using the same degree of formality evidenced in the contract resulting from this RFP.
- 4.12. The Respondent/Vendor shall not name the City of Shawnee in its external advertising, marketing programs or other promotional efforts, any data, pictures or other representation of the City of Shawnee except on the specific, written authorization in advance by the City of Shawnee's Mayor/City Commission and/or the City Manager.

4.13. The agreement between the Respondent/Vendor and the City of Shawnee may be cancelled by mutual written agreement of both parties upon ninety (90) days' notice. the City of Shawnee may cancel the agreement effective thirty (30) days after a written notice from the City of Shawnee is provided to the Respondent/Vendor if the Respondent/Vendor does not provide satisfactory service or fails to follow a reasonable schedule of agreed upon services, or otherwise fails to operate in a Respondent/Vendor manner.

4.14. The Respondent/Vendor services Respondent/Vendor is subject to and must comply with provisions of the City of Shawnee's policies and applicable state and federal anti-discrimination laws.

4.15. Insurance: Prior to beginning work, successful proposal shall deliver certificates of insurance as evidence of the coverage indicated below; such evidence shall include documentation of thirty (30) day prior written notice to the City of Shawnee of cancellation, non-renewal or material change in coverage.

4.15.1. The Respondent/Vendor will obtain all insurance required under this agreement before commencing work and shall furnish the City of Shawnee with a certificate of insurance as proof of coverage. Companies writing insurance under this article must be licensed to do business in the State of Oklahoma. All costs for insurance will be borne by the Respondent/Vendor. With the exception of Respondent/Vendor liability, all policies shall be written on an "occurrence" not "claims made" basis.

4.15.2. The insurance certificates should be delivered to:

City of Shawnee
Attn: City Manager's Office
16 West 9th Street
Shawnee, OK 74801

4.15.3. Each insurance policy maintained by Respondent/Vendor must be endorsed as follows:

4.15.3.1. "The City of Shawnee is Named an Additional Insured." (Except the Workers' Compensation)

4.15.3.2. "Underwriters waive all rights of subrogation against the City of Shawnee."

4.15.3.3. "The coverage afforded herein shall be primary in relation to any policies carried by the City of Shawnee." Provide thirty (30) days written notice of cancellation or reduction of any coverage to the City of Shawnee.

4.15.4. Insurance provider shall provide thirty (30) days written notice of cancellation, non-renewal, or reduction of any coverage to the City of Shawnee.

4.15.5. The Respondent/Vendor shall maintain the following:

4.15.5.1. Workers' Compensation and Employers' Liability Insurance in accordance with all applicable State laws. Employers' Liability Insurance, including Occupational Disease, with limits of liability of not less than \$1,000,000 each accident and \$1,000,000 each employee.

4.15.5.2. The Respondent/Vendor shall maintain general liability coverage during the term of the agreement. The minimum acceptable limits shall be \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate. Each policy of insurance required by this clause shall contain an Additional Insured endorsement in favor of the City of Shawnee, its elected and appointed officials, agents, directors, employees, and volunteers, using form CG 20 10 Form B (edition 07 04) or approved equivalent; and a Waiver of Transfer of Rights of Recovery Against Others to Us in favor of the City of Shawnee, its elected and appointed officials, agents, directors, employees, and

volunteers. The Respondent/Vendor shall provide certification of such insurance and a copy of the policy upon request.

4.15.5.3. The Respondent/Vendor shall maintain automobile liability coverage during the term of the agreement. The minimum limit of this coverage shall be \$500,000 combined single limit for bodily injury and property damage. Liability coverage to be provided for "Any Auto" or "All Owned Autos and Hired and Non-owned Autos." If the Respondent/Vendor owns no vehicles, then a "Hired and Non-owned Auto" liability policy is required. An Additional Insured endorsement in favor of the City of Shawnee, its elected and appointed officials, agents, directors, employees, and volunteers is required; and a Waiver of Transfer of Rights of Recovery Against Others to Us in favor of the City of Shawnee, its elected and appointed officials, agents, directors, employees, and volunteers is also required. The Respondent/Vendor shall provide certification of such insurance and a copy of the policy upon request.

4.16. Contract Provisions: The following is an abbreviated summary of a portion of the City of Shawnee's proposed contract provisions. The following list is not intended to be exhaustive. The City of Shawnee reserves the right to modify the proposed provisions listed below.

4.16.1. The following additional agreements will be executed between the awarded Respondent/Vendor and the City of Shawnee:

4.16.1.1. Facility Leasing and Service Agreement

4.16.1.2. Maintenance Agreement and Warranty Terms

4.16.1.3. Agreement pertaining to Insurance and other Liabilities.

4.16.2. If the awarded Respondent/Vendor does not deliver the Temporary Building(s) within forty-five (45) calendar days of contract signature, the City of Shawnee *may* give notice to Respondent/Vendor of the City of Shawnee's intent to select the next most qualified proposal.

4.16.3. Non-negotiable contract terms include but are not limited to taxes, assignment of contract, audit of records, EEOC and ADA compliance, record retention, content of contract/order of precedence, contract changes, governing law, claims or controversies, and termination based on contingency of appropriation of funds.

4.16.4. All Federal, State, and local taxes due or payable during the time of contract on materials, equipment, labor or transportation, in connection with this work/product, must be included in the amount proposal by the Respondent/Vendor and shall be paid to proper authorities before acceptance.

4.17. The selected Respondent/Vendor shall be required to assume responsibility for all items and services offered in their Proposal whether or not he produces or provides them. The City shall consider the selected Respondent to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

4.18. Use of Subcontractor by Respondent/Vendors

4.18.1. Each Respondent/Vendor shall serve as the single prime Respondent/Vendor for all work performed pursuant to its contract. That prime Respondent/Vendor shall be responsible for all deliverables referenced in this Proposal Request. This general requirement notwithstanding, Respondents may enter into subcontractor arrangements. Respondents may submit a Proposal in response to this Proposal Request, which identifies subcontract(s) with others, provided that the prime Respondent/Vendor acknowledges total responsibility for the entire contract.

4.18.2. If it becomes necessary for the prime Respondent/Vendor to use subcontractors, the City of Shawnee urges the prime Respondent/Vendor to use small and emerging businesses, a small entrepreneurship, or a veteran or service-connected disabled veteran-owned small entrepreneurship, if practical. In all events, any subcontractor used by the prime should be identified to the City of Shawnee.

4.18.3. Information required of the prime Respondent/Vendor under the terms of this Proposal Request is also required for each subcontractor and the subcontractors must agree to be bound by the terms of the contract. The prime Respondent/Vendor shall assume total responsibility for compliance. Nothing in the contract documents shall create any contractual relationship between the City of Shawnee and any subcontractor or other person or organization having a direct contract with the Respondent/Vendor, nor shall it create any obligation on the part of the City of Shawnee to pay or to see to the payment of any monies due any subcontractor.

4.18.4. The Respondent/Vendor shall indemnify and hold harmless the City of Shawnee and its agents and employees from and against all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting from the Respondent/Vendor's failure to bind every subcontractor and Respondent/Vendor's surety to all of the applicable terms and conditions of the contract documents.

4.18.5. The Respondent/Vendor shall include all subcontractors as insured under its policies or shall insure that all subcontractors satisfy the same insurance requirements stated herein for the Respondent/Vendor.

4.19. Indemnification and Limitation of Liability

4.19.1. Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under the contract.

4.19.2. Respondent/Vendor shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the City of Shawnee from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by Respondent/Vendor, its agents, employees, partners or subcontractors in the performance of the contract, without limitation; provided, however, that the Respondent/Vendor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent actor failure to act of the City of Shawnee. In connection therewith the respondent/vendor shall execute the Hold Harmless Agreement furnished by the City of Shawnee in Attachment F. Work may not commence until such document is executed and received by the City of Shawnee.

4.19.3. Respondent/Vendor will indemnify, defend and hold the City of Shawnee harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneys' fees), claims judgments, liabilities and costs which may be finally assessed against the City of Shawnee in any action for infringement of a United States Letter Patent with respect to the Products, Materials, or Services furnished, or of any copyright, trademark, trade secret or intellectual property right, provided that the City of Shawnee shall give the Respondent/Vendor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Respondent/Vendor's sole expense, and (iii) assistance in the defense of any such action at the expense of Respondent/Vendor. Where a dispute or claim arises relative to a real or anticipated infringement, the City of Shawnee may require Respondent/Vendor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the City of Shawnee shall require.

4.19.4. The Respondent/Vendor shall not be obligated to indemnify that portion of a claim or dispute based upon:

4.19.4.1. City of Shawnee's unauthorized modification or alteration of a Product, Material, or Service;

4.19.4.2. City of Shawnee's use of the Product, Material, or Service in combination with other products, materials, or services not furnished by Respondent/Vendor;

4.19.4.3. City of Shawnee's use in other than the specified operating conditions and environment.

4.19.5. In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Respondent/Vendor believes that it may be enjoined, Respondent/Vendor shall have the right, at its own expense and sole discretion as the City of Shawnee's exclusive remedy to take action in the following order of precedence:

4.19.5.1. To procure for the City of Shawnee the right to continue using such item(s) or part(s) thereof, as applicable.

4.19.5.2. To modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or

4.19.5.3. To replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the City of Shawnee up to the dollar amount of the contract.

5. COMPLIANCE WITH FEDERAL REQUIREMENTS

Since the parties anticipate that federal funding will be applied to this Request for Proposal/Agreement/Contract, the following federal contract clauses must be complied with, where applicable, in addition to the clauses already mentioned. Where any clauses conflict, the more stringent shall be the used.

5.1. Equal Employment Opportunity: The regulation at 41 C.F.R. § 60-1.4(b) requires, except as otherwise provided or exempted in 41 C.F.R. Part 60, the insertion of the following contract clause: "During the performance of this contract, the Respondent/Vendor agrees as follows:

5.1.1. The Respondent/Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Respondent/Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

5.1.1.1. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Respondent/Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

5.1.2. The Respondent/Vendor will, in all solicitations or advertisements for employees placed by or on behalf of the Respondent/Vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

5.1.3. The Respondent/Vendor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation,

proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Respondent/Vendor's legal duty to furnish information.

- 5.1.4. The Respondent/Vendor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Respondent/Vendor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 5.1.5. The Respondent/Vendor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 5.1.6. The Respondent/Vendor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 5.1.7. In the event of the Respondent/Vendor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Respondent/Vendor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 5.1.8. The Respondent/Vendor will include the portion of the sentence in Section 5.1 that immediately precedes Section 5.1.1 and the provisions of Sections 5.1.1 through 5.1.8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Respondent/Vendor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:
 - 5.1.8.1. Provided, however, that in the event a Respondent/Vendor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Respondent/Vendor may request the United States to enter into such litigation to protect the interests of the United States.
- 5.1.9. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Respondent/Vendors and subcontractor with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
- 5.1.10. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Respondent/Vendor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts

pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Respondent/Vendors and subcontractor by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

5.2. Compliance with the Contract Work Hours and Safety Standards Act (2 CFR 200 Appendix II).

- 5.2.1. Overtime requirements: No Respondent/Vendor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 5.2.2. Violation, liability for unpaid wages, liquidated damages: In the event of any violation of the clause set forth in Section 5.2.1 of this section the Respondent/Vendor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Respondent/Vendor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in Section 5.2.1 of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in Section 5.2.1 of this section.
- 5.2.3. Withholding for unpaid wages and liquidated damages: The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Respondent/Vendor or subcontractor under any such contract or any other Federal contract with the same prime Respondent/Vendor, or any other federally- assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Respondent/Vendor, such sums as may be determined to be necessary to satisfy any liabilities of such Respondent/Vendor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in Section 5.2.2 of this section.
- 5.2.4. Subcontracts: The Respondent/Vendor or subcontractor shall insert in any subcontracts the clauses set forth in Section 5.2.1 through 5.2.4 of this section and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime Respondent/Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Section 5.2.1 through 5.2.4 of this section.
- 5.2.5. The Respondent/Vendor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
- 5.2.6. Records to be maintained under this provision shall be made available by the Respondent/Vendor or

subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the Respondent/Vendor or subcontractor will permit such representatives to interview employees during working hours on the job.

5.3. Extension to Successors and Assigns: Each and all of the covenants and agreements contained in the Agreement affected by the acceptance of the Proposal shall extend to and be binding upon the successors and assigns of the parties thereto. Rights under this Agreement may not be assigned without mutual written consent of the parties.

5.4. Binding Agreement: This Agreement shall be construed in a neutral manner. This Agreement reflects the complete and full terms of agreement that is binding between the parties. The pages may be signed on separate pages, in counterparts and together are deemed to be one document. A true electronic copy is deemed an original.

5.5. Governing Law: All disputes relating to the execution, interpretation, construction, performance, or enforcement of the Agreement and the rights and obligations of the parties hereto shall be governed by the laws of the State of Oklahoma and resolved in a District Court of Oklahoma or applicable Federal Court of Oklahoma. Respondent/Vendor hereby consents to and waives any objection to venue and jurisdiction in such courts.

5.6. Severability: If any term of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

5.7. Clean Air Act

5.7.1. The Respondent/Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

5.7.2. The Respondent/Vendor agrees to report each violation to the City of Shawnee and understands and agrees that the City of Shawnee will, in turn, report each violation as required to assure notification to FEMA, and the appropriate Environmental Protection Agency Regional Office.

5.7.3. The Respondent/Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5.8. Federal Water Pollution Control Act

5.8.1. The Respondent/Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 7401 et seq.

5.8.2. The Respondent/Vendor agrees to report each violation to the City of Shawnee and understands and agrees that the City of Shawnee will, in turn, report each violation as required to assure notification to the FEMA, and the appropriate Environmental Protection Agency Regional Office.

5.8.3. The Respondent/Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5.9. Suspension And Debarment

5.9.1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Respondent/Vendor is required to verify that none of the Respondent/Vendor's principals (defined at 2

C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- 5.9.2. The Respondent/Vendor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- 5.9.3. This certification is a material representation of fact relied upon by the City of Shawnee. If it is later determined that the Respondent/Vendor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City of Shawnee, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- 5.10. The proposal or Respondent/Vendor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The proposal or Respondent/Vendor further agrees to include a provision requiring such compliance in its lower tier covered transactions.
- 5.11. Byrd Anti-Lobbying Act: The Respondent/Vendor will be expected to comply with Federal statutes required in the Anti-Lobbying Act.
- 5.11.1. If applicable, Respondent/Vendors must sign and submit the following certification to the non-federal entity (NFE) with each proposal or offer exceeding \$100,000. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency. The "44 C.F.R. Part 18 – Certification Regarding Lobbying" shown on ATTACHMENT A must be signed and included with the contract documents.
- 5.12. Anti-Kickback Clause: The Respondent/Vendor hereby agrees to adhere to the mandate dictated by the Copeland "Anti- Kickback" Act which provides that each Respondent/Vendor or subgrantee shall be prohibited from inducing, by any means, any person employed in the completion of work, to give up any part of the compensation to which he is otherwise entitled.
- 5.13. Procurement Of Recovered Materials: In the performance of this Contract, the Respondent/Vendor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
- 5.13.1. Competitively within a timeframe providing for compliance with the Contract performance schedule;
- 5.13.2. Meeting Contract performance requirements; or
- 5.13.3. At a reasonable price.
- 5.13.4. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines website, www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program
- 5.14. Prohibition on Contracting for Covered Telecommunications Equipment or Services.

5.14.1. Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause.

5.14.2. Prohibitions.

5.14.2.1. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

5.14.2.2. Unless an exception in Section 5.14.3 of this clause applies, the Respondent/Vendor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

5.14.2.2.1. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

5.14.2.2.2. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

5.14.2.2.3. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

5.14.2.2.4. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

5.14.3. Exceptions.

5.14.3.1. This clause does not prohibit Respondent/Vendors from providing:

5.14.3.1.1. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

5.14.3.1.2. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

5.14.3.2. By necessary implication and regulation, the prohibitions also do not apply to:

5.14.3.2.1. Covered telecommunications equipment or services that:

5.14.3.2.1.1. Are not used as a substantial or essential component of any system; and

5.14.3.2.1.2. Are not used as critical technology of any system.

5.14.3.2.2. Other telecommunications equipment or services that are not considered covered

telecommunications equipment or services.

5.14.4. Reporting requirement.

5.14.4.1. In the event the Respondent/Vendor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Respondent/Vendor is notified of such by a subcontractor at any tier or by any other source, the Respondent/Vendor shall report the information in Section 5.14.4.2 of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

5.14.4.2. The Respondent/Vendor shall report the following information pursuant to Section 5.14.4.1 of this clause:

5.14.4.2.1. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

5.14.4.2.2. Within 10 business days of submitting the information in Section 5.14.4.2.1 of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Respondent/Vendor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

5.14.5. Subcontracts. The Respondent/Vendor shall insert the substance of this clause (Section 5.14), including this paragraph (5.14 .5), in all subcontracts and other contractual instruments.

5.15. Domestic Preferences for Procurements.

5.15.1. As appropriate, and to the extent consistent with law, the Respondent/Vendor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

5.15.2. For purposes of this clause:

5.15.2.1. Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

5.15.2.2. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

5.16. Access to Records

5.16.1. The following access to records requirements applies to this contract:

5.16.1.1. The Respondent/Vendor agrees to provide the City of Shawnee, OEM, the FEMA Administrator, the

Comptroller General of the United States, or any of their authorized representatives' access to any books, documents, papers, and records of the Respondent/Vendor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

5.16.1.2. The Respondent/Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

5.16.1.3. The Respondent/Vendor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

5.16.1.4. In compliance with Section 1225 of the Disaster Recovery Reform Act of 2018, the City of Shawnee and the Respondent/Vendor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

5.17. Termination

5.17.1. Termination for Cause. The City of Shawnee (City of Shawnee) shall submit a written notice to the Respondent/Vendor and surety which justifies placement of the Respondent/Vendor in default if:

5.17.1.1. The Work is not begun within the time specified in the Notice to Proceed.

5.17.1.2. The Work is performed with insufficient workmen, equipment, or materials to assure prompt completion.

5.17.1.3. The Respondent/Vendor performs unsuitable, neglected, or rejected work, refuses to remove materials.

5.17.1.4. The Work is discontinued.

5.17.1.5. The Work is not completed within the Contract Time or time extension.

5.17.1.6. Work is not resumed within a reasonable time after receiving a notice to continue.

5.17.1.7. The Respondent/Vendor becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency.

5.17.1.8. The Respondent/Vendor allows any final judgment to stand unsatisfied for a period of ten (10) days.

5.17.1.9. The Respondent/Vendor makes an assignment for the benefit of creditors.

5.17.1.10. The Work is not performed in an acceptable manner.

5.17.1.11. If the Respondent/Vendor or Surety does not remedy all conditions cited in the written notice within ten (10) days after receiving such a notice, the Respondent/Vendor is placed into default. In that event, the City of Shawnee may obtain the necessary labor, materials, and equipment, or enter into a new Contract in order to complete the Work. All costs incurred by the City of Shawnee for completing the Work under the new Contract will be deducted from the payment due the Respondent/Vendor. If the expense exceeds the sum payable under the Contract, the Respondent/Vendor and surety shall be liable to pay the City of Shawnee the difference.

5.17.2. Termination for Convenience. The City of Shawnee (City of Shawnee) may, at any time, terminate this

Contract or any portion thereof, for City of Shawnee's convenience, upon providing written notice to the Respondent/Vendor. In such case, Respondent/Vendor shall be paid for all work completed through the date notice was provided (less payments already received) and reasonable demobilization and restocking charges incurred, and reasonable overhead and profit based upon industry standards on the work performed. In no event shall the Respondent/Vendor be entitled to payment of overhead and profit on work not performed. In the event it is determined that the Respondent/Vendor was wrongfully terminated for cause, such termination shall be automatically converted to a termination for convenience and payment be made as provided under this Section.

- 5.18. Breach: Any breach of the Contract by Respondent/Vendor shall be governed by the Termination provision of the Contract. Additionally, in the event that the City of Shawnee incurs damages as a result of Respondent/Vendor's breach, the City of Shawnee may pursue recovery of such damages from Respondent/Vendor. The City of Shawnee further retains the right to seek specific performance of the Contract at any time as authorized by law. The City of Shawnee further retains the right to otherwise pursue any remedies available to the City of Shawnee as a result of the Respondent/Vendor's breach, including but not limited to administrative, contractual, or legal remedies. Termination for cause and convenience are governed by the Termination provision of the Contract
- 5.19. Changes: To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.
- 5.20. DHS Seal, Logo, And Flags: The Respondent/Vendor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The Respondent/Vendor shall include this provision in any subcontracts.
- 5.21. Compliance with Federal Executive Orders: This is an acknowledgement that FEMA financial assistance will be used to fund the Contract only. The Respondent/Vendor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- 5.22. No Obligation by the Federal Government: The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Respondent/Vendor, or any other party pertaining to any matter resulting from the Contract.
- 5.23. Program Fraud and False or Fraudulent Statements or Related Acts: The Respondent/Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Respondent/Vendor's actions pertaining to this contract.
- 5.24. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Respondent/Vendors: If subcontracts are to be let, the prime Respondent/Vendor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area Respondent/Vendors are used when possible.
- 5.24.1. Any party to this contract must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area Respondent/Vendors are used when possible. These steps are also required for the hiring of any subcontractor under this contract.
- 5.24.2. Affirmative steps must include:
- 5.24.2.1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

5.24.2.2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

5.24.2.3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

5.24.2.4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and

5.24.2.5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce

5.25. Copyright and Data Rights: License and Delivery of Works Subject to Copyright and Data Rights – The Respondent/Vendor grants to the City of Shawnee, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Respondent/Vendor will identify such data and grant to the City of Shawnee or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Respondent/Vendor will deliver to the City of Shawnee data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the City of Shawnee.

**Attachment A: Certification for Contracts, Grants, Loans, and Cooperative Agreements as required by the
Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. 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 contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$ 100,000 for each such failure.

The Respondent/Vendor, Mobile Modular Management Corporation, certifies or affirm the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Respondent/Vendor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.


Respondent/Vendor's Authorized Official

11/16/23
Date

Paul Godette Director Control Rgns
Name & title of Respondent/Vendor's Authorized Official

Attachment B: No Proposal Notification

The City of Shawnee is interested in receiving competitive pricing on all products and services. The City of Shawnee places significant value on quality vendors and desires to keep interested companies as vendors and suppliers of materials, equipment, and services. It is important for the City of Shawnee to determine the reasons that vendors do not respond to this contract item. The City of Shawnee will evaluate responses and attempt to determine if future changes are necessary in our specification development or procedures.

Vendor Name WILL NOT SUBMIT A RESPONSE

REASON FOR NO RESPONSE: *(Please place an X by one or more of the reasons listed below.)*

- ☐ Do not supply the requested product or service.
- ☐ Quantities offered or scope of project is TOO SMALL to be supplied by our company.
- ☐ Quantities offered or scope of project is TOO LARGE to be supplied by our company.
- ☐ Cannot proposal against MANUFACTURER on this item.
- ☐ Cannot proposal against RESELLER on this item.
- ☐ Specifications not clear enough to submit a response *(please explain)*.
- ☐ Time frame for proposal is too short *(please explain)*.
- ☐ Time frame to produce the product or service is too short.
- ☐ Other *(Please state the reasons.)* _____

FOR PURPOSES OF FUTURE SUBMITTALS, PLEASE INDICATE:

- ☐ My Company would like to remain on the vendor list.
- ☐ My Company **does not** want to remain on the vendor list.

Signature Date

Address CITY State Zip

Phone Number Fax Number Email Address

Attachment C – Addendum Acknowledgement Form

The undersigned acknowledges receipt of the following addenda to the Bid/Request for Proposals (indicate number and date of each):

Addendum No.: #1

Dated: 11/20/2023

Addendum No.:

Dated:

Addendum No.:

Dated:

Addendum No.:

Dated:

Addendum No.:

Dated:

Addendum No.:

Dated:

FAILURE TO SUBMIT ACKNOWLEDGEMENT OF ANY ADDENDUM THAT AFFECTS PRICING AND/OR SCOPE IS CONSIDERED A MAJOR IRREGULARITY AND MAY BE CAUSE FOR REJECTION OF ANY PROPOSAL.

Acknowledgement: I certify that I have read and agree to the above terms and conditions and that I am authorized to sign for the Vendor/Respondent/Vendor.

Company Name: Mobile Modular Management Corporation

FEIN: 94-2579843

Authorized Signature: 

Date: 11/16/23

Printed Name: Paul Crabtree

Title: Director Central Region

Attachment D: Non-Collusion Affidavit of Vendor

The following affidavit **MUST** accompany your response to this proposal.

COUNTY OF Harris) SS. STATE
OF Texas)

AFFIDAVIT

I, Paul Crabtree / Mobile Modular Management Corp, declare under oath, under penalty of perjury, that I am lawfully qualified and acting officer and/or agent of (Respondent/Vendor's Name) and that:

1. That the affiant has not been party to any collusion among proponents in restraint of freedom of competition by agreement to propose at a fixed price or to refrain from making a proposal; or with any official of the state or political subdivision of the State, including The City of Shawnee, as to quantity, quality, or price in the matter of the attached proposal, or any other terms of said prospective contract; or in any discussions between proponents and any official of the state, including the City of Shawnee, concerning the exchange of money or other thing of value for special consideration in the letting of a contract and,
2. Paul Crabtree / Mobile Modular Management Corp (Respondent/Vendor's Name) has not pled guilty to or been convicted of a felony charge for fraud, bribery, or corruption involving sale of real or personal property to any state or any political subdivision of a state.
3. That no person, Respondent/Vendor, corporation subsidiary, parent, predecessor, or other entity affiliated with or related to Paul Crabtree / Mobile Modular Management Corp (Respondent/Vendor's Name) has been convicted of a
 - a. felony charge for fraud, bribery, or corruption relating to the sale of real or personal property to any state or political subdivision of a state.

[Signature] Paul Crabtree Director Control Region
(Officer or Agent)

Subscribed and sworn to before me this 16th day of November, 2023.

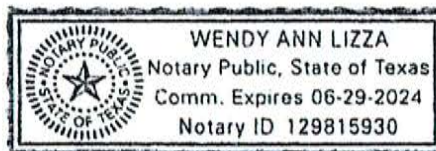
(SEAL)

10/29/2024

My Commission Expires

Wendy Ann Lizza

(Notary Public)



Attachment F: HOLD HARMLESS AGREEMENT

Mobile Modular Mergant Corp (Contractor) agrees to protect, defend, indemnify, save, and hold harmless City of Shawnee, its elected and appointed officials, departments, agencies, boards and commissions, its officers, agents servants, employees, including volunteers, from and against any and all claims, demands, expense and liability arising out of injury or death to any person or the damage, loss or destruction of any property to the extent caused by any act or omission of Contractor, its agents, servants, employees, and subcontractors, or any and all costs, expense and/or attorney fees incurred as a result of any claim, demands, and/or causes of action that results under the performance or non-performance of this contract.

Mobile Modular Mergant Corp (Contractor) agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit, as described in the paragraph above, at its sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent.

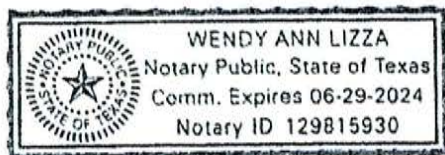


Paul Craftree
Denton Central Region

SIGNED, this 16th day of July, 2023

WITNESSES:

Wendy Lizza





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/10/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER SullivanCurtisMonroe Insurance Services (LA) 1920 Main Street Suite 600 Irvine, CA 92614 www.SullivanCurtisMonroe.com License # 0E83670		CONTACT NAME: PHONE (A/C, No, Ext): 949-250-7172 FAX (A/C, No): 949-852-9762 E-MAIL ADDRESS:	
INSURED McGrath RentCorp DBA: Mobile Modular Management Corporation 5700 Las Positas Road Livermore CA 94551		INSURER(S) AFFORDING COVERAGE INSURER A: Hartford Fire Insurance Company INSURER B: National Union Fire Ins Co Pittsburgh PA INSURER C: Bridgeway Insurance Company INSURER D: AGCS Marine Insurance Company INSURER E: INSURER F:	
		NAIC # 19682 19445 12489 22837	

COVERAGES

CERTIFICATE NUMBER: 77155685

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Contractual ☒ XCU included GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	☒	☒	72CESOF7559 Ded. \$25,000	4/30/2023	4/30/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	☒	☒	5425651 HAPD - \$100K limit Comp&Coll Ded:\$250	3/1/2023	3/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Florida PIP - Total Agg \$10,000
C	☒ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$	☒	☒	8EA7XL0002307 - \$2M Limit SEE ATTACHED	4/30/2023	4/30/2024	EACH OCCURRENCE \$50,000,000 AGGREGATE \$50,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	☒	☒	WC015852320 (CA) WC015852321 (AOS)	3/1/2023 3/1/2023	3/1/2024 3/1/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	Tenant Liability			MXI93076389	4/30/2023	4/30/2024	\$1,000,000 Limit / \$100,000 Deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Shawnee, its elected and appointed officials, agents, directors, employees and volunteers are named as additional insured per attached form. Coverage is primary and non-contributory per attached form. Umbrella follows form. Waiver of Subrogation applies per attached form. 30 day notice of cancellation applies per attached form.

CERTIFICATE HOLDER

CANCELLATION

City of Shawnee
Attn: City Manager's Office
16 West 9th Street
Shawnee OK 74801

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Gohar Petiryan

Gohar Petiryan

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ACORD 25 (2016/03)

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ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

ACORD

SullivanCurtisMonroe Insurance Services (LA)

POLICY NUMBER

PRIOR

NAIC CODE

NAMED INSURED

McGrath RentCorp
DBA: Mobile Modular Management Corporation
5700 Las Positas Road
Livermore CA 94551

EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

POLICY NUMBER: 25 FORM TITLE: Certificate of Liability (03/16)

HOLDER: City of Shawnee Attn: City Manager's Office

ADDRESS: 16 West 9th Street Shawnee OK 74801

Named Insured Continued:

Mobile Modular Management Corporation

DBA: Kitchens To Go by Mobile Modular

DBA: Mobile Modular Portable Storage

DBA: Mobile Facilities, Inc.

McGrath 180, LLC

Vesta Housing Solutions LLC DBA: Vesta Modular



ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

Y IvanCurtisMonroe Insurance Services (LA)		NAMED INSURED McGrath RentCorp DBA: Mobile Modular Management Corporation 5700 Las Positas Road Livermore CA 94551
NUMBER		
IR	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

1 NUMBER: 25 FORM TITLE: Certificate of Liability (03/16)

DER: City of Shawnee Attn: City Manager's Office

ESS: 16 West 9th Street Shawnee OK 74801

Excess Liability Carriers Continued:

ridgeway Insurance Company NAIC#12489
Policy#8EA7XL000230700 Eff. 4/30/2023 - 4/30/2024 \$2M Limit
Westchester Surplus Lines Insurance Company NAIC10172
Policy#G47403479001 Eff. 4/30/2023 - 4/30/2024 \$3M Limit
Leadfast Insurance Company NAIC#26387
Policy#AEC417431903 Eff. 4/30/2023 - 4/30/2024 \$5M Limit
Columbia Casualty Company NAIC #31127
Policy#7037149355 Eff. 4/30/2023 - 4/30/2024 \$5M Limit
Landmark American Insurance Company NAIC#33138
Policy#LHA102231 Eff. 4/30/2023 - 4/30/2024 \$5M Limit
Onesite Insurance Company NAIC#17221
Policy#CXSL13700970602 Eff. 4/30/2023 - 4/30/2024 \$5M Limit
Spencer American Insurance Company NAIC#43460
Policy#CX00CAG23 Eff. 4/30/2023 - 4/30/2024 \$20M Limit
Endurance American Specialty Insurance Company NAIC#41718
Policy#ELD30001663603 Eff. 4/30/2023 - 4/30/2024 \$5M Limit

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

**Name Of Additional Insured Person(s)
Or Organization(s):**

Location(s) Of Covered Operations

Any and all additional insureds required by written contract or written agreement or required by a permit issued by a state or political subdivision

Any and All Locations

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
Any and all additional insureds required by written contract or written agreement or required by a permit issued by a state or political subdivision	Any and All Locations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

- (3) Any manager, if you or the additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or the additional insured is a corporation;
- (5) Any trustee, if you or the additional insured is a trust; or
- (6) Any elected or appointed official, if you or the additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium

computation, and send us copies at such times as we may request.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the

POLICY NUMBER: 72CESOF7559

COMMERCIAL GENERAL LIABILITY
CG 24 04 05 09

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

Any and all additional insureds required by written contract or written agreement or required by a permit issued by a state or political subdivision

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**The following is added to Paragraph 8. Transfer Of
Rights Of Recovery Against Others To Us of
Section IV – Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

ENDORSEMENT

This endorsement, effective 12:01 A.M. 03/01/2023 forms a part of

Policy No. 5425651 issued to

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

ADDITIONAL INSURED:

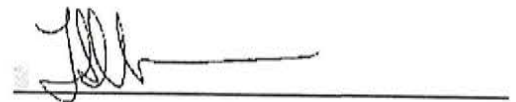
ANY PERSON OR ORGANIZATION FOR WHOM YOU ARE CONTRACTUALLY BOUND TO PROVIDE ADDITIONAL INSURED STATUS BUT ONLY TO THE EXTENT OF SUCH PERSON OR ORGANIZATIONS LIABILITY ARISING OUT OF THE USE OF A COVERED AUTO.

I. SECTION II - LIABILITY COVERAGE, A. Coverage, 1. - Who Is Insured, is amended to add:

d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:

(1) The coverage and/or limits of this policy, or

(2) The coverage and/or limits required by said contract or agreement.



Authorized Representative or Countersignature (in States Where Applicable)

87950 (10/05)

ENDORSEMENT

This endorsement, effective 12:01 A.M. 03/01/2023 forms a part of

Policy No. 5425651 issued to

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INSURANCE PRIMARY AS TO CERTAIN ADDITIONAL INSURED

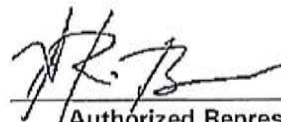
This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, B., General Conditions, 5., Other Insurance, c., is amended by the addition of the following sentence:

The insurance afforded under this policy to an additional insured will apply as primary insurance for such additional insured where so required under an agreement executed prior to the date of accident. We will not ask any insurer that has issued other insurance to such additional insured to contribute to the settlement of loss arising out of such accident.

All other terms and conditions remain unchanged.



Authorized Representative or
Countersignature (in States Where
Applicable)

74445 (10/99)

ENDORSEMENT

This endorsement, effective 12:01 A.M. 03/01/2023 forms a part of

Policy No. 5425651 issued to

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

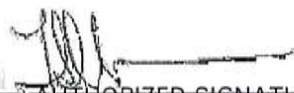
Section IV - Business Auto Conditions, A. - Loss Conditions, 5. - Transfer of Rights of Recovery Against Others to Us, is amended to add:

However, we will waive any right of recover we have against any person or organization with whom you have entered into a contract or agreement because of payments we make under this Coverage Form arising out of an "accident" or "loss" if:

- (1) The "accident" or "loss" is due to operations undertaken in accordance with the contract existing between you and such person or organization; and
- (2) The contract or agreement was entered into prior to any "accident" or "loss".

No waiver of the right of recovery will directly or indirectly apply to your employees or employees of the person or organization, and we reserve our rights or lien to be reimbursed from any recovery funds obtained by any injured employee.

62897 (6/95)



AUTHORIZED SIGNATURE

ENDORSEMENT

This endorsement, effective 12:01 A.M. 03/01/2023 forms a part of

Policy No. 5425651 issued to

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL

TO ENTITIES OTHER THAN THE FIRST NAMED INSURED

This policy is amended as follows:

In the event that the Insurer cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;
2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and
3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

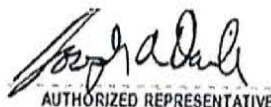
Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy

107414 (03/11)


AUTHORIZED REPRESENTATIVE

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on inception date of the policy unless a different date is indicated below.

This endorsement, effective 12:01 AM 03/01/2023

forms a part of Policy No. WC015852321 (AOS)

Issued to McGrath RentCorp
DBA: Mobile Modular Management Corporation

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME
OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY
AGAINST, UNDER ANY WRITTEN CONTRACT OR AGREEMENT
YOU ENTER INTO PRIOR TO THE OCCURRENCE OF LOSS.

This form is not applicable in Kansas for private construction contracts as defined in K.S.A. 16-1801 through K.S.A. 16-1807 or public construction contracts as defined in K.S.A. 16-1901 through 16-1908, except where permitted by statute or other applicable law, such as for use in wrap-up insurance programs.

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, Texas, or Utah.

WC 00 03 13
(Ed. 04/84)

Countersigned by _____

Authorized Representative

Excess Insurance Policy



LIBERTY INSURANCE UNDERWRITERS INC.

(A Stock Insurance Company, hereinafter the "Insurer")

ENDORSEMENT NO. 16

Named Insured: McGrath RentCorp
DBA: Mobile Modular Management Corporation
Policy Number: 8EA7XL0002307 - \$2M Limit
Effective Date: 04/30/2023

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF SUBROGATION

In the event of any payment under this policy for a "loss" for which you have waived the right of recovery in a written contract entered into prior to the "loss", we hereby agree to also waive our right of recovery. This waiver shall only apply with respect to a "loss" occurring due to operations undertaken as per the specific contract in which you waived the right of recovery.

This endorsement does not change any other provision of the policy.



231-XS (Ed. 01 13)

Excess Insurance Policy**LIBERTY INSURANCE UNDERWRITERS INC.**

(A Stock Insurance Company, hereinafter the "Insurer")

Named Insured: McGrath RentCorp
DBA: Mobile Modular Management Corporation
Policy Number: 8EA7XL0002307 - \$2M Limit
Effective Date: 04/30/2023

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OTHER INSURANCE AMENDMENT – PRIMARY AND NON-CONTRIBUTORY**Other Insurance Amendment – Primary and Non-Contributory**

Paragraph F. **Other Insurance** under Section V. **CONDITIONS** of our policy is deleted and replaced with the following:

F. Other Insurance

If other insurance applies to a "loss" that is also covered by this policy, this policy will apply excess of such other insurance. Nothing herein will be construed to make this policy subject to the definitions, terms, conditions and exclusions of such other insurance. However:

1. This provision will not apply if the other insurance is specifically written to be excess of this policy.
2. If a written contract requires that this insurance be primary and non-contributory with respect to an additional insured covered by this insurance, we will not seek contribution from any other insurance where that additional insured is a Named Insured under such other insurance.

This endorsement does not change any other provision of the policy.

LEASE



a Division of McGrath Rentcorp
 Corporate Address:
 5700 Las Positas Road
 Livermore, CA 94551
 www.mgrc.com

Lease Quotation and Agreement

Quote #	Q-408684
Date of Quote	11/14/2023
Quote Expiration Date:	12/14/2023
Lease Term:	24 Months
Estimate Del Date:	11/13/2023
Lessee PO#:	

Lessee Name and Billing Address	Site Information	Lessor Name
City Of Shawnee ("Lessee") 16 West 9th Street Shawnee, OK 74801 Danny Vise Phone #: 405-878-1607	Danny Vise 2202 North Airport Drive Shawnee, OK 74804 Cell: 405-878-1607	Mobile Modular Management Corporation ("Lessor") Questions? Contact: Megan Poore megan.poore@mobilemodular.com Direct Phone: 1 (469) 507-3332

Equipment and Accessories	Qty	Monthly Rent	Extended Rent	Taxable
Classroom, 24x64 TX (Item1072W) (Double Classroom.Two restrooms.Size excludes 4' towbar.)	1	\$1,500.00	\$1,500.00	N
Filter Replacement Program (Optional)	2	\$27.00	\$54.00	N
Equipment and Accessories Monthly Subtotal:				\$1,554.00

Charges Upon Delivery	Qty	Charge Each	Total One Time	Taxable
Classroom, 24x64 TX (Item1072W) (Double Classroom.Two restrooms.Size excludes 4' towbar.)				
Delivery	2	\$3,325.00	\$6,650.00	N
Block and Level Building	1	\$6,000.00	\$6,000.00	N
Essential Material Handling Fee	2	\$75.00	\$150.00	N
Installation, Ramp Custom Plan (Build ADA Compliant Treated Wood: Three 8'x 8' Decks, One 5'x5' Steps, and Two 5'x30' Ramps.)	1	\$18,612.00	\$18,612.00	N
Delivery Haulage Fuel	2	\$500.00	\$1,000.00	N
Skirting, Install	176	\$23.00	\$4,048.00	N
Modifications			\$13,842.00	
Charges Upon Delivery Subtotal:				\$50,302.00

Charges Upon Return	Qty	Charge Each	Total One Time	Taxable
Classroom, 24x64 TX (Item1072W) (Double Classroom.Two restrooms.Size excludes 4' towbar.)				
Return	2	\$3,325.00	\$6,650.00	N
Prepare Equipment For Removal	1	\$6,000.00	\$6,000.00	N
Cleaning Fee	2	\$450.00	\$900.00	N
Return Haulage Fuel	2	\$500.00	\$1,000.00	N
Skirting, Removal	176	\$5.00	\$880.00	N
Estimated Charges Upon Return Subtotal:				\$15,430.00



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Total Estimated Charges

Subtotal of Monthly Rent	\$1,554.00
Personal Property Expense	\$105.10
Taxes on Monthly Charges	\$0.00
Total Charges per Month (including tax)	\$1,659.10
Charges Upon Delivery (including tax)	\$50,302.00
Estimated Charges Upon Return (including tax)	\$15,430.00
Estimated Initial Invoice	\$51,961.10



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Special Notes



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Flooring (VCT): This building ships standard with used VCT in good condition. VCT may have some discoloration or wear). New VCT is available for an additional charge.

Block/Level: Price assumes building is installed using Mobile Modular standard foundation. Mobile Modular assumes installation on the minimum foundation design criteria/tolerances. For DSA buildings, it is assumed building will be installed on the minimum amount of foundation lumber per the applicable DSA approved stockpile drawings and site will not exceed 4-1/2" out of level. Additional material and labor charges apply for installing buildings above minimum foundation design criteria, raising buildings to meet specific finish floor elevations, raising building level to adjacent buildings, landings, walkways, transitions, etc.

Tie-downs: Quantity and price may vary based on seismic source factor and site conditions. Patch and repair of site after removal is not included and is the responsibility of the Customer. Alternative non-penetrating seismic system is available for an additional charge. Wet-stamped engineering available for an additional charge.

Product Availability: Product availability and delivery date are subject to product availability upon receipt of signed Agreement and/or credit approval.

General: Customer's site must be dry, compacted, level and accessible by normal truck delivery. Pricing does not include any clearing or grading of sites, obstruction removal, site or final building clean up, any asphalt transitions, dolly, crane, forklift, electrical or plumbing connections, window coverings, furniture, casework, appliances, doorstops, phone or data lines, gutters, downspouts or tie-in, temporary power, temporary fencing, traffic control, flagmen, soil and/or pull test, custom engineering, fees associated with inspections, city or county submittals and/or use permits, security screens, door bars and any item not specifically listed as being included.

Skirting: Skirting installation & removal is not included unless otherwise noted. When included, it is non-structural, non-fire rated and cosmetic only. Skirting pricing assumes a level site.

Skirting Finish Floor Height: Skirting prices are based on 32" Finished Floor Height.

Used building rental: Quotation is for a used or refurbished modular building. There may be variations in wall paneling, flooring, or other exterior and interior finishes. Dimensions are nominal unless otherwise stated.

Quote Based on Mobile Modular Standard Unit: Does not include permits, utility hook ups, site work, office equipment, furniture, coffee/water service, cleaning service, phone/internet service. Quote only includes items specifically listed on quote. If additional equipment is needed to set building, there will be an additional cost.

Customer Dumpster Responsibility: Customer is responsible for supplying a dumpster for debris removal for the installation and/or dismantle of the modular building(s).

Buildings containing a restroom(s): Restrooms are not self-contained. Manifolds are not included and must be assembled and connected by others. Water & sewer stub-out locations may vary. Paper & soap dispensers, sanitary and trash receptacles are not provided.

Ramps: Site conditions may affect ramp configuration and cost. Customer is responsible for transition from end of ramp to grade and for extended or custom rails, if needed. Ramp skirting is available for an additional charge. Final cost determined after acceptance for ADA Compliance. Customer is responsible for removal of decks and ramps at end of lease.

HVAC Filter Replacement Program: Customer has selected the HVAC Filter Replacement Program. This service is incidental to the Lease of the Equipment and not included with any limited warranties. The additional charge for this service is included in the monthly rental rate reflected above. For this additional monthly charge, MMMC will mail three (3) HVAC filters on a quarterly basis. Customer shall be solely responsible for installation of the filters each month.



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Customer shall be responsible for charges that may result if Customer fails to properly replace HVAC filters on a monthly basis.

Site Installation Requirements: Prior to delivery, Customer shall mark the four corners where the building is to be placed on the site/pad location, and shall also mark the locations of door(s) and ramp(s). Should special handling be required to position, install, or remove the modular building on Customer's site due to site conditions/constraints and/or obstructions, Customer will be responsible for additional charges. Additional rolling charges may be applicable as site conditions necessitate.

Site Plan Review: Mobile Modular is not responsible for review and verification of Customer's site plans, civil plans, soils tests/survey's, etc. It is the responsibility of the Customer to ensure the site plans and site conditions meet applicable codes and governing body approvals. This includes, but is not limited to, ensuring the building pad/site allows for standard delivery and installation based on the minimum foundation design tolerances as per applicable approved stockpile drawings/foundation design.

Delivery Date: Delivery date will not be confirmed until Mobile Modular receives and approves the signed Agreement and all credit conditions have been met.

Delivery of Equipment: Customer is responsible for selecting a suitable site and directing Mobile Modular on exact placement/orientation of the Equipment. Customer shall physically mark the site/pad to indicate corner locations for Equipment placement.

Additional Information

- Quote is valid for 30 days.
- Lessee's site must be dry, compacted, level and accessible by normal truck delivery. Costs to dolly, crane, forklift, etc. will be paid by Lessee. Unless noted, prices do not include permits, ramp removal, stairs, foundation systems, foundation system removal, temporary power, skirting, skirting removal, engineering, taxes or utility hookups.
- Subject to equipment availability. Unless noted, equipment and related furnishings, finishes, accessories and appliances provided are previously leased and materials, dimensions, and specifications vary. Detailed specifications may be available upon request.
- For lease transactions, Lessor reserves the right to substitute equal or better equipment prior to delivery without notice.
- This transaction is subject to prior credit approval. Security deposit and payment in advance may be required.
- **Sales Tax will be calculated based on the tax rate at the time of invoicing.**
- **Unless otherwise noted, prices do not include prevailing wages, Davis-Bacon wages, or other special or certified wages.**

Estimated Equipment Value

The Estimated Equipment Value is listed below. Lessee is solely responsible for complying with all insurance requirements set forth in the Lease Terms and Conditions attached hereto.

Equipment Description	Qty	Estimated Equipment Value (each)
Classroom, 24x64 TX (Item1072W)	1	\$75,600.00



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This Lease Quotation and Agreement is entered into by and between Lessor and Lessee effective as of the date signed by Lessee. This Lease Quotation and Agreement includes the terms and conditions set forth in the following two documents (collectively, the "Agreement"), each of which is incorporated herein by this reference:

1. **Lease Terms and Conditions** attached hereto; and
2. **Supplemental Lease Terms and Conditions** located at (<https://www.mobilemodular.com/contractterms>), as the same may be updated from time to time in the sole and absolute discretion of Lessor.

IN THE EVENT THE LESSOR AND LESSEE HAVE ENTERED INTO A MASTER LEASE AGREEMENT, THE TERMS OF SUCH MASTER LEASE AGREEMENT ARE INCORPORATED HEREIN BY THIS REFERENCE, ARE DEEMED A PART OF THIS AGREEMENT, AND TAKE PRECEDENCE OVER ANY CONFLICTING TERMS IN THIS AGREEMENT.

By signing below, Lessee: (1) acknowledges and agrees that it has received, read and understands the terms of this Agreement and agrees to be bound by the terms of this Agreement, including prices and specifications, and (2) instructs Lessor to make appropriate arrangements for the preparation and delivery of the Equipment identified herein. This Agreement may be executed in one or more counterparts (including through the use of electronic signatures), each of which shall be deemed an original and all of which shall constitute one and the same Agreement. Upon execution of this Agreement, Lessor shall generate a Lease Agreement Number, which shall be referenced on all Lessor invoices.

No document provided by Lessee, including, without limitation, Lessee's purchase orders, work orders, bills of lading, or forms for receipt or acknowledgment or authorization ("**Lessee Forms**"), nor the terms and conditions associated with such Lessee Forms, shall amend, modify, supplement, waive, or release any term or condition of this Agreement (or the Master Lease Agreement, as applicable) even if such Lessee Forms are signed by an agent or representative of Lessor. The terms and conditions of this Agreement (or the Master Lease Agreement, as applicable) shall prevail over any Lessee Forms, and any inconsistent or additional terms and conditions in Lessee Forms shall be deemed void *ab initio* and of no force or effect.

The individuals signing this Agreement affirm that they are duly authorized to execute this Agreement by and on behalf of the parties hereto.

LESSOR:
Mobile Modular Management Corporation
a division of McGrath RentCorp

LESSEE:
City Of Shawnee

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



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LEASE TERMS AND CONDITIONS

- LEASE.** Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the Equipment (as defined below). The lease of any Equipment is governed by the terms of this Agreement. The Equipment is and shall remain the personal property of Seller.
- TERMS.** All capitalized terms used and not otherwise defined herein, will have the meanings set forth in this Agreement. As used in this Agreement, the following definitions shall apply: "Accessories" shall mean any additions, attachments, or accessories to the modular buildings, or ancillary services, provided by Lessor to Lessee and identified in this Agreement; "Equipment" shall mean the modular buildings, Accessories, and/or Services identified in this Agreement, together with any replacements, repairs, additions, attachments or accessories hereafter rented to Lessee under this Agreement.
- PAYMENTS AND PRICE ADJUSTMENTS.** Lessee agrees to pay to Lessor each payment specified herein on a net invoice basis. Payment terms are net due upon receipt unless otherwise agreed upon in writing. All payments due from Lessee pursuant to this Agreement shall be made by Lessee without any abatement or setoff of any kind whatsoever arising from any cause whatsoever. Prices will be increased by Lessor for unknown circumstances or conditions, including, but not limited to, driver waiting time, special transport permits, difficult site conditions and/or increases in fuel prices.
- LEASE TERM; EARLY TERMINATION.** The Lease Term and Monthly Rent, each of which are specified in this Agreement, shall commence on the date the Equipment is delivered to the Site (the "Start Rent Date"), unless a different date is mutually agreed upon in writing, and shall continue thereafter for the number of months specified in this Agreement as the Lease Term. Lessee agrees to pay the Total Charges per Month specified in this Agreement (as may be adjusted pursuant to Section 5 below) for each month during the Lease Term and any extensions thereof. A month is defined as thirty (30) calendar days; rent will be billed monthly unless otherwise specified in this Agreement (but rent shall be due and owing even in the absence of actual receipt by Lessee of an invoice or bill). In the event that Lessee terminates this Agreement prior to the expiration of the Lease Term, Lessor shall be entitled to charge an early termination fee, even if such termination occurs prior to delivery of the Equipment. Such fee shall be determined by Lessor, in its sole discretion, following the receipt of the termination request. Such early termination fee may include, but shall not be limited to, charges related to the preparation of the Equipment for delivery and/or the rental value of this Agreement. In no event shall any such early termination fee exceed the total value of this Agreement. Lessor shall not be liable to Lessee for any failure or delay in obtaining, delivering or setting up the Equipment. If Lessee delays delivery of the Equipment for any reason for thirty (30) days or longer from the original delivery date mutually agreed upon between both parties, Lessor may, in Lessor's sole discretion, charge Lessee a monthly storage fee equal to the Monthly Rent starting on the original delivery date, and/or terminate this Agreement, subject to the early termination provisions set forth above.
- EXTENSION OF LEASE TERM.** Upon expiration of the initial Lease Term set forth in this Agreement, the lease of the Equipment shall automatically be extended on a month-to-month basis until the Equipment is returned to Lessor. This Agreement does not expire and the terms and conditions hereof shall remain in full force and effect for any extension of the Lease Term, unless otherwise agreed upon by Lessor and Lessee in writing. Lessor may periodically revise the Total Charges per Month from those reflected in this Agreement if the lease of the Equipment is extended beyond the initial Lease Term. If the lease of the Equipment is extended beyond the initial Lease Term, Lessor may revise the charges for the Charges Upon Return from those specified in this Agreement to reflect Lessor's then-current market rates for such services.
- PREPARATION FOR REMOVAL OF THE EQUIPMENT.** Prior to the scheduled removal of the Equipment, Lessee shall, at a minimum: (a) provide clear access to the Equipment for Lessor to dismantle and remove the Equipment from the Site by industry-standard trucking methods; (b) disconnect all utilities; (c) remove all personal property of Lessee's from the Equipment; and (d) in the case of Equipment that includes plumbing, flush the plumbing lines clean and ensure that no foreign matter remains in any fixtures. Plumbing must be properly disconnected by Lessee at its sole cost and expense. Lessee will be responsible for costs of repair required by improper plumbing disconnection to the extent that the Equipment is damaged. Any components, parts or accessories supplied by Lessor must be returned with the Equipment. In the event that Lessee fails to meet the requirements herein, additional charges may be incurred by Lessee for additional labor, waiting time, or dry-runs in the event that Lessor is unable to return the Equipment as scheduled.
- RETURN OF EQUIPMENT.** Lessee must provide a minimum of thirty (30) days prior, written notice to Lessor when requesting to return the Equipment. Lessee is responsible for complying with the requirements set forth in the "Preparation for Removal of the Equipment" section of these Lease Terms and Conditions. Unless otherwise agreed upon by Lessor in writing, Lessee shall continue to be responsible for payment of the Total Charges per Month set forth in this Agreement (as may be adjusted pursuant to Section 5 hereto) until return of the Equipment to Lessor is completed. The Total Charges per Month will be prorated in one-half (1/2) month increments only. If the Equipment is returned within the first fifteen (15) days of the billing period, Lessee shall be responsible for paying half of the Total Charges per Month; if Equipment is returned between the sixteenth (16th) and thirtieth (30th) days of the billing period, Lessee shall be responsible for paying the entire amount of the Total Charges per Month. The charges reflected in this Agreement for Charges Upon Return will be adjusted for any Lease Term longer than twelve (12) months or if the Lease is extended beyond the initial Lease Term, pursuant to Section 5.
- WARRANTIES; DISCLAIMER.** Lessor warrants to Lessee that the Equipment, when delivered and set up and under normal use and regular service and maintenance by Lessee, shall be free from major defects in materials and workmanship that prevent any normal use and operation. Accessories supplied by Lessor pursuant to this Agreement but not owned by Lessor shall not be subject to the foregoing warranty, but shall carry the applicable warranty of the Accessory owner, which Lessor hereby assigns to Lessee to the extent transferable. Lessor's liability under this warranty shall be limited to the replacement or repair of the defective Equipment (during Lessor's normal working hours), at Lessor's option; provided, however, that Lessee shall provide written notice of any failure or defect to Lessor within four (4) days after discovery, and within the applicable warranty period, and failure to provide such notice in a timely manner may result in a limitation of this warranty at Lessor's sole option. If Lessee does not grant clear, unobstructed access for any such repairs between 8:00 a.m. and 5:00 p.m., Monday through Friday, Lessee shall bear the cost of repair rates for labor at the applicable overtime rates. This warranty does not



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extend to any Equipment subjected to improper application, damaged by accident or abuse, or repaired or altered outside of Lessor's facilities without prior written authorization from Lessor. THE EXPRESS WARRANTIES CONTAINED IN THIS AGREEMENT ARE LESSOR'S SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO THE EQUIPMENT AND SERVICES, AND ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, GUARANTEES, PROMISES, AFFIRMATION OR REPRESENTATIONS OF ANY KIND, EXPRESSED OR IMPLIED, WHICH MAY BE DEEMED APPLICABLE TO THE EQUIPMENT OR SERVICES, INCLUDING WITHOUT LIMITATION, THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, ANY WARRANTY AGAINST INFRINGEMENT OR AS TO TITLE, WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OR TRADE OR ANY OTHER MATTER. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, ALL EQUIPMENT AND SERVICES ARE BEING PROVIDED "AS IS", "WHERE IS, WITH ALL FAULTS". LESSOR SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, THERETO. LESSEE HAS SELECTED ALL EQUIPMENT FOR LESSEE'S INTENDED USE AND RECOGNIZES THAT LESSOR IS NOT A DESIGNER OR MANUFACTURER OF ANY EQUIPMENT.

9. **TAXES.** Lessee agrees to be responsible for all charges, fees and taxes (local, state and federal) levied or assessed upon Lessee or Lessor relating to the ownership, leasing, rental, sale, possession, use or operation of the Equipment (including, without limitation, sales, use and personal property taxes); provided, however, that the foregoing obligation shall not apply to any local, state or federal income tax assessed against the Lessor as a result of this Agreement which shall continue to be the obligation of Lessor. Lessee shall pay all such taxes for which it is responsible to the appropriate taxing authorities or, if directed or invoiced by Lessor, pay such amounts to Lessor for remittance by Lessor to the appropriate taxing authorities.

10. **LOSS OR DAMAGE.** Upon delivery and until the Equipment is removed from the Site by Lessor or its authorized agent, Lessee assumes all risk of loss or damage to the Equipment. Should any Equipment damaged be capable of repair, the Equipment shall be repaired and restored to its condition existing prior to such damage, at Lessee's sole cost and expense. In the event any of the Equipment is damaged beyond repair or is lost, stolen or wholly destroyed, this Agreement shall cease and terminate as to such Equipment as of the date of the event, accident or occurrence causing such loss or destruction, and Lessee shall pay Lessor within forty-five (45) days thereafter, an amount equal to the full replacement value of the Equipment, which payment obligation shall survive the termination of this Agreement.

11. **INSURANCE.** Lessee shall procure and maintain, at its sole expense (including all premiums, deductibles and self-insured retentions), (i) property insurance covering the loss, theft, destruction, or damage to the Equipment in an amount not less than the full replacement value thereof (and with a deductible no higher than \$25,000), naming Lessor as loss payee of the proceeds, and (ii) commercial general liability insurance (minimum of \$1,000,000 per occurrence and \$2,000,000 in the aggregate) (and with a deductible no higher than \$25,000), naming Lessor and its designees as additional named insureds. Lessee's insurance shall be primary and non-contributory to any insurance maintained by Lessor or any other additional insureds or additional named insureds. The liability insurance policy shall contain coverage for all contractual indemnity obligations of Lessee set forth in this Agreement, cross-liability and waiver of subrogation provisions in favor of Lessor and any other additional insureds. All evidence of all required insurance shall be in a form reasonably acceptable to Lessor and with a company having an A.M. Best rating of A- (VII) or better, and shall not be subject to cancellation without thirty (30) days' prior written notice to Lessor. Lessee shall provide to Lessor insurance certificates and endorsements (including without limitation, additional insured and loss payee endorsements) evidencing compliance with the insurance requirements of this Agreement (including without limitation, the deductible amounts and waiver of subrogation) prior to delivery of the Equipment and shall maintain all required insurance coverage until the Equipment is returned to Lessee. Lessor will not and does not provide insurance for any of Lessee's personal property that may be in or on any Equipment.

12. **INDEMNIFICATION AND LIMITATION OF LIABILITY.**

(a) **LESSEE ON BEHALF OF ITSELF, ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, VENDORS, SUBCONTRACTORS, AND AFFILIATES, AND THEIR RESPECTIVE REPRESENTATIVES, DIRECTORS, OFFICERS, MANAGERS, VENDORS, MEMBERS, SHAREHOLDERS, PARTNERS, CONTRACTORS, EMPLOYEES, AGENTS, AND ASSIGNS (EACH, A "LESSEE PARTY," AND COLLECTIVELY, THE "LESSEE PARTIES") SHALL INDEMNIFY, DEFEND, RELEASE, AND HOLD HARMLESS LESSOR, ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, VENDORS, CONTRACTORS, AND AFFILIATES, AND THEIR RESPECTIVE REPRESENTATIVES, DIRECTORS, OFFICERS, MANAGERS, VENDORS, MEMBERS, SHAREHOLDERS, PARTNERS, CONTRACTORS, EMPLOYEES, AGENTS, AND ASSIGNS (EACH A "LESSOR INDEMNIFIED PARTY," AND COLLECTIVELY, THE "LESSOR INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL LOSSES, FEES, COSTS, EXPENSES, CLAIMS, LIABILITIES, DAMAGES, PENALTIES, FINES, FORFEITURES, AND SUITS (INCLUDING COSTS OF DEFENSE, SETTLEMENT AND REASONABLE ATTORNEYS' FEES, ENVIRONMENTAL CONSULTANTS AND EXPERT WITNESS FEES AT TRIAL AND ON APPEAL) (COLLECTIVELY, "LOSSES") RELATING TO, ARISING OUT OF OR IN CONNECTION WITH: (1) ANY BREACH OR NON-FULFILLMENT OF ANY COVENANT, AGREEMENT, OR OBLIGATION TO BE PERFORMED BY LESSEE PURSUANT TO THIS AGREEMENT, OR ANY INACCURACY IN OR BREACH OF ANY OF THE REPRESENTATIONS OF LESSEE SET FORTH IN THIS AGREEMENT; (2) THE OCCURRENCE OF ANY EVENT SET FORTH IN SECTION 13; (3) THE SELECTION, USE, POSSESSION, DELIVERY, RENTING, LEASING, SUBLEASING, OPERATION, TRANSPORT, MAINTENANCE, CONDITION, REPAIR, REPLACEMENT, REPOSSESSION, RETURN OR STORAGE OF ANY EQUIPMENT OR ANY SERVICES; (4) ANY FAILURE BY ANY LESSEE PARTY TO COMPLY WITH ANY APPLICABLE LAW IN CONNECTION WITH ANY EQUIPMENT OR THE SERVICES OR THIS AGREEMENT; (5) ANY DEATH OR BODILY INJURY TO ANY PERSON OR DESTRUCTION OR DAMAGE TO ANY PROPERTY TO WHICH THE ACTS OR OMISSIONS OF A LESSEE PARTY CONTRIBUTED; OR (6) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF ANY LESSEE PARTY FOR ANY ACTION RELATED TO OR ANY USE OF ANY EQUIPMENT. THIS INDEMNITY SHALL APPLY EVEN IF SAID LOSSES ARE OCCASIONED, BROUGHT ABOUT OR CAUSED BY THE CONCURRENT NEGLIGENCE OF ANY LESSOR INDEMNIFIED PARTY, UNLESS A COURT OF COMPETENT JURISDICTION SHOULD DETERMINE THAT THE LOSSES WERE PROXIMATELY CAUSED BY THE SOLE NEGLIGENCE OR WILLFUL ACTS OR OMISSIONS OF A LESSOR INDEMNIFIED PARTY. IF THE FOREGOING**



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OBLIGATIONS ARE NOT ENFORCEABLE AGAINST LESSEE UNDER APPLICABLE LAW, LESSEE AGREES TO INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS LESSOR INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL LOSSES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, INCLUDING, WITHOUT LIMITATION, TO THE EXTENT OF THE ACTS OR OMISSIONS OF THE LESSEE PARTIES' NEGLIGENCE OR WORSE CONDUCT. THIS INDEMNIFICATION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

- (b) TO THE FULLEST EXTENT NOT PROHIBITED BY LAW, LESSOR'S LIABILITY, IF ANY, SHALL BE LIMITED TO THE VALUE OF RENTAL FEES AND ALL OTHER AMOUNTS PAID BY LESSEE AND RECEIVED BY LESSOR UNDER THIS AGREEMENT FOR THE EQUIPMENT AND/OR SERVICES, AND LESSOR SHALL HAVE NO LIABILITY TO LESSEE OR ANY THIRD-PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

13. **EVENTS OF DEFAULT; REMEDIES.** Each of the following shall constitute an "Event of Default": (1) failure by Lessee to make any payment within ten (10) days after its due date; (2) failure by Lessee to perform any other obligation under this Agreement, and the continuance of such default for ten (10) days after written notice thereof by Lessor to Lessee; (3) any material misrepresentation or false statement of fact by Lessee; (4) the loss, theft, damage, destruction or the attempted sale or encumbrance by Lessee of any of the Equipment; or (5) Lessee's dissolution, termination of existence, discontinuance of business, insolvency, or the commencement of any bankruptcy proceedings by or against, Lessee. Lessee acknowledges that any Event of Default will substantially impair the lease value of the Equipment hereof. Upon the occurrence of any Event of Default, Lessor may, without notice, exercise one or more of the following remedies: (1) declare all unpaid payments under this Agreement to be immediately due and payable; (2) terminate this Agreement as to any or all items of the Equipment; (3) take possession of the Equipment wherever found, and for this purpose enter upon any premises of Lessee and remove the Equipment, without any liability to Lessee; (4) direct Lessee at its expense to promptly prepare the Equipment for pickup by Lessor; (5) proceed by appropriate action either in law or in equity to enforce performance by Lessee of the terms of this Agreement or to recover damages for the breach hereof, including attorneys' fees and any other expenses paid or incurred by Lessor in connection with the repossession of the Equipment; (6) apply the security deposit specified in this Agreement ("Security Deposit") to payment of Lessor's costs, expenses and attorney fees in enforcing the terms of this Agreement and to indemnify Lessor against any damages sustained by Lessor; and/or (7) recover the replacement cost of any Equipment which Lessor is unable to repossess. Lessor's waiver of any Event of Default shall not constitute a waiver of any other Event of Default or of any term or condition of this Agreement. No right or remedy referred to herein is intended to be exclusive and each may be exercised concurrently or separately and from time to time. In the event of repossession, Lessee waives any bond posting requirement.

Lease Terms and Conditions, Rev. 07/01/2022

USED SALE



a Division of McGrath RentCorp
Corporate Headquarters
5700 Las Positas Rd
Livermore, CA 94551
925-606-9000
www.mgrc.com

Sale Quotation and Agreement

Quote #	Q-409021
Date of Quote	11/14/2023
Quote Expiration Date:	12/14/2023
Estimate Del Date	11/14/2023
Buyer PO#:	

Buyer Name and Billing Address

Site Information

Seller Name

City Of Shawnee ("Buyer")
16 West 9th Street
Shawnee, OK 74801
Danny Vise
Phone #: 405-878-1607

Danny Vise
2202 North Airport Drive
Shawnee, OK 74804
Cell: 405-878-1607

Mobile Modular Management Corporation
("Seller")
Questions?
Contact: Megan Poore
megan.poore@mobilemodular.com
Direct Phone: 1 (469) 507-3332

Equipment and Accessories	Qty	Purchase Price	Extended Purchase Price	Taxable
Classroom, 24x64 TX (Item1072W) (Double Classroom. Two restrooms. Size excludes 4' wbar.)	1		\$105,301.00	N

Charges Upon Delivery	Qty	Charge Each	Total One Time	Taxable
Classroom, 24x64 TX (Item1072W) (Double Classroom. Two restrooms. Size excludes 4' wbar.)				
Delivery	2	\$3,325.00	\$6,650.00	N
Block and Level Building	1	\$6,000.00	\$6,000.00	N
Essential Material Handling Fee	2	\$75.00	\$150.00	N
Installation, Ramp Custom Plan (Build ADA Compliant Treated Wood: Three 8'x8' Decks, One 5'x5' Steps, and Two 5'x30' Ramps.)	1	\$18,612.00	\$18,612.00	N
Delivery Haulage Fuel	2	\$500.00	\$1,000.00	N
Skirting, Install	176	\$23.00	\$4,048.00	N

Total Estimated Charges			
	Subtotal		\$141,761.00
	Taxes		\$0.00
	Total Charges (including tax)		\$141,761.00

Special Notes
Flooring (VCT): This building ships standard with used VCT in good condition. VCT may have some discoloration or wear. New VCT is available for an additional charge.

Block/Level: Price assumes building is installed using Mobile Modular standard foundation. Mobile Modular assumes installation on the minimum foundation design criteria/tolerances. For DSA buildings, it is assumed building will be installed on the minimum amount of foundation lumber per the applicable DSA approved stockpile drawings and site will not exceed 4-1/2" out of level. Additional material and labor charges apply for installing buildings above minimum foundation design criteria, raising buildings to meet specific finish floor elevations, raising building level to adjacent buildings, landings, walkways, transitions, etc.

Tie-downs: Quantity and price may vary based on seismic source factor and site conditions. Patch and repair of site after removal is not included and is the responsibility of the Customer. Alternative non-penetrating seismic system is available for an additional charge. Wet-stamped engineering available for an additional charge.

Product Availability: Product availability and delivery date are subject to product availability upon receipt of signed Agreement and/or credit approval.



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Buyer PO#:	

General: Customer's site must be dry, compacted, level and accessible by normal truck delivery. Pricing does not include any clearing or grading of sites, obstruction removal, site or final building clean up, any asphalt transitions, dolly, crane, forklift, electrical or plumbing connections, window coverings, furniture, casework, appliances, doorstops, phone or data lines, gutters, downspouts or tie-in, temporary power, temporary fencing, traffic control, flagmen, soil and/or pull test, custom engineering, fees associated with inspections, city or county submittals and/or use permits, security screens, door bars and any item not specifically listed as being included.

Skirting: Skirting installation & removal is not included unless otherwise noted. When included, it is non-structural, non-fire rated and cosmetic only. Skirting pricing assumes a level site.

Skirting Finish Floor Height: Skirting prices are based on 32" Finished Floor Height.

Quote Based on Mobile Modular Standard Unit: Does not include permits, utility hook ups, site work, office equipment, furniture, coffee/water service, cleaning service, phone/internet service. Quote only includes items specifically listed on quote. If additional equipment is needed to set building, there will be an additional cost.

Customer Dumpster Responsibility: Customer is responsible for supplying a dumpster for debris removal for the installation and/or dismantle of the modular building(s).

Buildings containing a restroom(s): Restrooms are not self-contained. Manifolds are not included and must be assembled and connected by others. Water & sewer stub-out locations may vary. Paper & soap dispensers, sanitary and trash receptacles are not provided.

Ramps: Site conditions may affect ramp configuration and cost. Customer is responsible for transition from end of ramp to grade and for extended or custom rails, if needed. Ramp skirting is available for an additional charge. Final cost determined after acceptance for ADA Compliance.

Site Installation Requirements: Prior to delivery, Customer shall mark the four corners where the building is to be placed on the site/pad location, and shall also mark the locations of door(s) and ramp(s). Should special handling be required to position, install, or remove the modular building on Customer's site due to site conditions/constraints and/or obstructions, Customer will be responsible for additional charges. Additional rolling charges may be applicable as site conditions necessitate.

Site Plan Review: Mobile Modular is not responsible for review and verification of Customer's site plans, civil plans, soils tests/survey's, etc. It is the responsibility of the Customer to ensure the site plans and site conditions meet applicable codes and governing body approvals. This includes, but is not limited to, ensuring the building pad/site allows for standard delivery and installation based on the minimum foundation design tolerances as per applicable approved stockpile drawings/foundation design.

Delivery Date: Delivery date will not be confirmed until Mobile Modular receives and approves the signed Agreement and all credit conditions have been met.

Delivery of Equipment: Customer is responsible for selecting a suitable site and directing Mobile Modular on exact placement/orientation of the Equipment. Customer shall physically mark the site/pad to indicate corner locations for Equipment placement.

Additional Information



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Sale Quotation and Agreement

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Date of Quote	11/14/2023
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Buyer PO#:	

- Quote is valid for 30 days.
- Buyer's site must be dry, compacted, level and accessible by normal truck delivery. Costs to dolly, crane, forklift, etc. will be paid by Buyer. Unless noted, prices do not include permits, stairs, foundation systems, temporary power, skirting, engineering, taxes or utility hookups.
- Subject to equipment availability. Unless noted, equipment and related furnishings, finishes, accessories and appliances provided are previously leased and materials, dimensions, and specifications vary. Detailed specifications may be available upon request.
- This transaction is subject to prior credit approval
- Down Payment required upon execution of agreement.
- Sales Tax will be calculated based on the tax rate at the time of invoicing.
- Unless otherwise noted, prices do not include prevailing wages, Davis-Bacon wages, or other special or certified wages.



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Buyer PO#:	

This Sale Quotation and Agreement is entered into by and between Seller and Buyer effective as of the date signed by Buyer. This Sale Quotation and Agreement includes the terms and conditions set forth in the following two documents (collectively, the "Agreement"), each of which is incorporated herein by this reference:

1. **Sale Terms and Conditions** attached hereto; and
2. **Supplemental Sale Terms and Conditions** located at (<https://www.mobilemodular.com/contractterms>), as the same may be updated from time to time in the sole and absolute discretion of Lessor.

By signing below, Seller: (1) acknowledges and agrees that it has received, read and understands the terms of this Agreement and agrees to be bound by the terms of this Agreement, including prices and specifications, and (2) instructs Seller to make appropriate arrangements for the preparation and delivery of the Equipment identified herein. This Agreement may be executed in one or more counterparts (including through the use of electronic signatures), each of which shall be deemed an original and all of which shall constitute one and the same Agreement. Upon execution of this Agreement, Seller shall generate a Sale Agreement Number, which shall be referenced on all Seller invoices.

No document provided by Buyer including, without limitation, Buyer's purchase orders, work orders, bills of lading, or forms for receipt or acknowledgment or authorization ("**Buyer Forms**"), nor the terms and conditions associated with such Buyer Forms, shall amend, modify, supplement, waive, or release any term or condition of this Agreement even if such Buyer Forms are signed by an agent or representative of Seller. The terms and conditions of this Agreement shall prevail over any Buyer Forms, and any inconsistent or additional terms and conditions in Buyer Forms shall be deemed void *ab initio* and of no force or effect.

The individuals signing this Agreement affirm that they are duly authorized to execute this Agreement by and on behalf of the parties hereto.

SELLER:
Mobile Modular Management Corporation
a division of McGrath RentCorp

BUYER:
City Of Shawnee

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



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Buyer PO#:	

SALE TERMS AND CONDITIONS

1. **SALE.** Seller sells to Buyer, and Buyer purchases from Seller, the equipment listed on the Agreement hereto ("**Equipment**") on the terms and conditions set forth herein. This Agreement constitutes a separate and independent sale (a "**Sale**") of the Equipment specified in the Agreement.
2. **TIME PAYMENT; TITLE RETENTION.**
 - (a) **PURCHASE PRICE.** The aggregate amount of the purchase price (the "**Purchase Price**") is set forth in the Agreement. Unless otherwise specified in writing, Buyer agrees to pay Seller twenty five percent (25%) of the Purchase Price upon execution of the Agreement; sixty five percent (65%) no fewer than two days prior to the scheduled delivery date; and the remaining ten percent (10%) within thirty (30) days of substantial completion (substantial completion does not include punch list items). In addition to the Purchase Price, Buyer shall pay such charges as are attributable to circumstances related to the delivery, drop-off and relocation of Equipment.
 - (b) **TITLE/RETENTION.** Title to the Equipment shall not pass to Buyer before the entire Purchase Price has been paid to Seller. Upon Seller's receipt of payment in full of the Purchase Price, title to the Equipment shall transfer to Buyer, free and clear of all encumbrances arising by or through Seller. All payments due from Buyer pursuant to the terms of the Agreement shall be made without any abatement or set off of any kind, arising from any cause.
2. **CANCELLATION.** All sales are final and non-refundable upon delivery of the Equipment to Buyer's site location. Any requests to cancel or reschedule orders prior to delivery may or may not be accepted in Seller's sole discretion and must be agreed upon by Seller in writing. Without waiving any of its rights, Seller is entitled to recover its costs incurred and profits lost as a result of Buyer's cancellation or rescheduling of an order. A cancellation fee may be assessed against Buyer. In no event shall such fee exceed the full value of the Agreement. If Buyer has made down payment(s) to Seller prior to cancellation and the cancellation fee is less than the amount(s) already paid, Seller shall deduct the amount of the cancellation fee from any refund that may be owed to Buyer. If down payment amount(s) already made are less than the cancellation fee, Seller shall apply the full down payment amount(s) to the payment of the cancellation fee and Buyer will pay the remaining cancellation fee balance within ten (10) business days after receiving written notice of the balance due. If no down payment has been made by Buyer at the time of cancellation, Buyer shall pay to Seller the entire cancellation balance within ten (10) business days of receipt of written notice from Seller stating the cancellation fee balance that is due.
3. **DELIVERY AND PLACEMENT OF EQUIPMENT.** Seller agrees to deliver the Equipment to the site location listed on the Agreement (the "**Site**"). Buyer warrants and represents that it has exercised due diligence and care in selecting a suitable site for the Equipment, shall clearly mark the site of placement and shall direct Seller on exact placement and orientation of the Equipment. Upon request from Buyer and for an additional fee, Seller will perform a site visit and make recommendations on placement as it relates to site accessibility and layout. Buyer further warrants that the Site will have (1) safe access free from encumbrances; (2) a level pad, which is hereby defined as having no greater than a 4-inch drop in 40 feet (length) and no greater than a 1-inch drop in 8 feet (width); and (3) adequate soil bearing pressure of not less than 1500 psf, except in the state of Florida, where the minimum soil bearing pressure is 2000 psf. Following delivery, Seller will remove all Seller-owned Equipment such as plywood, tools, etc. prior to or at the time of building acceptance. Buyer is responsible for all necessary permits, utility hookups, and Site preparation.
4. **INSPECTION AND ACCEPTANCE.** Following delivery and setup of the Equipment, Buyer shall inspect the Equipment within forty-eight (48) hours of substantial completion and provide immediate written notice to Seller specifying defects, if any, which Buyer observes. If Buyer fails to provide such notice within four (4) days following substantial completion of the project, it shall be conclusively presumed between Buyer and Seller that Buyer has inspected the Equipment and that all Equipment is in conformance with the Agreement and has been accepted by Buyer.
5. **BUYER AGREEMENTS.** Buyer agrees that Seller may insert in the Agreement, the serial number and other identification data relating to the Equipment when ascertained by Seller.
6. **LOSS OR DAMAGE.** All risk of loss or damage to the Equipment shall transfer to Buyer upon delivery of the Equipment to the site location. Buyer agrees to indemnify and hold Seller harmless from any loss resulting from the theft, destruction or damage to the Equipment. The cost of any required repairs shall be borne by Buyer. Any loss of or damage to the Equipment shall not alleviate Buyer's obligation to pay Seller any remaining balance of the Purchase Price existing at the time of the loss.
7. **INSURANCE.** Upon delivery of the Equipment and until Buyer has paid for the Equipment in full, Buyer shall provide, maintain, and pay all premiums for property insurance covering the loss, theft, destruction, or damage to the Equipment in an amount not less than the full replacement value and will name Seller as loss payee of the proceeds, unless Buyer has paid Seller the entire purchase price in full prior to the scheduled delivery of the Equipment. This coverage will extend to all property of Seller located at the delivery site during the installation. Upon receipt of the proceeds of any insurance, Seller will refund to Buyer any amounts in excess of the balance due Seller by the Buyer in fulfilling the obligations specified herein. Notwithstanding the above, Buyer shall also provide, maintain, and pay all premiums for general liability insurance in the amount of \$1,000,000.00 (one million dollars) and name Seller as an additional insured. All insurance shall be with a company having an A.M. Best rating of A- or better, and shall not be subject to cancellation without thirty (30) days prior written notice to Seller. Buyer shall deliver to Seller insurance certificates, or evidence of insurance proving the existence of policies meeting the above requirements, upon execution of the Agreement. Seller may require Buyer's insurance carrier to be licensed to do business in the state where the Equipment is being sold. Buyer's obligation to provide said insurance will cease once Equipment has been paid for in full and pursuant to Section 2.



a Division of McGrath RentCorp
Corporate Headquarters
5700 Las Positas Rd
Livermore, CA 94551
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Sale Quotation and Agreement

Quote #	Q-409021
Date of Quote	11/14/2023
Quote Expiration Date:	12/14/2023
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Buyer PO#:	

8. WAIVER AND INDEMNIFICATION.

(a) Buyer hereby waives and releases all claims against Seller for (i) loss of or damage to all property, goods, wares and merchandise in, upon or about the Equipment and (ii) injuries to Buyer, Buyer's agents and third persons. Seller shall not be liable for any consequential, incidental, or special damages of any kind (including, but not limited to damages for loss of use or of profit by Buyer or any other party; or for any collateral damages), whether or not caused or continued by Seller's negligence or delay, which may result from or arise in connection with the manufacture, delivery, installation, checkout or use of the Equipment or in connection with the services rendered by Seller hereunder.

(b) Buyer shall indemnify and hold Seller (and its agents and employees) harmless from and against any and all claims, actions or proceedings and any and all damages, liabilities, losses, costs and expenses (including attorney fees) arising out of or in connection with the Agreement, including all damages, liabilities, losses, costs and expenses arising from Seller's negligence. If the foregoing obligation is not enforceable against Buyer under applicable law, Buyer agrees to indemnify and hold Seller harmless from damages, liabilities, losses, costs and expenses to the maximum extent permitted by applicable law.

9. TERMINATION FOLLOWING BREACH.

In the event (a) of bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer voluntarily or involuntarily, under the provisions of the Bankruptcy Code of the United States, for the appointment of a receiver or trustee or any assignment for the benefit of creditors of Buyer, or (b) that Buyer fails to make timely payments, or perform any of its other obligations, under the Agreement, and such failure or default is not cured within ten (10) days after written notice of such failure or default is provided by Seller, the Agreement automatically shall be terminated in the case of any event described in clause (a) above and may be terminated by Seller in the case of any event described in clause (b) above and, upon such termination, full payment pursuant to the terms of the Agreement shall become immediately due and payable from Buyer. In the event of any such breach or termination, Seller shall have all rights provided by law and under the terms and conditions of the Agreement, including but not limited to: repossession and disposal of the Equipment (and, if any personal property shall remain located in the Equipment at such time, Buyer consents to Seller's possession and disposal or destruction of such personal property without notice or accounting to Buyer) and recovery of attorney's fees and other reasonable costs and expenses associated with any breach or termination (including any such disposal or destruction), shall be reimbursed by Buyer on demand of Seller.

10. GOVERNING LAW.

Buyer and Seller agree that the Agreement shall be governed in all respects by, and interpreted in accordance with the laws of, the State of California, without regard to its conflicts of laws provisions.

11. JURISDICTION.

(a) If the law of the State of Maryland or Virginia shall apply to the Agreement, it is agreed that the venue for a legal action relating to the Agreement shall be proper if brought in Alameda County, State of California. Subject to Section 9, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs, whether or not the action proceeds to judgment.

(b) If the law of any State other than Maryland shall apply to the Agreement, the Federal District Courts located within the State of California shall have non-exclusive jurisdiction over any lawsuit brought by Buyer or Seller as a result of any dispute regarding matters arising in connection with the Agreement. Further, it is agreed that the venue for a legal action relating to the Agreement shall be proper if brought in Alameda County, State of California. Subject to Section 9, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs, whether or not the action proceeds to judgment.

12. SELLER'S EXPENSES.

Buyer shall pay Seller all costs and expenses, including reasonable attorneys' fees, incurred by Seller in exercising any of the terms, conditions or provisions of the Agreement.

13. LICENSE AND TRANSFER FEE(S).

If so listed on the Agreement, the Purchase Price includes license and/or transfer fees. Buyer will be billed directly by the State for future annual license fees where applicable.

14. COMPLIANCE WITH LAW.

Buyer assumes all responsibility for any and all licenses, clearances, permits and other certificates as may be required for Buyer's lawful operation, use, possession and occupancy of the Equipment. Buyer agrees to fully comply with all laws, rules, regulations and orders of all local, state and federal governmental authorities which in any way relate to the Equipment; and to indemnify and hold Seller harmless from any and all fines, forfeitures, seizures, penalties or other liabilities that may arise from any infringement or violation of any such law, rule, regulation or order.

15. FEDERAL CONTRACTOR.

As a federal contractor, Seller's contracts are subject to the provisions of (i) Executive Order 11246, (41 CFR 60-1.4); (ii) section 503 of the Rehabilitation Act of 1973, (41 CFR 60-741.5(a); and (iii) section 4212 of the Vietnam Era Veterans Readjustment Act of 1974, (41 CFR 60-300.5(a). Seller shall abide by the requirements of 41 CFR 60-741.5(a) and 41 CFR 60-300.5(a). These regulations prohibit discrimination against qualified individuals on the basis of disability, and qualified protected veterans, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities, and qualified protected veterans.

16. MISCELLANEOUS.

(a) **MODIFICATIONS AND AMENDMENTS.** Representations and warranties made by any person, including agents and representatives of Seller, which are inconsistent or conflict with the terms of the warranty contained in Section 1 of the Incorporated Provisions on the website (including but not limited to the liability of Seller as set forth above) shall not be binding upon Seller unless reduced to writing and approved by



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Buyer PO#:	

an officer of Seller. Notwithstanding the foregoing, from time to time, Buyer or Seller may request modifications to the scope of work hereunder, which at the sole option of the Seller may be accepted and thus alter the final price stipulated herein. These changes in scope will be deemed approved by Buyer when evidence of work performance is presented by Seller.

(b) **NO WAIVER.** Failure of Seller to enforce any term or condition of the Agreement shall not constitute waiver of any rights stipulated herein, nor shall it in any manner affect the rights of Seller to enforce any of the provisions stated herein. Waiver by Seller of any provision of the Agreement shall be valid only as provided in subsection (a) above and only with respect to the specific matter to which such waiver relates.

(c) If the law of the State of North Carolina shall apply to the Agreement, the does not constitute a "construction contract" or otherwise relate to the improvement of real estate or the design, planning, construction, alteration, repair or maintenance of a building, structure or appurtenance.

17. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between Seller and Buyer regarding the subject matter hereof. If any part of the Agreement is found to be invalid or illegal, Buyer and Seller agree that only the invalid or illegal portion of the Agreement will be eliminated.

Sale Terms and Conditions, Rev12/12/16

NEW SALE



a Division of McGrath RentCorp
Corporate Headquarters
5700 Las Positas Rd
Livermore, CA 94551
925-606-9000
www.mgrc.com

Sale Quotation and Agreement

Quote #	Q-409059
Date of Quote	11/16/2023
Quote Expiration Date:	12/16/2023
Estimate Del Date	11/14/2023
Buyer PO#:	

Buyer Name and Billing Address	Site Information	Seller Name
City Of Shawnee ("Buyer") 16 West 9th Street Shawnee, OK 74801 Danny Vise Phone #: 405-878-1607	Danny Vise 2202 North Airport Drive Shawnee, OK 74804 Cell: 405-878-1607	Mobile Modular Management Corporation ("Seller") Questions? Contact: Megan Poore megan.poore@mobilemodular.com Direct Phone: 1 (469) 507-3332

Equipment and Accessories	Qty	Purchase Price	Extended Purchase Price	Taxable
Classroom, 24x64 TX (NonStd) (Non-Standard Configuration. Size excludes 4' towbar.)	1		\$141,135.00	N

Charges Upon Delivery	Qty	Charge Each	Total One Time	Taxable
Classroom, 24x64 TX (NonStd) (Non-Standard Configuration. Size excludes 4' towbar.)				
Delivery	2	\$3,325.00	\$6,650.00	N
Block and Level Building	1	\$6,000.00	\$6,000.00	N
Installation, Ramp Custom Plan (Build ADA Compliant Treated Wood: Three 8'x 8' Decks, One 5'x5' Steps, and Two 5'x30' Ramps.)	1	\$18,612.00	\$18,612.00	N
Delivery Haulage Fuel	2	\$91.00	\$182.00	N
Skirting, Install	176	\$23.00	\$4,048.00	N

Total Estimated Charges	
	Subtotal \$176,627.00
	Taxes \$0.00
	Total Charges (including tax) \$176,627.00

Special Notes

Flooring (VCT): This building ships standard with used VCT in good condition. VCT may have some discoloration or wear). New VCT is available for an additional charge.

Block/Level: Price assumes building is installed using Mobile Modular standard foundation. Mobile Modular assumes installation on the minimum foundation design criteria/tolerances. For DSA buildings, it is assumed building will be installed on the minimum amount of foundation lumber per the applicable DSA approved stockpile drawings and site will not exceed 4-1/2" out of level. Additional material and labor charges apply for installing buildings above minimum foundation design criteria, raising buildings to meet specific finish floor elevations, raising building level to adjacent buildings, landings, walkways, transitions, etc.

Tie-downs: Quantity and price may vary based on seismic source factor and site conditions. Patch and repair of site after removal is not included and is the responsibility of the Customer. Alternative non-penetrating seismic system is available for an additional charge. Wet-stamped engineering available for an additional charge.

General: Customer's site must be dry, compacted, level and accessible by normal truck delivery. Pricing does not include any clearing or grading of sites, obstruction removal, site or final building clean up, any asphalt transitions, dolly, crane, forklift, electrical or plumbing connections, window coverings, furniture, casework, appliances, doorstops, phone or data lines, gutters, downspouts or tie-in, temporary power, temporary fencing, traffic control, flagmen, soil



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and/or pull test, custom engineering, fees associated with inspections, city or county submittals and/or use permits, security screens, door bars and any item not specifically listed as being included.

Skirting: Skirting installation & removal is not included unless otherwise noted. When included, it is non-structural, non-fire rated and cosmetic only. Skirting pricing assumes a level site.

Skirting Finish Floor Height: Skirting prices are based on 32" Finished Floor Height.

Quote Based on Mobile Modular Standard Unit: Does not include permits, utility hook ups, site work, office equipment, furniture, coffee/water service, cleaning service, phone/internet service. Quote only includes items specifically listed on quote. If additional equipment is needed to set building, there will be an additional cost.

Customer Dumpster Responsibility: Customer is responsible for supplying a dumpster for debris removal for the installation and/or dismantle of the modular building(s).

Buildings containing a restroom(s): Restrooms are not self-contained. Manifolds are not included and must be assembled and connected by others. Water & sewer stub-out locations may vary. Paper & soap dispensers, sanitary and trash receptacles are not provided.

Ramps: Site conditions may affect ramp configuration and cost. Customer is responsible for transition from end of ramp to grade and for extended or custom rails, if needed. Ramp skirting is available for an additional charge. Final cost determined after acceptance for ADA Compliance.

Site Installation Requirements: Prior to delivery, Customer shall mark the four corners where the building is to be placed on the site/pad location, and shall also mark the locations of door(s) and ramp(s). Should special handling be required to position, install, or remove the modular building on Customer's site due to site conditions/constraints and/or obstructions, Customer will be responsible for additional charges. Additional rolling charges may be applicable as site conditions necessitate.

Site Plan Review: Mobile Modular is not responsible for review and verification of Customer's site plans, civil plans, soils tests/survey's, etc. It is the responsibility of the Customer to ensure the site plans and site conditions meet applicable codes and governing body approvals. This includes, but is not limited to, ensuring the building pad/site allows for standard delivery and installation based on the minimum foundation design tolerances as per applicable approved stockpile drawings/foundation design.

Delivery Date: Delivery date will not be confirmed until Mobile Modular receives and approves the signed Agreement and all credit conditions have been met.

Delivery of Equipment: Customer is responsible for selecting a suitable site and directing Mobile Modular on exact placement/orientation of the Equipment. Customer shall physically mark the site/pad to indicate corner locations for Equipment placement.

Additional Information

- Quote is valid for 30 days.
- Buyer's site must be dry, compacted, level and accessible by normal truck delivery. Costs to dolly, crane, forklift, etc. will be paid by Buyer. Unless noted, prices do not include permits, stairs, foundation systems, temporary power, skirting, engineering, taxes or utility hookups.
- Subject to equipment availability. Unless noted, equipment and related furnishings, finishes, accessories and appliances provided are previously leased and materials, dimensions, and specifications vary. Detailed specifications may be available upon request.
- This transaction is subject to prior credit approval
- Down Payment required upon execution of agreement.
- Sales Tax will be calculated based on the tax rate at the time of invoicing.
- Unless otherwise noted, prices do not include prevailing wages, Davis-Bacon wages, or other special or certified wages.



a Division of McGrath RentCorp
Corporate Headquarters
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Livermore, CA 94551
925-606-9000
www.mgrc.com

Sale Quotation and Agreement

Quote #	Q-409059
Date of Quote	11/16/2023
Quote Expiration Date:	12/16/2023
Estimate Del Date	11/14/2023
Buyer PO#:	

This Sale Quotation and Agreement is entered into by and between Seller and Buyer effective as of the date signed by Buyer. This Sale Quotation and Agreement includes the terms and conditions set forth in the following two documents (collectively, the "Agreement"), each of which is incorporated herein by this reference:

1. **Sale Terms and Conditions** attached hereto; and
2. **Supplemental Sale Terms and Conditions** located at (<https://www.mobilemodular.com/contractterms>), as the same may be updated from time to time in the sole and absolute discretion of Lessor.

By signing below, Seller: (1) acknowledges and agrees that it has received, read and understands the terms of this Agreement and agrees to be bound by the terms of this Agreement, including prices and specifications, and (2) instructs Seller to make appropriate arrangements for the preparation and delivery of the Equipment identified herein. This Agreement may be executed in one or more counterparts (including through the use of electronic signatures), each of which shall be deemed an original and all of which shall constitute one and the same Agreement. Upon execution of this Agreement, Seller shall generate a Sale Agreement Number, which shall be referenced on all Seller invoices.

No document provided by Buyer including, without limitation, Buyer's purchase orders, work orders, bills of lading, or forms for receipt or acknowledgment or authorization ("**Buyer Forms**"), nor the terms and conditions associated with such Buyer Forms, shall amend, modify, supplement, waive, or release any term or condition of this Agreement even if such Buyer Forms are signed by an agent or representative of Seller. The terms and conditions of this Agreement shall prevail over any Buyer Forms, and any inconsistent or additional terms and conditions in Buyer Forms shall be deemed void *ab initio* and of no force or effect.

The individuals signing this Agreement affirm that they are duly authorized to execute this Agreement by and on behalf of the parties hereto.

SELLER:
Mobile Modular Management Corporation
a division of McGrath RentCorp

BUYER:
City Of Shawnee

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



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SALE TERMS AND CONDITIONS

1. **SALE.** Seller sells to Buyer, and Buyer purchases from Seller, the equipment listed on the Agreement hereto ("Equipment") on the terms and conditions set forth herein. This Agreement constitutes a separate and independent sale (a "Sale") of the Equipment specified in the Agreement.
2. **TIME PAYMENT; TITLE RETENTION.**
 - (a) **PURCHASE PRICE.** The aggregate amount of the purchase price (the "Purchase Price") is set forth in the Agreement. Unless otherwise specified in writing, Buyer agrees to pay Seller twenty five percent (25%) of the Purchase Price upon execution of the Agreement; sixty five percent (65%) no fewer than two days prior to the scheduled delivery date; and the remaining ten percent (10%) within thirty (30) days of substantial completion (substantial completion does not include punch list items). In addition to the Purchase Price, Buyer shall pay such charges as are attributable to circumstances related to the delivery, drop-off and relocation of Equipment.
 - (b) **TITLE/RETENTION.** Title to the Equipment shall not pass to Buyer before the entire Purchase Price has been paid to Seller. Upon Seller's receipt of payment in full of the Purchase Price, title to the Equipment shall transfer to Buyer, free and clear of all encumbrances arising by or through Seller. All payments due from Buyer pursuant to the terms of the Agreement shall be made without any abatement or set off of any kind, arising from any cause.
2. **CANCELLATION.** All sales are final and non-refundable upon delivery of the Equipment to Buyer's site location. Any requests to cancel or reschedule orders prior to delivery may or may not be accepted in Seller's sole discretion and must be agreed upon by Seller in writing. Without waiving any of its rights, Seller is entitled to recover its costs incurred and profits lost as a result of Buyer's cancellation or rescheduling of an order. A cancellation fee may be assessed against Buyer. In no event shall such fee exceed the full value of the Agreement. If Buyer has made down payment(s) to Seller prior to cancellation and the cancellation fee is less than the amount(s) already paid, Seller shall deduct the amount of the cancellation fee from any refund that may be owed to Buyer. If down payment amount(s) already made are less than the cancellation fee, Seller shall apply the full down payment amount(s) to the payment of the cancellation fee and Buyer will pay the remaining cancellation fee balance within ten (10) business days after receiving written notice of the balance due. If no down payment has been made by Buyer at the time of cancellation, Buyer shall pay to Seller the entire cancellation balance within ten (10) business days of receipt of written notice from Seller stating the cancellation fee balance that is due.
3. **DELIVERY AND PLACEMENT OF EQUIPMENT.** Seller agrees to deliver the Equipment to the site location listed on the Agreement (the "Site"). Buyer warrants and represents that it has exercised due diligence and care in selecting a suitable site for the Equipment, shall clearly mark the site of placement and shall direct Seller on exact placement and orientation of the Equipment. Upon request from Buyer and for an additional fee, Seller will perform a site visit and make recommendations on placement as it relates to site accessibility and layout. Buyer further warrants that the Site will have (1) safe access free from encumbrances; (2) a level pad, which is hereby defined as having no greater than a 4-inch drop in 40 feet (length) and no greater than a 1-inch drop in 8 feet (width); and (3) adequate soil bearing pressure of not less than 1500 psf, except in the state of Florida, where the minimum soil bearing pressure is 2000 psf. Following delivery, Seller will remove all Seller-owned Equipment such as plywood, tools, etc. prior to or at the time of building acceptance. Buyer is responsible for all necessary permits, utility hookups, and Site preparation.
4. **INSPECTION AND ACCEPTANCE.** Following delivery and setup of the Equipment, Buyer shall inspect the Equipment within forty-eight (48) hours of substantial completion and provide immediate written notice to Seller specifying defects, if any, which Buyer observes. If Buyer fails to provide such notice within four (4) days following substantial completion of the project, it shall be conclusively presumed between Buyer and Seller that Buyer has inspected the Equipment and that all Equipment is in conformance with the Agreement and has been accepted by Buyer.
5. **BUYER AGREEMENTS.** Buyer agrees that Seller may insert in the Agreement, the serial number and other identification data relating to the Equipment when ascertained by Seller.
6. **LOSS OR DAMAGE.** All risk of loss or damage to the Equipment shall transfer to Buyer upon delivery of the Equipment to the site location. Buyer agrees to indemnify and hold Seller harmless from any loss resulting from the theft, destruction or damage to the Equipment. The cost of any required repairs shall be borne by Buyer. Any loss of or damage to the Equipment shall not alleviate Buyer's obligation to pay Seller any remaining balance of the Purchase Price existing at the time of the loss.
7. **INSURANCE.** Upon delivery of the Equipment and until Buyer has paid for the Equipment in full, Buyer shall provide, maintain, and pay all premiums for property insurance covering the loss, theft, destruction, or damage to the Equipment in an amount not less than the full replacement value and will name Seller as loss payee of the proceeds, unless Buyer has paid Seller the entire purchase price in full prior to the scheduled delivery of the Equipment. This coverage will extend to all property of Seller located at the delivery site during the installation. Upon receipt of the proceeds of any insurance, Seller will refund to Buyer any amounts in excess of the balance due Seller by the Buyer in fulfilling the obligations specified herein. Notwithstanding the above, Buyer shall also provide, maintain, and pay all premiums for general liability insurance in the amount of \$1,000,000.00 (one million dollars) and name Seller as an additional insured. All insurance shall be with a company having an A.M. Best rating of A- or better, and shall not be subject to cancellation without thirty (30) days prior written notice to Seller. Buyer shall deliver to Seller insurance certificates, or evidence of insurance proving the existence of policies meeting the above requirements, upon execution of the Agreement. Seller may require Buyer's insurance carrier to be licensed to do business in the state where the Equipment is being sold. Buyer's obligation to provide said insurance will cease once Equipment has been paid for in full and pursuant to Section 2.



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8. WAIVER AND INDEMNIFICATION.

(a) Buyer hereby waives and releases all claims against Seller for (i) loss of or damage to all property, goods, wares and merchandise in, upon or about the Equipment and (ii) injuries to Buyer, Buyer's agents and third persons. Seller shall not be liable for any consequential, incidental, or special damages of any kind (including, but not limited to damages for loss of use or of profit by Buyer or any other party; or for any collateral damages), whether or not caused or continued by Seller's negligence or delay, which may result from or arise in connection with the manufacture, delivery, installation, checkout or use of the Equipment or in connection with the services rendered by Seller hereunder.

(b) Buyer shall indemnify and hold Seller (and its agents and employees) harmless from and against any and all claims, actions or proceedings and any and all damages, liabilities, losses, costs and expenses (including attorney fees) arising out of or in connection with the Agreement, including all damages, liabilities, losses, costs and expenses arising from Seller's negligence. If the foregoing obligation is not enforceable against Buyer under applicable law, Buyer agrees to indemnify and hold Seller harmless from damages, liabilities, losses, costs and expenses to the maximum extent permitted by applicable law.

9. **TERMINATION FOLLOWING BREACH.** In the event (a) of bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer voluntarily or involuntarily, under the provisions of the Bankruptcy Code of the United States, for the appointment of a receiver or trustee or any assignment for the benefit of creditors of Buyer, or (b) that Buyer fails to make timely payments, or perform any of its other obligations, under the Agreement, and such failure or default is not cured within ten (10) days after written notice of such failure or default is provided by Seller, the Agreement automatically shall be terminated in the case of any event described in clause (a) above and may be terminated by Seller in the case of any event described in clause (b) above and, upon such termination, full payment pursuant to the terms of the Agreement shall become immediately due and payable from Buyer. In the event of any such breach or termination, Seller shall have all rights provided by law and under the terms and conditions of the Agreement, including but not limited to: repossession and disposal of the Equipment (and, if any personal property shall remain located in the Equipment at such time, Buyer consents to Seller's possession and disposal or destruction of such personal property without notice or accounting to Buyer) and recovery of attorney's fees and other reasonable costs and expenses associated with any breach or termination (including any such disposal or destruction), shall be reimbursed by Buyer on demand of Seller.

10. **GOVERNING LAW.** Buyer and Seller agree that the Agreement shall be governed in all respects by, and interpreted in accordance with the laws of, the State of California, without regard to its conflicts of laws provisions.

11. JURISDICTION.

(a) If the law of the State of Maryland or Virginia shall apply to the Agreement, it is agreed that the venue for a legal action relating to the Agreement shall be proper if brought in Alameda County, State of California. Subject to Section 9, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs, whether or not the action proceeds to judgment.

(b) If the law of any State other than Maryland shall apply to the Agreement, the Federal District Courts located within the State of California shall have non-exclusive jurisdiction over any lawsuit brought by Buyer or Seller as a result of any dispute regarding matters arising in connection with the Agreement. Further, it is agreed that the venue for a legal action relating to the Agreement shall be proper if brought in Alameda County, State of California. Subject to Section 9, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs, whether or not the action proceeds to judgment.

12. **SELLER'S EXPENSES.** Buyer shall pay Seller all costs and expenses, including reasonable attorneys' fees, incurred by Seller in exercising any of the terms, conditions or provisions of the Agreement.

13. **LICENSE AND TRANSFER FEE(S).** If so listed on the Agreement, the Purchase Price includes license and/or transfer fees. Buyer will be billed directly by the State for future annual license fees where applicable.

14. **COMPLIANCE WITH LAW.** Buyer assumes all responsibility for any and all licenses, clearances, permits and other certificates as may be required for Buyer's lawful operation, use, possession and occupancy of the Equipment. Buyer agrees to fully comply with all laws, rules, regulations and orders of all local, state and federal governmental authorities which in any way relate to the Equipment; and to indemnify and hold Seller harmless from any and all fines, forfeitures, seizures, penalties or other liabilities that may arise from any infringement or violation of any such law, rule, regulation or order.

15. **FEDERAL CONTRACTOR.** As a federal contractor, Seller's contracts are subject to the provisions of (i) Executive Order 11246, (41 CFR 60-1.4); (ii) section 503 of the Rehabilitation Act of 1973, (41 CFR 60-741.5(a); and (iii) section 4212 of the Vietnam Era Veterans Readjustment Act of 1974, (41 CFR 60-300.5(a). Seller shall abide by the requirements of 41 CFR 60-741.5(a) and 41 CFR 60-300.5(a). These regulations prohibit discrimination against qualified individuals on the basis of disability, and qualified protected veterans, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities, and qualified protected veterans.

16. MISCELLANEOUS.

(a) **MODIFICATIONS AND AMENDMENTS.** Representations and warranties made by any person, including agents and representatives of Seller, which are inconsistent or conflict with the terms of the warranty contained in Section 1 of the Incorporated Provisions on the website (including but not limited to the liability of Seller as set forth above) shall not be binding upon Seller unless reduced to writing and approved by



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Sale Quotation and Agreement

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Buyer PO#:	

an officer of Seller. Notwithstanding the foregoing, from time to time, Buyer or Seller may request modifications to the scope of work hereunder, which at the sole option of the Seller may be accepted and thus alter the final price stipulated herein. These changes in scope will be deemed approved by Buyer when evidence of work performance is presented by Seller.

(b) **NO WAIVER.** Failure of Seller to enforce any term or condition of the Agreement shall not constitute waiver of any rights stipulated herein, nor shall it in any manner affect the rights of Seller to enforce any of the provisions stated herein. Waiver by Seller of any provision of the Agreement shall be valid only as provided in subsection (a) above and only with respect to the specific matter to which such waiver relates.

(c) If the law of the State of North Carolina shall apply to the Agreement, the does not constitute a "construction contract" or otherwise relate to the improvement of real estate or the design, planning, construction, alteration, repair or maintenance of a building, structure or appurtenance.

17. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between Seller and Buyer regarding the subject matter hereof. If any part of the Agreement is found to be invalid or illegal, Buyer and Seller agree that only the invalid or illegal portion of the Agreement will be eliminated.

Sale Terms and Conditions, Rev12/12/16



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 Corporate Address:
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Lease Quotation and Agreement

Quote #	Q-408684
Date of Quote	11/14/2023
Quote Expiration Date:	12/14/2023
Lease Term:	24 Months
Estimate Del Date:	11/13/2023
Lessee PO#:	

Lessee Name and Billing Address	Site Information	Lessor Name
City Of Shawnee ("Lessee") 16 West 9th Street Shawnee, OK 74801 Danny Vise Phone #: 405-878-1607	Danny Vise 2202 North Airport Drive Shawnee, OK 74804 Cell: 405-878-1607	Mobile Modular Management Corporation ("Lessor") Questions? Contact: Megan Poore megan.poore@mobilemodular.com Direct Phone: 1 (469) 507-3332

Equipment and Accessories	Qty	Monthly Rent	Extended Rent	Taxable
Classroom, 24x64 TX (Item1072W) (Double Classroom.Two restrooms.Size excludes 4' towbar.)	1	\$1,500.00	\$1,500.00	N
Filter Replacement Program (Optional)	2	\$27.00	\$54.00	N
Equipment and Accessories Monthly Subtotal:				\$1,554.00

Charges Upon Delivery	Qty	Charge Each	Total One Time	Taxable
Classroom, 24x64 TX (Item1072W) (Double Classroom.Two restrooms.Size excludes 4' towbar.)				
Delivery	2	\$3,325.00	\$6,650.00	N
Block and Level Building	1	\$6,000.00	\$6,000.00	N
Essential Material Handling Fee	2	\$75.00	\$150.00	N
Installation, Ramp Custom Plan (Build ADA Compliant Treated Wood: Three 8'x 8' Decks, One 5'x5' Steps, and Two 5'x30' Ramps.)	1	\$18,612.00	\$18,612.00	N
Delivery Haulage Fuel	2	\$500.00	\$1,000.00	N
Skirting, Install	176	\$23.00	\$4,048.00	N
Modifications			\$13,842.00	
Charges Upon Delivery Subtotal:				\$50,302.00

Charges Upon Return	Qty	Charge Each	Total One Time	Taxable
Classroom, 24x64 TX (Item1072W) (Double Classroom.Two restrooms.Size excludes 4' towbar.)				
Return	2	\$3,325.00	\$6,650.00	N
Prepare Equipment For Removal	1	\$6,000.00	\$6,000.00	N
Cleaning Fee	2	\$450.00	\$900.00	N
Return Haulage Fuel	2	\$500.00	\$1,000.00	N
Skirting, Removal	176	\$5.00	\$880.00	N
Estimated Charges Upon Return Subtotal:				\$15,430.00



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Total Estimated Charges

Subtotal of Monthly Rent	\$1,554.00
Personal Property Expense	\$105.10
Taxes on Monthly Charges	\$0.00
Total Charges per Month (including tax)	\$1,659.10
Charges Upon Delivery (including tax)	\$50,302.00
Estimated Charges Upon Return (including tax)	\$15,430.00
Estimated Initial Invoice	\$51,961.10



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Special Notes



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Flooring (VCT): This building ships standard with used VCT in good condition. VCT may have some discoloration or wear). New VCT is available for an additional charge.

Block/Level: Price assumes building is installed using Mobile Modular standard foundation. Mobile Modular assumes installation on the minimum foundation design criteria/tolerances. For DSA buildings, it is assumed building will be installed on the minimum amount of foundation lumber per the applicable DSA approved stockpile drawings and site will not exceed 4-1/2" out of level. Additional material and labor charges apply for installing buildings above minimum foundation design criteria, raising buildings to meet specific finish floor elevations, raising building level to adjacent buildings, landings, walkways, transitions, etc.

Tie-downs: Quantity and price may vary based on seismic source factor and site conditions. Patch and repair of site after removal is not included and is the responsibility of the Customer. Alternative non-penetrating seismic system is available for an additional charge. Wet-stamped engineering available for an additional charge.

Product Availability: Product availability and delivery date are subject to product availability upon receipt of signed Agreement and/or credit approval.

General: Customer's site must be dry, compacted, level and accessible by normal truck delivery. Pricing does not include any clearing or grading of sites, obstruction removal, site or final building clean up, any asphalt transitions, dolly, crane, forklift, electrical or plumbing connections, window coverings, furniture, casework, appliances, doorstops, phone or data lines, gutters, downspouts or tie-in, temporary power, temporary fencing, traffic control, flagmen, soil and/or pull test, custom engineering, fees associated with inspections, city or county submittals and/or use permits, security screens, door bars and any item not specifically listed as being included.

Skirting: Skirting installation & removal is not included unless otherwise noted. When included, it is non-structural, non-fire rated and cosmetic only. Skirting pricing assumes a level site.

Skirting Finish Floor Height: Skirting prices are based on 32" Finished Floor Height.

Used building rental: Quotation is for a used or refurbished modular building. There may be variations in wall paneling, flooring, or other exterior and interior finishes. Dimensions are nominal unless otherwise stated.

Quote Based on Mobile Modular Standard Unit: Does not include permits, utility hook ups, site work, office equipment, furniture, coffee/water service, cleaning service, phone/internet service. Quote only includes items specifically listed on quote. If additional equipment is needed to set building, there will be an additional cost.

Customer Dumpster Responsibility: Customer is responsible for supplying a dumpster for debris removal for the installation and/or dismantle of the modular building(s).

Buildings containing a restroom(s): Restrooms are not self-contained. Manifolds are not included and must be assembled and connected by others. Water & sewer stub-out locations may vary. Paper & soap dispensers, sanitary and trash receptacles are not provided.

Ramps: Site conditions may affect ramp configuration and cost. Customer is responsible for transition from end of ramp to grade and for extended or custom rails, if needed. Ramp skirting is available for an additional charge. Final cost determined after acceptance for ADA Compliance. Customer is responsible for removal of decks and ramps at end of lease.

HVAC Filter Replacement Program: Customer has selected the HVAC Filter Replacement Program. This service is incidental to the Lease of the Equipment and not included with any limited warranties. The additional charge for this service is included in the monthly rental rate reflected above. For this additional monthly charge, MMMC will mail three (3) HVAC filters on a quarterly basis. Customer shall be solely responsible for installation of the filters each month.



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Customer shall be responsible for charges that may result if Customer fails to properly replace HVAC filters on a monthly basis.

Site Installation Requirements: Prior to delivery, Customer shall mark the four corners where the building is to be placed on the site/pad location, and shall also mark the locations of door(s) and ramp(s). Should special handling be required to position, install, or remove the modular building on Customer's site due to site conditions/constraints and/or obstructions, Customer will be responsible for additional charges. Additional rolling charges may be applicable as site conditions necessitate.

Site Plan Review: Mobile Modular is not responsible for review and verification of Customer's site plans, civil plans, soils tests/survey's, etc. It is the responsibility of the Customer to ensure the site plans and site conditions meet applicable codes and governing body approvals. This includes, but is not limited to, ensuring the building pad/site allows for standard delivery and installation based on the minimum foundation design tolerances as per applicable approved stockpile drawings/foundation design.

Delivery Date: Delivery date will not be confirmed until Mobile Modular receives and approves the signed Agreement and all credit conditions have been met.

Delivery of Equipment: Customer is responsible for selecting a suitable site and directing Mobile Modular on exact placement/orientation of the Equipment. Customer shall physically mark the site/pad to indicate corner locations for Equipment placement.

Additional Information

- Quote is valid for 30 days.
- Lessee's site must be dry, compacted, level and accessible by normal truck delivery. Costs to dolly, crane, forklift, etc. will be paid by Lessee. Unless noted, prices do not include permits, ramp removal, stairs, foundation systems, foundation system removal, temporary power, skirting, skirting removal, engineering, taxes or utility hookups.
- Subject to equipment availability. Unless noted, equipment and related furnishings, finishes, accessories and appliances provided are previously leased and materials, dimensions, and specifications vary. Detailed specifications may be available upon request.
- For lease transactions, Lessor reserves the right to substitute equal or better equipment prior to delivery without notice.
- This transaction is subject to prior credit approval. Security deposit and payment in advance may be required.
- **Sales Tax will be calculated based on the tax rate at the time of invoicing.**
- **Unless otherwise noted, prices do not include prevailing wages, Davis-Bacon wages, or other special or certified wages.**

Estimated Equipment Value

The Estimated Equipment Value is listed below. Lessee is solely responsible for complying with all insurance requirements set forth in the Lease Terms and Conditions attached hereto.

Equipment Description	Qty	Estimated Equipment Value (each)
Classroom, 24x64 TX (Item1072W)	1	\$75,600.00



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This Lease Quotation and Agreement is entered into by and between Lessor and Lessee effective as of the date signed by Lessee. This Lease Quotation and Agreement includes the terms and conditions set forth in the following two documents (collectively, the "Agreement"), each of which is incorporated herein by this reference:

1. **Lease Terms and Conditions** attached hereto; and
2. **Supplemental Lease Terms and Conditions** located at (<https://www.mobilemodular.com/contractterms>), as the same may be updated from time to time in the sole and absolute discretion of Lessor.

IN THE EVENT THE LESSOR AND LESSEE HAVE ENTERED INTO A MASTER LEASE AGREEMENT, THE TERMS OF SUCH MASTER LEASE AGREEMENT ARE INCORPORATED HEREIN BY THIS REFERENCE, ARE DEEMED A PART OF THIS AGREEMENT, AND TAKE PRECEDENCE OVER ANY CONFLICTING TERMS IN THIS AGREEMENT.

By signing below, Lessee: (1) acknowledges and agrees that it has received, read and understands the terms of this Agreement and agrees to be bound by the terms of this Agreement, including prices and specifications, and (2) instructs Lessor to make appropriate arrangements for the preparation and delivery of the Equipment identified herein. This Agreement may be executed in one or more counterparts (including through the use of electronic signatures), each of which shall be deemed an original and all of which shall constitute one and the same Agreement. Upon execution of this Agreement, Lessor shall generate a Lease Agreement Number, which shall be referenced on all Lessor invoices.

No document provided by Lessee, including, without limitation, Lessee's purchase orders, work orders, bills of lading, or forms for receipt or acknowledgment or authorization ("**Lessee Forms**"), nor the terms and conditions associated with such Lessee Forms, shall amend, modify, supplement, waive, or release any term or condition of this Agreement (or the Master Lease Agreement, as applicable) even if such Lessee Forms are signed by an agent or representative of Lessor. The terms and conditions of this Agreement (or the Master Lease Agreement, as applicable) shall prevail over any Lessee Forms, and any inconsistent or additional terms and conditions in Lessee Forms shall be deemed void *ab initio* and of no force or effect.

The individuals signing this Agreement affirm that they are duly authorized to execute this Agreement by and on behalf of the parties hereto.

LESSOR:

Mobile Modular Management Corporation
a division of McGrath RentCorp

LESSEE:

City Of Shawnee

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



a Division of McGrath Rentcorp
Corporate Address:
5700 Las Positas Road
Livermore, CA 94551
www.mgrc.com

Lease Quotation and Agreement

Quote #	Q-408684
Date of Quote	11/14/2023
Quote Expiration Date:	12/14/2023
Lease Term:	24 Months
Estimate Del Date:	11/13/2023
Lessee PO#:	

LEASE TERMS AND CONDITIONS

- LEASE.** Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the Equipment (as defined below). The lease of any Equipment is governed by the terms of this Agreement. The Equipment is and shall remain the personal property of Seller.
- TERMS.** All capitalized terms used and not otherwise defined herein, will have the meanings set forth in this Agreement. As used in this Agreement, the following definitions shall apply: "Accessories" shall mean any additions, attachments, or accessories to the modular buildings, or ancillary services, provided by Lessor to Lessee and identified in this Agreement; "Equipment" shall mean the modular buildings, Accessories, and/or Services identified in this Agreement, together with any replacements, repairs, additions, attachments or accessories hereafter rented to Lessee under this Agreement.
- PAYMENTS AND PRICE ADJUSTMENTS.** Lessee agrees to pay to Lessor each payment specified herein on a net invoice basis. Payment terms are net due upon receipt unless otherwise agreed upon in writing. All payments due from Lessee pursuant to this Agreement shall be made by Lessee without any abatement or setoff of any kind whatsoever arising from any cause whatsoever. Prices will be increased by Lessor for unknown circumstances or conditions, including, but not limited to, driver waiting time, special transport permits, difficult site conditions and/or increases in fuel prices.
- LEASE TERM; EARLY TERMINATION.** The Lease Term and Monthly Rent, each of which are specified in this Agreement, shall commence on the date the Equipment is delivered to the Site (the "Start Rent Date"), unless a different date is mutually agreed upon in writing, and shall continue thereafter for the number of months specified in this Agreement as the Lease Term. Lessee agrees to pay the Total Charges per Month specified in this Agreement (as may be adjusted pursuant to Section 5 below) for each month during the Lease Term and any extensions thereof. A month is defined as thirty (30) calendar days; rent will be billed monthly unless otherwise specified in this Agreement (but rent shall be due and owing even in the absence of actual receipt by Lessee of an invoice or bill). In the event that Lessee terminates this Agreement prior to the expiration of the Lease Term, Lessor shall be entitled to charge an early termination fee, even if such termination occurs prior to delivery of the Equipment. Such fee shall be determined by Lessor, in its sole discretion, following the receipt of the termination request. Such early termination fee may include, but shall not be limited to, charges related to the preparation of the Equipment for delivery and/or the rental value of this Agreement. In no event shall any such early termination fee exceed the total value of this Agreement. Lessor shall not be liable to Lessee for any failure or delay in obtaining, delivering or setting up the Equipment. If Lessee delays delivery of the Equipment for any reason for thirty (30) days or longer from the original delivery date mutually agreed upon between both parties, Lessor may, in Lessor's sole discretion, charge Lessee a monthly storage fee equal to the Monthly Rent starting on the original delivery date, and/or terminate this Agreement, subject to the early termination provisions set forth above.
- EXTENSION OF LEASE TERM.** Upon expiration of the initial Lease Term set forth in this Agreement, the lease of the Equipment shall automatically be extended on a month-to-month basis until the Equipment is returned to Lessor. This Agreement does not expire and the terms and conditions hereof shall remain in full force and effect for any extension of the Lease Term, unless otherwise agreed upon by Lessor and Lessee in writing. Lessor may periodically revise the Total Charges per Month from those reflected in this Agreement if the lease of the Equipment is extended beyond the initial Lease Term. If the lease of the Equipment is extended beyond the initial Lease Term, Lessor may revise the charges for the Charges Upon Return from those specified in this Agreement to reflect Lessor's then-current market rates for such services.
- PREPARATION FOR REMOVAL OF THE EQUIPMENT.** Prior to the scheduled removal of the Equipment, Lessee shall, at a minimum: (a) provide clear access to the Equipment for Lessor to dismantle and remove the Equipment from the Site by industry-standard trucking methods; (b) disconnect all utilities; (c) remove all personal property of Lessee's from the Equipment; and (d) in the case of Equipment that includes plumbing, flush the plumbing lines clean and ensure that no foreign matter remains in any fixtures. Plumbing must be properly disconnected by Lessee at its sole cost and expense. Lessee will be responsible for costs of repair required by improper plumbing disconnection to the extent that the Equipment is damaged. Any components, parts or accessories supplied by Lessor must be returned with the Equipment. In the event that Lessee fails to meet the requirements herein, additional charges may be incurred by Lessee for additional labor, waiting time, or dry-runs in the event that Lessor is unable to return the Equipment as scheduled.
- RETURN OF EQUIPMENT.** Lessee must provide a minimum of thirty (30) days prior, written notice to Lessor when requesting to return the Equipment. Lessee is responsible for complying with the requirements set forth in the "Preparation for Removal of the Equipment" section of these Lease Terms and Conditions. Unless otherwise agreed upon by Lessor in writing, Lessee shall continue to be responsible for payment of the Total Charges per Month set forth in this Agreement (as may be adjusted pursuant to Section 5 hereto) until return of the Equipment to Lessor is completed. The Total Charges per Month will be prorated in one-half (1/2) month increments only. If the Equipment is returned within the first fifteen (15) days of the billing period, Lessee shall be responsible for paying half of the Total Charges per Month; if Equipment is returned between the sixteenth (16th) and thirtieth (30th) days of the billing period, Lessee shall be responsible for paying the entire amount of the Total Charges per Month. The charges reflected in this Agreement for Charges Upon Return will be adjusted for any Lease Term longer than twelve (12) months or if the Lease is extended beyond the initial Lease Term, pursuant to Section 5.
- WARRANTIES; DISCLAIMER.** Lessor warrants to Lessee that the Equipment, when delivered and set up and under normal use and regular service and maintenance by Lessee, shall be free from major defects in materials and workmanship that prevent any normal use and operation. Accessories supplied by Lessor pursuant to this Agreement but not owned by Lessor shall not be subject to the foregoing warranty, but shall carry the applicable warranty of the Accessory owner, which Lessor hereby assigns to Lessee to the extent transferable. Lessor's liability under this warranty shall be limited to the replacement or repair of the defective Equipment (during Lessor's normal working hours), at Lessor's option; provided, however, that Lessee shall provide written notice of any failure or defect to Lessor within four (4) days after discovery, and within the applicable warranty period, and failure to provide such notice in a timely manner may result in a limitation of this warranty at Lessor's sole option. If Lessee does not grant clear, unobstructed access for any such repairs between 8:00 a.m. and 5:00 p.m., Monday through Friday, Lessee shall bear the cost of repair rates for labor at the applicable overtime rates. This warranty does not



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extend to any Equipment subjected to improper application, damaged by accident or abuse, or repaired or altered outside of Lessor's facilities without prior written authorization from Lessor. **THE EXPRESS WARRANTIES CONTAINED IN THIS AGREEMENT ARE LESSOR'S SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO THE EQUIPMENT AND SERVICES, AND ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, GUARANTEES, PROMISES, AFFIRMATION OR REPRESENTATIONS OF ANY KIND, EXPRESSED OR IMPLIED, WHICH MAY BE DEEMED APPLICABLE TO THE EQUIPMENT OR SERVICES, INCLUDING WITHOUT LIMITATION, THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, ANY WARRANTY AGAINST INFRINGEMENT OR AS TO TITLE, WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OR TRADE OR ANY OTHER MATTER. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, ALL EQUIPMENT AND SERVICES ARE BEING PROVIDED "AS IS", "WHERE IS, WITH ALL FAULTS". LESSOR SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, THERETO. LESSEE HAS SELECTED ALL EQUIPMENT FOR LESSEE'S INTENDED USE AND RECOGNIZES THAT LESSOR IS NOT A DESIGNER OR MANUFACTURER OF ANY EQUIPMENT.**

9. **TAXES.** Lessee agrees to be responsible for all charges, fees and taxes (local, state and federal) levied or assessed upon Lessee or Lessor relating to the ownership, leasing, rental, sale, possession, use or operation of the Equipment (including, without limitation, sales, use and personal property taxes); provided, however, that the foregoing obligation shall not apply to any local, state or federal income tax assessed against the Lessor as a result of this Agreement which shall continue to be the obligation of Lessor. Lessee shall pay all such taxes for which it is responsible to the appropriate taxing authorities or, if directed or invoiced by Lessor, pay such amounts to Lessor for remittance by Lessor to the appropriate taxing authorities.
10. **LOSS OR DAMAGE.** Upon delivery and until the Equipment is removed from the Site by Lessor or its authorized agent, Lessee assumes all risk of loss or damage to the Equipment. Should any Equipment damaged be capable of repair, the Equipment shall be repaired and restored to its condition existing prior to such damage, at Lessee's sole cost and expense. In the event any of the Equipment is damaged beyond repair or is lost, stolen or wholly destroyed, this Agreement shall cease and terminate as to such Equipment as of the date of the event, accident or occurrence causing such loss or destruction, and Lessee shall pay Lessor within forty-five (45) days thereafter, an amount equal to the full replacement value of the Equipment, which payment obligation shall survive the termination of this Agreement.
11. **INSURANCE.** Lessee shall procure and maintain, at its sole expense (including all premiums, deductibles and self-insured retentions), (i) property insurance covering the loss, theft, destruction, or damage to the Equipment in an amount not less than the full replacement value thereof (and with a deductible no higher than \$25,000), naming Lessor as loss payee of the proceeds, and (ii) commercial general liability insurance (minimum of \$1,000,000 per occurrence and \$2,000,000 in the aggregate) (and with a deductible no higher than \$25,000), naming Lessor and its designees as additional named insureds. Lessee's insurance shall be primary and non-contributory to any insurance maintained by Lessor or any other additional insureds or additional named insureds. The liability insurance policy shall contain coverage for all contractual indemnity obligations of Lessee set forth in this Agreement, cross-liability and waiver of subrogation provisions in favor of Lessor and any other additional insureds. All evidence of all required insurance shall be in a form reasonably acceptable to Lessor and with a company having an A.M. Best rating of A- (VII) or better, and shall not be subject to cancellation without thirty (30) days' prior written notice to Lessor. Lessee shall provide to Lessor insurance certificates and endorsements (including without limitation, additional insured and loss payee endorsements) evidencing compliance with the insurance requirements of this Agreement (including without limitation, the deductible amounts and waiver of subrogation) prior to delivery of the Equipment and shall maintain all required insurance coverage until the Equipment is returned to Lessee. Lessor will not and does not provide insurance for any of Lessee's personal property that may be in or on any Equipment.
12. **INDEMNIFICATION AND LIMITATION OF LIABILITY.**
- (a) **LESSEE ON BEHALF OF ITSELF, ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, VENDORS, SUBCONTRACTORS, AND AFFILIATES, AND THEIR RESPECTIVE REPRESENTATIVES, DIRECTORS, OFFICERS, MANAGERS, VENDORS, MEMBERS, SHAREHOLDERS, PARTNERS, CONTRACTORS, EMPLOYEES, AGENTS, AND ASSIGNS (EACH, A "LESSEE PARTY," AND COLLECTIVELY, THE "LESSEE PARTIES") SHALL INDEMNIFY, DEFEND, RELEASE, AND HOLD HARMLESS LESSOR, ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, VENDORS, CONTRACTORS, AND AFFILIATES, AND THEIR RESPECTIVE REPRESENTATIVES, DIRECTORS, OFFICERS, MANAGERS, VENDORS, MEMBERS, SHAREHOLDERS, PARTNERS, CONTRACTORS, EMPLOYEES, AGENTS, AND ASSIGNS (EACH A "LESSOR INDEMNIFIED PARTY," AND COLLECTIVELY, THE "LESSOR INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL LOSSES, FEES, COSTS, EXPENSES, CLAIMS, LIABILITIES, DAMAGES, PENALTIES, FINES, FORFEITURES, AND SUITS (INCLUDING COSTS OF DEFENSE, SETTLEMENT AND REASONABLE ATTORNEYS' FEES, ENVIRONMENTAL CONSULTANTS AND EXPERT WITNESS FEES AT TRIAL AND ON APPEAL) (COLLECTIVELY, "LOSSES") RELATING TO, ARISING OUT OF OR IN CONNECTION WITH: (1) ANY BREACH OR NON-FULFILLMENT OF ANY COVENANT, AGREEMENT, OR OBLIGATION TO BE PERFORMED BY LESSEE PURSUANT TO THIS AGREEMENT, OR ANY INACCURACY IN OR BREACH OF ANY OF THE REPRESENTATIONS OF LESSEE SET FORTH IN THIS AGREEMENT; (2) THE OCCURRENCE OF ANY EVENT SET FORTH IN SECTION 13; (3) THE SELECTION, USE, POSSESSION, DELIVERY, RENTING, LEASING, SUBLEASING, OPERATION, TRANSPORT, MAINTENANCE, CONDITION, REPAIR, REPLACEMENT, REPOSSESSION, RETURN OR STORAGE OF ANY EQUIPMENT OR ANY SERVICES; (4) ANY FAILURE BY ANY LESSEE PARTY TO COMPLY WITH ANY APPLICABLE LAW IN CONNECTION WITH ANY EQUIPMENT OR THE SERVICES OR THIS AGREEMENT; (5) ANY DEATH OR BODILY INJURY TO ANY PERSON OR DESTRUCTION OR DAMAGE TO ANY PROPERTY TO WHICH THE ACTS OR OMISSIONS OF A LESSEE PARTY CONTRIBUTED; OR (6) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF ANY LESSEE PARTY FOR ANY ACTION RELATED TO OR ANY USE OF ANY EQUIPMENT. THIS INDEMNITY SHALL APPLY EVEN IF SAID LOSSES ARE OCCASIONED, BROUGHT ABOUT OR CAUSED BY THE CONCURRENT NEGLIGENCE OF ANY LESSOR INDEMNIFIED PARTY, UNLESS A COURT OF COMPETENT JURISDICTION SHOULD DETERMINE THAT THE LOSSES WERE PROXIMATELY CAUSED BY THE SOLE NEGLIGENCE OR WILLFUL ACTS OR OMISSIONS OF A LESSOR INDEMNIFIED PARTY. IF THE FOREGOING**



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OBLIGATIONS ARE NOT ENFORCEABLE AGAINST LESSEE UNDER APPLICABLE LAW, LESSEE AGREES TO INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS LESSOR INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL LOSSES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, INCLUDING, WITHOUT LIMITATION, TO THE EXTENT OF THE ACTS OR OMISSIONS OF THE LESSEE PARTIES' NEGLIGENCE OR WORSE CONDUCT. THIS INDEMNIFICATION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

- (b) TO THE FULLEST EXTENT NOT PROHIBITED BY LAW, LESSOR'S LIABILITY, IF ANY, SHALL BE LIMITED TO THE VALUE OF RENTAL FEES AND ALL OTHER AMOUNTS PAID BY LESSEE AND RECEIVED BY LESSOR UNDER THIS AGREEMENT FOR THE EQUIPMENT AND/OR SERVICES, AND LESSOR SHALL HAVE NO LIABILITY TO LESSEE OR ANY THIRD-PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.
13. **EVENTS OF DEFAULT; REMEDIES.** Each of the following shall constitute an "Event of Default": (1) failure by Lessee to make any payment within ten (10) days after its due date; (2) failure by Lessee to perform any other obligation under this Agreement, and the continuance of such default for ten (10) days after written notice thereof by Lessor to Lessee; (3) any material misrepresentation or false statement of fact by Lessee; (4) the loss, theft, damage, destruction or the attempted sale or encumbrance by Lessee of any of the Equipment; or (5) Lessee's dissolution, termination of existence, discontinuance of business, insolvency, or the commencement of any bankruptcy proceedings by or against, Lessee. Lessee acknowledges that any Event of Default will substantially impair the lease value of the Equipment hereof. Upon the occurrence of any Event of Default, Lessor may, without notice, exercise one or more of the following remedies: (1) declare all unpaid payments under this Agreement to be immediately due and payable; (2) terminate this Agreement as to any or all items of the Equipment; (3) take possession of the Equipment wherever found, and for this purpose enter upon any premises of Lessee and remove the Equipment, without any liability to Lessee; (4) direct Lessee at its expense to promptly prepare the Equipment for pickup by Lessor; (5) proceed by appropriate action either in law or in equity to enforce performance by Lessee of the terms of this Agreement or to recover damages for the breach hereof, including attorneys' fees and any other expenses paid or incurred by Lessor in connection with the repossession of the Equipment; (6) apply the security deposit specified in this Agreement ("Security Deposit") to payment of Lessor's costs, expenses and attorney fees in enforcing the terms of this Agreement and to indemnify Lessor against any damages sustained by Lessor; and/or (7) recover the replacement cost of any Equipment which Lessor is unable to repossess.. Lessor's waiver of any Event of Default shall not constitute a waiver of any other Event of Default or of any term or condition of this Agreement. No right or remedy referred to herein is intended to be exclusive and each may be exercised concurrently or separately and from time to time. In the event of repossession, Lessee waives any bond posting requirement.

Lease Terms and Conditions, Rev. 07/01/2022