

AGENDA
BOARD OF CITY COMMISSIONERS
November 7, 2022 AT 6:00 P.M.
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 A QUORUM

INVOCATION

FLAG SALUTE

1. Recognition of Lt. George Stafford's graduation from the 283rd Session of the Federal Bureau of Investigation (FBI) National Academy.
2. Citizens Participation

(A three minute limit per person)
(A twelve minute limit per topic)
3. Consider approval of Consent Agenda:
 - a. Minutes from the October 17, 2022 regular meeting.
 - b. Acknowledge the following minutes:
 - Shawnee Urban Renewal Authority Minutes from the August 2, 2022 regular meeting.
 - c. Authorize a right-of-way easement to be given to Canadian Valley Electric Cooperative, Inc. to serve an existing City Lake Lot Lease at the Shawnee Twin Lakes.
 - d. Acknowledge the resignation of Audra Barksdale from the Shawnee Urban Renewal Authority.
 - e. Mayor's Appointments:

Shawnee Arts and Cultural Commission

Delaynna Trim 1st Partial Term Expires: May 1, 2023

Replaces Tera Leigh – Resigned

Planning Commission

Monty Porter 1st Partial Term Expires: June 1, 2023

Replaces Amy Loftis-Walton – Resigned

4. Presentation by Animal Control to present the Pet of the Week.
5. Consideration of the purchase of vehicles from Vance Country Ford under state contract in an amount of \$244,728.00.
6. Consideration of an agreement to partner with Shawnee Housing Authority for the Mental Health Assistance portion of the CDBG-CV2 grant awarded by the Oklahoma Department of Commerce.
7. Consideration of an agreement with Dunnington Consulting and Latham Consulting for governmental and community affairs.
8. Administrative Report:
 - a. 2023 Sales Tax Election – Andrea Weckmueller-Behringer, City Manager
9. New Business

(Any matter not known or which could not have been reasonably foreseen prior to the posting of the agenda)
10. Commissioners Comments
11. Adjournment

Respectfully submitted,

Lisa Lasyone, CMC, 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)

Regular Board of Commissioners

1.

Meeting Date: 11/07/2022

Recognition

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Recognition of Lt. George Stafford's graduation from the 283rd Session of the Federal Bureau of Investigation (FBI) National Academy.

Attachments

Recognition



Certificate of Recognition

ON THIS 7TH DAY OF NOVEMBER, 2022

TO LIEUTENANT GEORGE STAFFORD

ON BEHALF OF THE CITY OF SHAWNEE

TO ACKNOWLEDGE HIS GRADUATION FROM THE 283RD SESSION OF THE

Federal Bureau of Investigation
National Academy

ED BOLT, MAYOR

LISA LASYONE, CITY CLERK

Regular Board of Commissioners

3. a.

Meeting Date: 11/07/2022

Minutes

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Minutes from the October 17, 2022 regular meeting.

Attachments

Minutes

BOARD OF CITY COMMISSIONERS PROCEEDINGS
OCTOBER 17, 2022 AT 6:00 P.M.

The Board of City Commissioners 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, October 17, 2022 at 6:00 p.m., pursuant to notice duly posted as prescribed by law at 4:56 p.m. on October 13, 2022. Mayor Bolt presided and called the meeting to order. Upon roll call, the following members were in attendance.

Ed Bolt
Mayor

Daniel Matthews
Commissioner Ward 1

Cami Engles
Commissioner Ward 2

Travis Flood
Commissioner Ward 3

Darren Rutherford
Commissioner Ward 4-Vice Mayor

Absent
Commissioner Ward 5

Lauren Richter
Commissioner Ward 6

ABSENT: Mark Sehorn

INVOCATION

Commissioner Travis Flood

FLAG SALUTE

AGENDA ITEM NO. 1:

Recognition of the Avedis Foundation featuring the documentary *The Avedis Story "We're Here for Good"* and presentation of a Proclamation.

Ms. Andrea Weckmueller-Behringer, City Manager, spoke regarding the Avedis Foundation and introduced the video *The Avedis Store "We're Here for Good."* The video then played.

The Mayor presented the *Avedis Foundation Ten Year Anniversary* Proclamation to Kathy Laster and members of the Avedis Foundation Board.

AGENDA ITEM NO. 2:

Citizens Participation
(A three-minute limit per person)
(A twelve-minute limit per topic)

Mr. Rob Morris and Mr. Rick Young spoke during Citizens Participation.

AGENDA ITEM NO. 3:

Consider approval of Consent Agenda:

- a. Minutes from the October 3, 2022 regular meeting.
- b. Acknowledge the following minutes and reports:
 - Planning Commission Minutes from the September 7, 2022 regular meeting.
 - License Payment Report for September 2022
 - Project Payment Report for September 2022
- c. Acknowledge receipt of Pioneer Library System Revised Budget for July 1, 2022 through June 30, 2023.
- d. Acknowledge receipt of Pioneer Library System Audit for the Year Ended June 30, 2022.
- e. Acknowledge the resignation of Amy Loftis-Walton from the Planning Commission.

A motion was made by Commissioner Matthews, seconded by Vice Mayor Rutherford, to approve Consent Agenda Item Nos. 3(a-e). Motion carried 6-0.

AYE: Matthews, Rutherford, Richter, Engles, Flood, Bolt

NAY: None

AGENDA ITEM NO. 4:

Presentation by Animal Control to present the Pet of the Week.

Animal Control Officer Theresa Touchet introduced a four-and-a-half-week-old puppy. The Animal Shelter currently has twenty (20) dogs up for adoption.

AGENDA ITEM NO. 5:

Consideration of a resolution of support for the appointment of Andrea Weckmueller-Behringer to the District 5 Seat on the Board of Directors of the Oklahoma Municipal League; declaring said appointment to be for the benefit of the City of Shawnee and other municipalities within the District; and declaring the mission of the Oklahoma Municipal League to be for the public purpose.

Ms. Andrea Weckmueller-Behringer, City Manager, provided a Staff report.

A motion was made by Commissioner Flood, seconded by Commissioner Engles, to approve a resolution of support for the appointment of Andrea Weckmueller-Behringer to the District 5 Seat on the Board of Directors of the Oklahoma Municipal League; declaring said

appointment to be for the benefit of the City of Shawnee and other municipalities within the District; and declaring the mission of the Oklahoma Municipal League to be for the public purpose.

Resolution No. 6674 was introduced.

A RESOLUTION OF SUPPORT FOR THE APPOINTMENT OF ANDREA WECKMUELLER-BEHRINGER TO THE DISTRICT 5 SEAT ON THE BOARD OF DIRECTORS OF THE OKLAHOMA MUNICIPAL LEAGUE; DECLARING SAID APPOINTMENT TO BE FOR THE BENEFIT OF THE CITY OF SHAWNEE AND OTHER MUNICIPALITIES WITHIN THE DISTRICT; AND DECLARING THE MISSION OF THE OKLAHOMA MUNICIPAL LEAGUE TO BE FOR THE PUBLIC PURPOSE.

Motion carried 6-0.

AYE: Flood, Engles, Bolt, Rutherford, Richter, Matthews
NAY: None

AGENDA ITEM NO. 6:

Consideration of a resolution of the City of Shawnee ratifying executed Cooperative Purchasing Agreements.

Mr. Jacob Foos, Assistant City Manager, provided a Staff report regarding Cooperative Purchasing Agreements.

A motion was made by Commissioner Matthews, seconded by Commissioner Flood, to approve a resolution of the City of Shawnee ratifying executed Cooperative Purchasing Agreements.

Resolution No. 6675 was introduced.

A RESOLUTION OF THE CITY OF SHAWNEE RATIFYING EXECUTED COOPERATIVE PURCHASING AGREEMENTS.

Motion carried 6-0.

AYE: Matthews, Flood, Bolt, Rutherford, Richter, Engles
NAY: None

AGENDA ITEM NO. 7:

Consideration of a resolution of the City of Shawnee approving the purchase of a Fire Apparatus-Pumper from Conrad Fire Equipment Inc., under the Cooperative Purchasing Agreement with Houston-Galveston Area Council.

Mr. Jacob Foos, Assistant City Manager and Mr. Tony Wittmann, Fire Chief, provided a Staff report regarding the purchase of the fire apparatus-pumper.

A motion was made by Commissioner Flood, seconded by Vice Mayor Rutherford, to approve a resolution of the City of Shawnee approving the purchase of a Fire Apparatus-Pumper from Conrad Fire Equipment Inc., under the Cooperative Purchasing Agreement with Houston-Galveston Area Council.

Resolution No. 6676 was introduced.

A RESOLUTION OF THE CITY OF SHAWNEE APPROVING THE PURCHASE OF A FIRE APPARATUS - PUMPER FROM CONRAD FIRE EQUIPMENT INC., UNDER THE COOPERATIVE PURCHASING AGREEMENT WITH HOUSTON-GALVESTON AREA COUNCIL.

Motion carried 6-0.

AYE: Flood, Rutherford, Richter, Matthews, Engles, Bolt

NAY: None

AGENDA ITEM NO. 8:

Consideration of a resolution changing the name of the Senior Citizens of Shawnee Board to Shawnee Senior Citizens Advisory Board for the City of Shawnee.

Mr. Brad Schmidt, Public Works Director, advised that the members of the Senior Citizens of Shawnee Board had requested a board name change to Shawnee Senior Citizens Advisory Board to better reflect the duties of the board.

A motion was made by Vice Mayor Rutherford, seconded by Commissioner Flood, to approve a resolution changing the name of the Senior Citizens of Shawnee Board to Shawnee Senior Citizens Advisory Board for the City of Shawnee.

Resolution No. 6677 was introduced.

A RESOLUTION CHANGING THE NAME OF THE SENIOR CITIZENS OF SHAWNEE BOARD TO SHAWNEE SENIOR CITIZENS ADVISORY BOARD FOR THE CITY OF SHAWNEE.

Motion carried 6-0.

AYE: Rutherford, Flood, Bolt, Richter, Matthews, Engles

NAY: None

AGENDA ITEM NO. 9:

Public hearing and consideration of an ordinance to rezone property located at 1910 West Benedict Street from A-1 (Rural Agricultural District) to R-1 (Single-Family Residential District). Case No. RZ11-22, Applicant: Chris Gober. *(Deferred from the September 19, 2022 City Commission meeting.)*

Mr. Rian Harkins, Community Development Director, provided a Staff report. He advised that the request is to rezone the property from an A-1 (Rural Agricultural District) to a

R-1 (Single-Family Residential District). Mr. Harkins advised that both the Planning Commission and Staff recommend approval of the rezoning.

Mayor Bolt declared a public hearing in session to consider an ordinance to rezone property located at 1910 West Benedict Street from A-1 (Rural Agricultural District) to R-1 (Single-Family Residential District). Mr. Chris Gober and Ms. Erin Pickens appeared in favor of said rezoning. No one spoke against said rezoning. The public hearing was closed.

A motion was made by Commissioner Matthews, seconded by Vice Mayor Rutherford, to approve an ordinance to rezone property located at 1910 West Benedict Street from A-1 (Rural Agricultural District) to R-1 (Single-Family Residential District).

Ordinance No. 2772NS was introduced.

AN ORDINANCE CONCERNING THE ZONING CLASSIFICATION OF THE FOLLOWING DESCRIBED PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, TO WIT: THE EAST HALF OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (E/2 W/2 W/2 SE/4 SE/4 SE/4) OF SECTION FOURTEEN (14), TOWNSHIP TEN (10) NORTH, RANGE THREE (3) EAST OF THE INDIAN MERIDIAN, POTTAWATOMIE COUNTY, OKLAHOMA. MORE GENERALLY KNOWN AS 1910 WEST BENEDICT STREET. FROM ZONING CLASSIFICATION, A-1 (RURAL AGRICULTURAL DISTRICT) TO R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SHAWNEE ACCORDINGLY.

Motion carried 6-0.

AYE: Matthews, Rutherford, Richter, Engles, Flood, Bolt

NAY: None

Ordinance No. 2772NS was adopted by the City Commission.

AGENDA ITEM NO. 10:

Public hearing and consideration of an ordinance to rezone property located at 4029 and 4031 North Union Avenue from R-1 (Single-Family Residential District) to C-3 (Highway Commercial District). Case No. RZ12-22, Applicant: David and Amie McDaniel. *(Deferred from the September 19, 2022 City Commission meeting.)*

Mr. Rian Harkins, Community Development Director, provided a staff report and explained Staff and the Planning Commission recommend approval to a C-1 (Neighborhood Commercial District) with a Conditional Use Permit (CUP).

Mayor Bolt declared a public hearing in session to consider an ordinance to rezone property located at 4029 and 4031 North Union Avenue from R-1 (Single-Family Residential District) to C-3 (Highway Commercial District). Mr. Craig Brackeen appeared in favor of said rezoning. No one spoke against said rezoning. The public hearing was closed.

A motion was made by Commissioner Flood, seconded by Vice Mayor Rutherford, to approve an ordinance to rezone property located at 4029 and 4031 North Union Avenue from R-1 (Single-Family Residential District) to C-1 (Neighborhood Commercial District) with a Conditional Use Permit (CUP).

Ordinance No. 2773NS was introduced.

AN ORDINANCE CONCERNING THE ZONING CLASSIFICATION OF THE FOLLOWING DESCRIBED PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, TO WIT: LOTS FIVE (5), SIX (6), SEVEN (7), EIGHT (8), NINE (9), TEN (10), ELEVEN (11), TWELVE (12), THIRTEEN (13), FOURTEEN (14), FIFTEEN (15), SIXTEEN (16), BLOCK THIRTY-SEVEN (37), ARMOURDALE ADDITION, TO THE CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF. MORE GENERALLY KNOWN AS 4029 AND 4031 NORTH UNION AVENUE. FROM ZONING CLASSIFICATION, R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO C-1 (NEIGHBORHOOD COMMERCIAL DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP) TO ALLOW THE USE OF CHILD CARE CENTER. AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SHAWNEE ACCORDINGLY.

Motion carried 6-0.

AYE: Flood, Rutherford, Richter, Matthews, Engles, Bolt
NAY: None

Ordinance No. 2773NS was adopted by the City Commission.

AGENDA ITEM NO. 11:

Consideration of the following budget amendments for Fiscal Year 2022-2023:

- a. Fund 001 General Fund to fund new Public Information Officer position, election costs, salary adjustments for City Management, hazmat suits for Fire Department, annual software agreement for Police Department, transfer to the Aquatic Center fund for security services, and contractual services for the Shawnee Twin Lakes Survey.
- b. Fund 350 Aquatic Center Fund to fund Security Services at Shawnee Splash with an additional transfer from the General Fund.

Ms. Lindsey McNabb-Fox, Finance Director, explained each proposed budget amendment.

A motion was made by Commissioner Matthews, seconded by Commissioner Flood, to approve the budget amendments listed in Agenda Item Nos. 11(a-b). Motion carried 6-0.

AYE: Matthews, Flood, Bolt, Rutherford, Richter, Engles
NAY: None

AGENDA ITEM NO. 12:

Acknowledge monthly Sales Tax and Budget Reports.

Ms. Lindsey McNabb-Fox, Finance Director, reported sales tax is up One Million Ninety-Three Thousand Four Hundred Thirty-Four Dollars (\$1,093,434.00) or Thirteen Point Nine Eight Percent (13.98%), over the projected budget year-to-date. She stated that use tax collections are up approximately Seventy-Eight Thousand Five Hundred Seventy-Eight Dollars (\$78,578.00) or Seven Point Five Nine Percent (7.59%), over the projected budget year-to-date.

AGENDA ITEM NO. 13:

Administrative Reports:

- a. Overview of the Tax Increment Finance Districts – Jacob Foos, Assistant City Manager

Mr. Jacob Foos, Assistant City Manager, gave presentation regarding Tax Increment Finance (TIF) Districts. Items discussed involved Understanding TIFs, Project Plan, and Current Status.

- b. Homeless Population and Funding – Andrea Weckmueller-Behringer, City Manager

Ms. Andrea Weckmueller-Behringer, City Manager, gave a presentation regarding the Homeless Population and Funding. Topics discussed include Point-in-Time (PIT) Count, Oklahoma Homeless Population, Shawnee Homeless Population, Homeless Program City Resources, and Grants That Impact Homelessness.

- c. Santa Fe Depot Update – Rian Harkins, Community Development Director

Mr. Rian Harkins, Community Development Director, gave an update on the Santa Fe Depot. He discussed Community Feedback Takeaways, Preferred Functions, Updated Cost Estimates and Other Activities.

AGENDA ITEM NO. 14:

New Business (Any matter not known, or which could not have been reasonably foreseen prior to the posting of the agenda.)

There was no New Business.

AGENDA ITEM NO. 15:

Commissioners Comments

The Mayor and Commissioners thanked the Avedis Foundation for the past ten (10) years.

Commissioner Richter commented regarding Mr. Rick Young's remarks during Citizen Participation, the land work being done at 45th and Kickapoo and thanked Staff for the administrative reports.

Vice Mayor Rutherford thanked Staff for the administrative reports and sales tax report.

Commissioner Flood commented regarding the Public Information Officer (PIO) position, continued updates from Staff, Santa Fe Depot, and the rezoning items. He also stated that Monsters on Main is this coming weekend.

Commissioner Engles commented on the City being in a good position, including renovating the Santa Fe Depot. She also commented regarding the TIF District.

Commissioner Matthews thanks Staff for being proactive regarding the fire truck and commented on the sales tax report.

Mayor Bolt commented regarding the sales tax report, the PIO position and Monsters on Main.

AGENDA ITEM NO. 16:

Adjournment

There being no further business to be considered, the meeting was adjourned by power of the Chair. (8:01 p.m.)

ED BOLT, MAYOR

ATTEST:

LISA LASYONE, CMC, CITY CLERK

Regular Board of Commissioners

3. b.

Meeting Date: 11/07/2022

Minutes

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Acknowledge the following minutes:

- Shawnee Urban Renewal Authority Minutes from the August 2, 2022 regular meeting.
-

Attachments

Minutes

SHAWNEE URBAN RENEWAL AUTHORITY

MINUTES OF August 2, 2022

The Board of Commissioners of the *Shawnee Urban Renewal Authority* met for a regular meeting Tuesday, August 2, 2022 at 9:00 a.m. in the CDBG Conference Room, 227 N. Broadway, Suite C, Shawnee, Oklahoma.

AGENDA ITEM NO. 1

Audra Barksdale called the meeting to order at 9:06 a.m.

AGENDA ITEM NO. 2

ROLL CALL:

Roll call was taken showing the following members present:

Chairman	Audra Barksdale
Vice Chairman	Tosha Tanquary
Commissioner	Candi Hurley
Commissioner	Jamelle Payne

Absent: Abby Flood

Also present:

Jill Nichols, CDBG Project Manager, SURA

A quorum was declared.

AGENDA ITEM NO. 3

APPROVAL OF MINUTES:

A motion to approve the minutes of May 3, 2022 was made by *Commissioner Payne*, seconded by *Commissioner Tanquary*. Motion carried with no abstentions.

VOTING YES: Barksdale, Hurley, Payne, Tanquary

VOTING NO: None

AGENDA ITEM NO. 4

CONSIDERATION TO AWARD VACANT LOT MOWING CONTRACT TO B&J LAWN:

A motion to award the vacant lot mowing contract to B&J Lawn Care, the sole bidder, was made by *Commissioner Payne*, seconded by *Commissioner Hurley*. Motion carried with no abstentions.

VOTING YES: Barksdale, Hurley, Payne, Tanquary

VOTING NO: None

AGENDA ITEM NO. 5

EXPENDITURE REPORT CLAIMS REVIEW – 05/03/22 – 07/25/22:

Jill Nichols, Program Manager provided expenditure report for Fund 190 from the date of the last meeting until the date of agenda posting, totaling \$33,398.81 for program

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expenses with the exception of payroll. Explanations provided for the types of expenses, amounts of certain claims, and vendors used. **Chairman Barksdale** mentioned that this had been an item for consideration for approval in the past, rather than a report item for review. Expenses will be a consideration item on the next agenda.

AGENDA ITEM NO. 6

UPDATE ON PROJECTS:

Jill Nichols, Program Manager gave the following update:

1. Home Repair: Final Task List

Quotes: 0

Bid awarded to: No current bids

Project left incomplete when former staff vacated office. Bids will be awarded task by task on this project due to contractors declining to bid on the remainder of the project as a whole. ***Update* 1 task of 5 completed**

3. Home Repair: Final Task List

Quote: 1 (bathroom repair), 1 (sewer line), 3 (tree removal)

Bid awarded to: LG Contracting for \$9,985.00, Cowboys Plumbing for \$4,000.00, Trees R Us (B&J Lawn) for \$3,000.00

Project left incomplete when former staff vacated office. Final task list included bathroom repair, sewer line replacement, and tree removal. The contractors who were the only bids on the bathroom repair and sewer line work on the project was allowed to complete due to the extensive amount of time that the homeowner was inconvenienced by incomplete work. The tree removal has been awarded to the lowest bidder of three and that is currently in process. **Total project completed and closed at \$28,355.00**

4. Home Repair: Emergency Sewer Line

Bids received: 1

Bid awarded to: Gregory W. Smith Plumbing for \$6,445.00

Project is near completion. **Total project completed and closed at \$8,705.00**

5. Home Repair: Bathroom Repair

Bids received: 1

Bid awarded to: LG Construction for \$11,538.00

This project was left incomplete when former staff vacated office. The initial task of emergency hot water tank replacement was completed but the remainder of the project was not sent out for bid until recently. We expect to award the only contractor to send in a bid. ***Update* project construction to start this week.**

6. Home Repair: Roof, Bathroom, HVAC

Bids received: 1

Bid awarded to: LG Contracting for \$36,478.00 \$19,483.00

The scope of the work on this project was reduced to include only the roof and bathroom remodel due to the initial total project being over the maximum amount allowable. Project is under construction.

7. Home Repair: Roof

Bids received: 1

Page 3

Bid awarded to: LG Contracting for \$8,955.00

This project was left incomplete when former staff vacated office. We expect to award the only contractor to send in a bid. **Total project completed and closed at \$14,125.00**

8. **Home Repair: Emergency Gas/Sewer Line Replacement**
Bids received: 1
Bid awarded to: Cowboy's Plumbing for \$8,255.00 – Closed \$13,455.00
9. **Home Repair: Bathroom repairs**
Bids received: 1
Bid awarded to: LG Contracting for \$15,210.00 – Not Yet Awarded
LG Contracting was sole bidder but has 2 projects currently with CDBG. Expect to award this project to them upon completion of one of the others.
10. **Home Repair: Windows, kitchen, floor**
Bids received: N/A – CURRENTLY OUT FOR BID
11. **Home Repair: Floor leveling, kitchen, electric**
Bids received: N/A – CURRENTLY OUT FOR BID

There are currently 4 completed applications for Home Rehab pending review.

Addresses removed from the project details due to privacy concerns, as reminded by **Chairman Barksdale** and will be omitted from future updates.

Notes on projects 10 & 11 – bids were received prior to the meeting date, and upon approval of the board, all will be declined. Two bidders on each project, one bidder has already exceeded maximum number of projects awarded currently and the other bidder was 2 hours past the deadline for submitting bids. Both projects will be sent back out for bid to all bidders. Notes on project 9 – Commissioners were curious about the high amount of the bid. Project Manager produced the bid that was submitted for review of itemized amounts.

AGENDA ITEM NO. 7
OLD/NEW BUSINESS:
None

AGENDA ITEM NO. 8
PROGRAM MANAGER'S REPORT:

Jill Nichols reported the following items:

1. Funding information has been received for the 2022 FY in the amount of \$332,891.00. Reminded board members that the Public Hearing for 2022 Action Plan is August 10th and explained why that was necessary, and what the Action Plan is in relation to the 5 year Consolidated Plan.
2. City staff is nearing a point to be able to address vacant properties for First Time Home Buyer Program, and SURA did receive another property via deed in lieu of foreclosure that will also be rehabbed and used for the FTHB program.
3. Construction projects are still moving slowly due to only one contractor responding to bid requests recently, but there has been new bidders added to the

Page 4

qualified contractors list and one is actively bidding. SURA staff are hopeful that this will increase the rate of project completion.

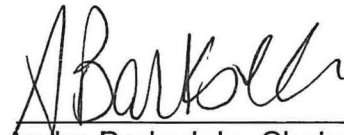
4. Welcomed newly appointed Commissioner, Jamelle Payne, who was sworn in a few weeks ago.

AGENDA ITEM NO. 8

ADJOURNMENT

There being no further business to come before the Board at this time, a motion to adjourn a was made by **Commissioner Tanquary**, seconded by **Commissioner Hurley**. Motion carried with no abstentions.

VOTING YES: Barksdale, Payne, Hurley, Tanquary
VOTING NO: None


Vice-Chair, Tosha Tanquary
Audra Barksdale, Chairman

Regular Board of Commissioners

3. c.

Meeting Date: 11/07/2022

Easement

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Authorize a right-of-way easement to be given to Canadian Valley Electric Cooperative, Inc. to serve an existing City Lake Lot Lease at the Shawnee Twin Lakes.

Attachments

Easement

CANADIAN VALLEY ELECTRIC COOPERATIVE
RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned grantor(s), Lora J. Davis / City of Shawnee, Ok
(Printed Name (s))

(whether one or more) (unmarried) (husband or wife), do hereby grant unto the Canadian Valley Electric Cooperative, Inc., a cooperative corporation, whose address is 11277 N Hwy 99, Seminole, Oklahoma 74868, and to its successors or assigns, the right to enter upon the lands of the undersigned, situated in the county of Pottawatomie, State of Oklahoma, and more particularly described as follows:

In the SW/4 of the SE/4 of

Section 22, Township 10 North, Range 02 East of the I.M., containing n/a acres, more or less:

(*Right-of-Way to be 15 feet on each side of the proposed pole line and/or underground line center (total of 30 feet) and 35 feet from pole line center for each anchor location) beginning at a point approximately 1690 feet West and 1045 feet North of the SE corner of the SE/4 of said section and continuing Southwest approximately 70 feet,

and to construct, operate, upgrade, and maintain on the above described lands and in or upon all streets, roads, or highways abutting said lands, an overhead or underground electric or telecommunication transmission or distribution line or system and to cut and trim trees and shrubbery to the extent necessary to keep them clear of said electric line or facilities and to cut down from time to time all dead, weak, leaning, or dangerous trees that are tall enough to strike the wires in falling and the right to maintain, operate, upgrade, and repair electric wires and facilities for the distribution of electric energy and the right of ingress and egress over grantor(s) lands adjacent to the right-of-way for the purposes set forth herein.

The undersigned covenant that they are owners of the above-described lands and that the said lands are free and clear of encumbrances and liens of whatsoever character except those held by the following persons:

16712 Maggino Rd, Shawnee, Ok 74801
Shawnee Twin Lakes, Johnston Tract Lot 5

IN WITNESS WHEREOF, the undersigned have set their hands and seals this _____ day of _____, 20 ____.

Witness

Landowner Signature

Landowner Signature

STATE OF OKLAHOMA)
COUNTY OF _____) SS.

Before me, a Notary public in and for said County and State on this _____ day of _____, 20____, personally appeared _____ to me known to be the identical person(s) who executed the within foregoing instrument and acknowledged to me that executed the same as _____ free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and seal the day and year above written.

My Commission expires: _____
Commission # _____

Notary Signature

(Seal)

FORM MUST BE NOTARIZED

CVEC USE ONLY
W.O.# 55818

RETURN ORIGINAL TO: CVEC, 11277 N Hwy 99, Seminole, OK 74868

Regular Board of Commissioners

3. d.

Meeting Date: 11/07/2022

Resignation

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Acknowledge the resignation of Audra Barksdale from the Shawnee Urban Renewal Authority.

Attachments

Resignation

From: [Kacie Eck](#)
To: [Kacie Eck](#)
Subject: Resignation
Date: Tuesday, November 1, 2022 4:27:00 PM

From: Audra
Sent: Tuesday, November 1, 2022 10:21 AM
To: Jill Nichols
Subject: Resignation

Dear Jill Nichols,

Unfortunately, I must resign my position as Chairperson for the SURA board. It has been a privilege to serve on the board because I know how much value this program has for our community. I am grateful to be a part of that in a small way.

Best wishes,

Audra Barksdale

Regular Board of Commissioners

3. e.

Meeting Date: 11/07/2022

Mayor's Appointments

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Mayor's Appointments:

Shawnee Arts and Cultural Commission

Delaynna Trim 1st Partial Term Expires: May 1, 2023

Replaces Tera Leigh – Resigned

Planning Commission

Monty Porter 1st Partial Term Expires: June 1, 2023

Replaces Amy Loftis-Walton – Resigned

Attachments

SACC - Trim

PLN - Porter

October 18, 2022

Re: Shawnee Arts and Culture Commission

To Whom It May Concern,

Having been a lifelong Shawnee resident working in the arts, I would like to be a part of the Shawnee Arts and Culture Commission. I want the arts to flourish in my hometown and am willing to help make that possible. I am encouraged by various art studios and other businesses making their home in Shawnee. I would like to build on the past successes of the painted horses project and other public art initiatives.

In order to promote the arts in Shawnee, we must study what works and put in the hard work to create the arts culture we want in Shawnee. I feel through my experience with other state-wide and regional arts boards that I am aware of the steps necessary and am willing to work hard to see these dreams fulfilled.

Sincerely,

A handwritten signature in blue ink, appearing to read "Delaynna T.", with a stylized flourish at the end.

Delaynna Trim



APPLICATION TO SERVE
Boards, Committees and Commissions

- ☐ Appointment
☐ Reappointment – Partial/First/Second Term

Name: <u>Delaynna Trim</u>	Application Date: <u>October 18, 2022</u>
Address: <u>2524 N. Harrison St. #76</u>	Date of Birth: <u>4-4-78</u>
Mailing Address: <u>2524 N. Harrison St. #76, Shawnee, OK 74804</u>	
Daytime Phone: <u>405-990-4696</u>	Fax: _____ Email: <u>dtrim@mgmoa.org</u>
Profession: <u>Museum Curator</u>	
Business Name: <u>Mabee-Gerrer Museum of Art</u>	
Business Address: <u>1900 W. MacArthur St., Shawnee, OK 74804</u>	
Business Phone: <u>405-878-5300</u>	Fax: _____ Email: <u>dtrim@mgmoa.org</u>

Do you live within the City Limits of the City of Shawnee? Yes ☒ No ☐

Do you currently serve on a City board, committee, or commission? Yes ☐ No ☒

If so, please list the board/committee: _____

How many years have you lived in Shawnee? 42

Select the Board/Committee/Commission you are interested in serving on: (please check)

☐ Airport Advisory Board	☐ Library Board
☒ Arts and Culture Commission	☐ Oklahoma Baptist University Trust Authority
☐ Beautification, Parks, and Recreation Committee	☐ Planning Commission
☐ Board of Adjustment (Zoning)	☐ Senior Citizens of Shawnee Board
☐ Civic and Cultural Development Authority	☐ Shawnee Hospital Authority
☐ Community Service Contract Review Committee	☐ Shawnee Urban Renewal Authority
☐ Housing Authority	☐ Other _____

Why are you interested in serving on the Board/Committee/Commission selected above?

I have worked in the arts for over 20 years and want to see the arts flourish in Shawnee. I believe my experience both in Shawnee and through statewide and regional organizations can be beneficial to this commission.

What will make you a good board member and what skills or knowledge do you have that would be relevant to this board/committee/commission?

I have served and continue to serve on several local, state-wide (Oklahoma Museums Association) and regional (Mountain-Plains Museums Association) boards. I understand what it takes to be a good, contributing board member.

What civic or volunteer activities (if any) are you currently involved in?

Oklahoma Museum Association and Mountain Plains Museums Association events and fundraisers, MGMoA events and fundraisers

List education, including degree(s) earned:

Bachelors of Arts in History from Oklahoma Baptist University, Masters in Arts in Art History from the University of Oklahoma

Have you ever served on a City-appointed board/committee/commission before? If so, which ones and for how long did you serve?

Oklahoma State Centennial Celebration City of Shawnee Planning Committee April 2006 - September 2007

Have you ever been charged and/or convicted of a felony? No

If so, please explain the circumstances and the current status of the charge(s) and/or conviction(s):

Have you ever declared personal or business bankruptcy? No

If so, please explain:

Please include up to three personal or professional references:

Name	Relationship	Telephone Number
Brenda Granger	Director, Oklahoma Museums Association	405-424-7757
Dane Pollei	Director, Mabee-Gerrer Museum of Art	405-878-5622
Heidi Vaughn	Colleague and friend	405-323-9239

PLEASE READ CAREFULLY:

Appointment by the Commission is for one term and individuals may not serve more than two consecutive full terms. Appointment to a second term remains at the discretion of the City Commission.

My signature affirms that all information contained herein is true to the best of my knowledge, and that I understand that any misstatement of fact or misrepresentation of credentials may result in disqualification from further consideration.

Signature 

Date 10/18/22

Applications are retained on file for one (1) year. Applicants are encouraged to include a letter of interest with this application. Thank you for your interest in serving Shawnee.

Send completed application to:

Shawnee City Clerk
PO Box 1448
Shawnee OK 74802
Phone 405-878-1605
Fax 405-878-1581
CityClerk@shawneeok.org

Monty Porter
2 Castle Creek Pl
Shawnee, Ok 74804
405-808-8812
montyaporter@sbcglobal.net

Shawnee City Clerk
PO Box 1448
Shawnee, OK 74802

October 5, 2020

To Whom It May Concern:

I am writing this letter to express my interest in serving on the City of Shawnee's Planning Commission. I first moved to Shawnee in 1986 as an 18 year old college student and moved back with my family in 2001. As a long time resident of Shawnee, I am proud to be a fellow citizen and would like the opportunity to give back to my community. I firmly believe that local government can have the greatest impact on the daily lives of our neighbors. Serving on a volunteer local board or commission is a way for individuals to ensure this impact is positive for our community.

What makes me particularly qualified to serve on a commission? I think any resident who cares about the future of our city is inherently qualified to make an impact. However, any decision-making group needs members who understand collaborative management and have experience tackling variously sized questions. I have worked for nearly 30 years as a scientist in both research and applied settings, with almost 27 years in program level and executive management positions. This work has included directly managing large and small groups, projects, and budgets. As both a manager and a scientist, I have developed the ability to understand and maintain focus on larger objectives, while also comfortably moving through the minutiae of an issue or concern. Importantly, I also really enjoy working with others and producing results in team settings.

I am grateful for the opportunity to apply for a position with the City of Shawnee. I have been fortunate to serve in many volunteer capacities, both professionally and personally. Linda and I have raised our family in the Shawnee area and have been particularly blessed to serve locally in our church and other volunteer organizations. I am excited to work with you to continue growing Shawnee into a wonderful community for our families and neighbors. Thank you for your consideration.

Blessings to You

Monty A. Porter

Monty Porter



APPLICATION TO SERVE
Boards, Committees and Commissions

- ☐ Appointment
☐ Reappointment – Partial/First/Second Term

Name: <u>Monty Porter</u>	Application Date: <u>3/8/2022</u>
Address: <u>2 Castle Creek Place, Shawnee, 74804</u>	Date of Birth: <u>07/17/1968</u>
Mailing Address: <u>SAME</u>	
Daytime Phone: <u>4058088812</u> Fax: <u>none</u>	Email: <u>montyaporter@sbcglobal.net</u>
Profession: <u>Ecologist/Manager</u>	
Business Name: <u>Oklahoma Water Resources Board</u>	
Business Address: <u>3800 N. Classen Blvd., OKC, OK 73118</u>	
Business Phone: <u>4055308933</u> Fax: <u>none</u>	Email: <u>monty.porter@owrb.ok.gov</u>

Do you live within the City Limits of the City of Shawnee? Yes ☒ No ☐

Do you currently serve on a City board, committee, or commission? Yes ☒ No ☐

If so, please list the board/committee: Traffic Commission

How many years have you lived in Shawnee? 21

Select the Board/Committee/Commission you are interested in serving on: (please check)

☐ Airport Advisory Board ☐ Arts and Culture Commission ☐ Beautification Committee ☐ Board of Adjustment (Zoning) ☐ Civic and Cultural Development Authority ☒ Community Service Contract Review Committee ☐ Housing Authority ☐ Library Board	☐ Oklahoma Baptist University Trust Authority ☐ Parks and Recreation Committee ☐ Planning Commission ☐ Senior Citizens of Shawnee Board ☐ Shawnee Hospital Authority ☐ Shawnee Urban Renewal Authority ☐ Traffic Commission ☐ Other _____
---	--

Why are you interested in serving on the Board/Committee/Commission selected above?

Community Service

What will make you a good board member and what skills or knowledge do you have that would be relevant to this board/committee/commission?

25 years of contract review and creation experience

What civic or volunteer activities (if any) are you currently involved in?

church, school, civic

List education, including degree(s) earned:

BS Biology, MS Biology

Have you ever served on a City-appointed board/committee/commission before? If so, which ones and for how long did you serve?

Traffic Commission--2 Years

Have you ever been charged and/or convicted of a felony? no

If so, please explain the circumstances and the current status of the charge(s) and/or conviction(s):

Have you ever declared personal or business bankruptcy? no

If so, please explain:

Please include up to three personal or professional references:

Name	Relationship	Telephone Number
Gerard Nsabimana	Pastor/Friend	405-519-1483
Tasha Loveless	Friend	405-962-9800
Derek Smithee	Colleague	405-388-2805

PLEASE READ CAREFULLY:

Appointment by the Commission is for one term and individuals may not serve more than two consecutive full terms. Appointment to a second term remains at the discretion of the City Commission.

My signature affirms that all information contained herein is true to the best of my knowledge, and that I understand that any misstatement of fact or misrepresentation of credentials may result in disqualification from further consideration.

Signature Monty Porter

Date 3/8/2022

Applications are retained on file for one (1) year. Applicants are encouraged to include a letter of interest with this application. Thank you for your interest in serving Shawnee.

Send completed application to:

Shawnee City Clerk
PO Box 1448
Shawnee OK 74802
Phone 405-878-1605
Fax 405-878-1581
CityClerk@shawneeok.org

Regular Board of Commissioners

5.

Meeting Date: 11/07/2022

Purchase

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consideration of the purchase of vehicles from Vance Country Ford under state contract in an amount of \$244,728.00.

Attachments

Purchase



Public Works

111 S. Kickapoo St.
Shawnee, OK 74801
ShawneeOK.org

Date: November 3, 2022
To: City Commission
From: Brad Schmidt, Public Works Director
Subject: Consideration of the purchase of vehicles from Vance Country Ford under state contract pricing in an amount of \$244,728.

Background: The current year budget includes \$240,000 in the Street Improvement Fund for the purchase of vehicles for Public Works. With current pricing, this will allow for the purchase of four truck at \$61,182 per unit. The trucks will be 2023 Ford F350 crew chassis, with four-wheel drive.

Vance Country Ford holds a statewide contract with the State of Oklahoma which satisfies legal purchasing requirements.

The total purchase is \$4,728 over what was budgeted. The overage will be addressed through a budgetary line-item transfer within the Street Improvement Fund.

Financial Impact: Estimated cost of \$244,728 from the Street Improvement Fund, Traffic Control, Capital Outlay-Equipment, 302-5-0930-54500.

Attachment: Quote and State Contract.

Staff Recommendation: Approval of the items.

VANCE COUNTRY FORD

FLEET & GOVERNMENT SALES
PO BOX 1600, GUTHRIE, OK 73044
405-282-3800



QUOTE

DATE 11/3/2022
QUOTE NUMBER 000Q10078
EXPIRATION DATE 11/8/2022
SHIP VIA Factory Order
TERMS SW035 - STATE CONTRACT

SOLD TO:
City of Shawnee

Shane Lomeli
PO Box 1448 / 222 N. Broadway
Shawnee, OK 74802-1448
(405)878-1547

SHIP TO:
City of Shawnee

Shane Lomeli
PO Box 1448 / 222 N. Broadway
Shawnee, OK 74802-1448
(405)878-1547

Any Questions? Call 405-282-3800

Britt Woods

Britt@VanceFleet.Com

Qty	OPTION	Description	Unit Price	Ext. Price
4	W3F	2023 FORD F350 CREW CHASSIS 60CA SRW	\$48,237.00	\$192,948.00
4	SRW / CA	SINGLE REAR WHEEL ADJUST / 60"CA	-\$1,099.00	-\$4,396.00
4	4WD	FOUR WHEEL DRIVE	\$3,278.00	\$13,112.00
4	99T	6.7L POWERSTROKE TURBO DIESEL	\$9,751.00	\$39,004.00
4	X3E	3.73 ELEC LOCKING REAR AXLE	\$405.00	\$1,620.00
4	90L	POWER EQUIPMENT GROUP	\$0.00	\$0.00
4	41P	SKID PLATES	\$0.00	\$0.00
4	525	CRUISE CONTROL	\$0.00	\$0.00
4	18B	BLACK PLAT RUNNING BOARDS	\$445.00	\$1,780.00
4	52B	TRAILER BRAKE CONTROL	\$0.00	\$0.00
4	TDM	LT245 ALL TERRAIN TIRES LOAD E	\$165.00	\$660.00
4	Z1	EXTERIOR : OXFORD WHITE	\$0.00	\$0.00
4	AS	INTERIOR : VINYL 40/20/40 SPLIT BENCH SEAT	\$0.00	\$0.00
SubTotal				\$244,728.00
\$61,182 PER UNIT				

Accepted By: _____

Terms:

THIS QUOTE DOES NOT GUARANTEE THE FACTORY WILL BUILD THE VEHICLE.

1) TAG & TAXES ARE NOT INCLUDED UNLESS ITEMIZED ON QUOTE

2) ALL REBATES & INCENTIVES HAVE BEEN INCLUDED IN TOTAL PRICE.

3) PURCHASE ORDER REQUIRED TO ORDER VEHICLE

SUB-TOTAL \$244,728.00

\$0.00

TOTAL DUE \$244,728.00

1 of 1



OKLAHOMA
Office of Management
& Enterprise Services

**STATE OF OKLAHOMA STATEWIDE CONTRACT WITH COUNTRY FORD-
MERCURY, INC.**

This State of Oklahoma Statewide Contract ("Contract") is entered into between the state of Oklahoma by and through the Office of Management and Enterprise Services and Country Ford-Mercury, Inc. ("Supplier") and is effective February 8, 2021.

Purpose

The State is awarding this Contract to Supplier for the provision of vehicle purchases, as more particularly described in certain Contract Documents. Supplier submitted a proposal which contained no exceptions to the Solicitation. This Contract memorializes the agreement of the parties with respect to negotiated terms of the Contract that is being awarded to Supplier.

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

1. The parties agree that Supplier has not yet begun performance of work under this Contract. Upon full execution of this Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
 - 2.1. Solicitation, Attachment A
 - 2.1.A. Exhibit I
 - 2.2. General Terms, Attachment B;
 - 2.3. Statewide Specific Terms Attachment C;
 - 2.4. Intentionally Omitted, Attachment D;
 - 2.5. Bid Portion, Attachment E and
 - 2.6. Intentionally Omitted, Attachment F.
3. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

**STATE OF OKLAHOMA
by and through the
OFFICE OF MANAGEMENT AND
ENTERPRISE SERVICES**

COUNTRY FORD-MERCURY, INC.

By: Dan Sivard

Name: Dan Sivard

Title: State Purchasing Director

Date: 02/03/2021

By: 
Cameron Colter (Feb 3, 2021 13:28 CST)

Name: CAMERON COLTER

Title: FLEET MANAGER

Date: 02/03/2021

ATTACHMENT A
SOLICITATION NO. 0900000469

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

Purpose

This Contract is for vehicles to be provided on an as-needed basis.

Oklahoma has over 100 executive agencies in 77 counties and over 500 municipal government Affiliates. The Contract is awarded for the Supplier to provide for the purchase of vehicles, warranty work, and replacement parts.

1. Contract Term and Renewal Options

The initial Contract term, which begins on the effective date of the Contract, is one year and there are (4) one-year options to renew the Contract.

2. Contract Specifications

Contract specifications are set forth below as Exhibit 1.

EXHIBIT 1

1. Responsibilities

- A.** Supplier must provide the most current model of vehicles, to be available for the entire model year of production.
- B.** All vehicles shall be new. No demonstration, used, rebuilt, or refurbished vehicles will be accepted.
- C.** Pricing for vehicles shall include all discounts and deductions, less Federal and State taxes. Pricing shall be firm for the duration of the Contract period.
- D.** Supplier shall provide a percentage discount off of the MSRP for any optional equipment for which pricing has not been provided, aftermarket options, and the labor rate per hour to install the optional equipment.
- E.** All vehicles are to be billed at prices in effect at the time of order, not the date of shipment.
- F.** Pricing shall only be adjusted at the time of model year changes.
- G.** All actual "build out" schedules must be submitted by the Supplier as it is made aware of them. The approximate build out schedules provided by the Supplier on the effective date of the Contract will be adjusted as the actual schedules become available.
- H.** Any requested changes to the model year vehicles offered by the Supplier must be submitted to the Contracting Officer within 30 days of the requested start date of the change. Changes include pricing and specification changes from one model year to the next.
- I.** As new model year vehicles become available, the Supplier shall submit pricing at either the same rate as the previous model, or an increase or decrease based only on the manufacturer's percentage of increase or decrease. Documentation must be submitted to the Contracting Officer within 30 days of the effective date of change and revised pricing shall not be retroactive. New model year vehicles cannot be offered without approval from the Contracting Officer.
- J.** If there is a model year change over the course of the Contract period, the Supplier must send a written request for approval of the change to the Contracting Officer. The Contract change request must identify all vehicle specification changes between the previously awarded model year and the proposed new model year. The State reserves the right to review and may agree to cancel the awarded vehicle by issuance of a Contract Addendum.
- K.** If during the Contract period there is a model year change by the Original Equipment Manufacturer (OEM) or additional costs are incurred by the Supplier from a third-party, the Supplier must send a written request for approval of the change to the Contracting Officer. The request for a price increase or decrease must include a copy of the OEM's official notice or other evidence that the increase or decrease is applicable to all customers.
- L.** All upgrades or repairs required by the OEM due to changes or recalls shall be incorporated at no cost to the Customer.
- M.** Vehicles that remain in the Supplier's possession overnight or for extended periods shall be stored in a safe and secure location for protection from theft and environmental dangers. The Supplier shall be responsible for the proper care and custody of any Customer-owned equipment in the Supplier's possession.
- N.** The Supplier must provide any training opportunities available to the Customer.
- O.** The Supplier must maintain a website detailing all current models available under the Contract.

2. Licensing

Sales of motor vehicles in the State of Oklahoma are subject to the Oklahoma Motor Vehicle Commission Statutes (Oklahoma Statutes, Title 47 - Motor Vehicles, Chapter 62). The Bidder

certifies by submission of a Bid that all required Oklahoma Motor Vehicle Commission licenses are in place and current, and that copies of all such licenses have been submitted with the Bid. It is the Supplier's responsibility to keep all required Oklahoma Motor Vehicle Commission licensing current during the term of the Contract and to furnish copies at any time upon request by the State. If Supplier does not maintain current licensing, the Contract may be immediately terminated, upon discovery of the expiration of the license. Contracts for motor vehicles to be sold within the state of Oklahoma may be made only with properly licensed Oklahoma Motor Vehicle Dealers.

3. Warranty

- A.** The Supplier agrees the products purchased under this Contract shall be covered by all commercial warranties the Supplier provides for such products, and rights and remedies provided herein are in addition to and do not limit any rights afforded to the State by any other clause of this Contract.
- B.** The Supplier warrants that at the time of delivery, all products purchased under this Contract will be free from defects in material or workmanship and will conform to the specifications and all other requirements of this Contract.
- C.** All warranty work performed and parts/materials supplied shall meet OEM warranty requirements. All work performed not meeting such specifications or found to be defective, shall not be accepted. The Supplier shall be required to make repairs or corrections at no additional cost to the Customer.
- D.** The Supplier shall furnish a copy of the warranty applicable for the product. All product warranties shall start on the date of acceptance.
- E.** The Supplier is required to provide any buy-back, trade-in, or exchange policy concerning repair parts sold to the Customer.
- F.** The Supplier shall correct ordering errors without further cost to the Customer.
- G.** A copy of the warranty shall be included for replacement parts purchased.
- H.** All persons utilized in the performance of this Contract shall be employees of the Supplier and be fully qualified to perform the warranty work required. Warranty work shall be performed by certified, trained or authorized service technicians.
- I.** Warranty repair facilities must be identified in each pricing sheet.

4. Insurance

- A.** The Supplier shall maintain insurance coverage at all times during the entire term of this contract. The following types of risks shall be covered in the Supplier's policy:
 - i.** Worker's Compensation Insurance and employer's liability insurance sufficient to cover Supplier's employees as required by the State.
 - ii.** Comprehensive General Liability Insurance to include Products/Completed Operations, Premises Operations, Personal Injury, Medical Expenses and Fire Damage.
 - iii.** Commercial Automobile Insurance, hired and non-owned.
 - iv.** Garage Keepers Liability Insurance.
 - v.** Commercial Property Coverage

5. Quality of Parts

- A.** Parts must be name brand, nationally advertised merchandise. Equivalent substitutions must be approved by the Customer.
- B.** After market repair parts must be equal to, or exceed OEM specifications.
- C.** Repair parts must be packaged and distributed under the respective nationally known name brands.
- D.** All rebuilt or remanufactured parts must meet the same requirements as listed above.

- E. Some repair parts may be required to be original equipment manufactured repair parts. Supplier must carry a complete line of OEM parts for all models of vehicles available under this Contract.
- F. Preservation, packaging, and packing and marking will be in accordance with best commercial practice to provide adequate protection against shipping damage.

6. Ordering

- A. No minimum orders are required under this Contract.
- B. All options, accessories, or attachments on an ordered vehicle shall include all standard items normally furnished by the manufacturer/dealer for the basic vehicle being purchased.
- C. The Supplier shall furnish any required Safety Data Sheets or a composite concentration list with the product invoice.
- D. Purchase cards will not be an acceptable form of payment under this Contract.

7. Delivery

- A. Delivery of vehicles is to be made within 120 calendar days after receipt of order unless other arrangements are made between the customer and the Supplier.
- B. All vehicles are to be delivered new, unused, assembled, serviced, with a full gas tank, oiled and ready for immediate use, unless otherwise requested by the Customer. Liability for product delivery remains with the Supplier until delivered and accepted.
- C. The Customer must provide specific delivery instructions to the Supplier.
- D. Delivery on parts must be made within 30 days of order.
- E. All vehicles shall be delivered with one copy of the operator's manual, and an illustrated repair parts manual or list.
- F. Any freight, shipping and handling costs and set-up fees paid by the Customer are to be annotated on the quote/invoice as a separate line item.

8. Leasing

- A. The Supplier may provide vehicle leasing under this Contract. State agencies are not authorized to lease vehicles without prior approval by the Oklahoma Bond Oversight Committee.

ATTACHMENT B

STATE OF OKLAHOMA GENERAL TERMS

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

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

1 Scope and Contract Renewal

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

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

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

2 Contract Effectiveness and Order of Priority

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

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

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

3 Modification of Contract Terms and Contract Documents

- 3.1 The Contract may only be modified, amended, or expanded by an Addendum. Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials made unilaterally by the Supplier, is a material breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including without limitation, any unauthorized written Contract modification, shall be void and without effect and the Supplier shall not be entitled to any claim under the Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the Contract.
- 3.2 Any additional terms on an ordering document provided by Supplier are of no effect and are void unless mutually executed. OMES bears no liability for performance, payment or failure thereof by the Supplier or by a Customer other than OMES in connection with an Acquisition.

4 Definitions

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

- 4.1 **Acquisition** means items, products, materials, supplies, services and equipment acquired by purchase, lease purchase, lease with option to purchase, value provided or rental under the Contract.
- 4.2 **Addendum** means a mutually executed, written modification to a Contract Document.
- 4.3 **Amendment** means a written change, addition, correction or revision to the Solicitation.
- 4.4 **Bid** means an offer a Bidder submits in response to the Solicitation.

- 4.5 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 4.6 **Contract** means the written, mutually agreed and binding legal relationship resulting from the Contract Documents and an appropriate encumbering document as may be amended from time to time, which evidences the final agreement between the parties with respect to the subject matter of the Contract.
- 4.7 **Contract Document** means this document; any master or enterprise agreement terms entered into between the parties that are mutually agreed to be applicable to the Contract; any Solicitation; any Contract-specific terms; any Supplier's Bid as may be negotiated; any statement of work, work order, or other similar mutually executed ordering document; other mutually executed documents and any Addendum.
- 4.8 **Customer** means the entity receiving goods or services contemplated by the Contract.
- 4.9 **Debarment** means action taken by a debarring official under federal or state law or regulations to exclude any business entity from inclusion on the Supplier list; bidding; offering to bid; providing a quote; receiving an award of contract with the State and may also result in cancellation of existing contracts with the State.
- 4.10 **Destination** means delivered to the receiving dock or other point specified in the applicable Contract Document.
- 4.11 **Indemnified Parties** means the State and Customer and/or its officers, directors, agents, employees, representatives, contractors, assignees and designees thereof.
- 4.12 **Inspection** means examining and testing an Acquisition (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the Acquisition meets Contract requirements.
- 4.13 **Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.
- 4.14 **OAC** means the Oklahoma Administrative Code.
- 4.15 **OMES** means the Office of Management and Enterprise Services.

- 4.16 Solicitation** means the document inviting Bids for the Acquisition referenced in the Contract and any amendments thereto.
- 4.17 State** means the government of the state of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the state of Oklahoma.
- 4.18 Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State.
- 4.19 Suspension** means action taken by a suspending official under federal or state law or regulations to suspend a Supplier from inclusion on the Supplier list; be eligible to submit Bids to State agencies and be awarded a contract by a State agency subject to the Central Purchasing Act.
- 4.20 Supplier Confidential Information** means certain confidential and proprietary information of Supplier that is clearly marked as confidential and agreed by the State Purchasing Director or Customer, as applicable, but does not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.
- 4.21 Work Product** means any and all deliverables produced by Supplier under a statement of work or similar Contract Document issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the Contract effective date including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided by or on behalf of Supplier under the Contract and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created,

prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or with funds appropriated by or for Customer or Customer's benefit (a) by any Supplier personnel or Customer personnel or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

5 Pricing

- 5.1** Pursuant to 68 O.S. §§ 1352, 1356, and 1404, State agencies are exempt from the assessment of State sales, use, and excise taxes. Further, State agencies and political subdivisions of the State are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Any taxes of any nature whatsoever payable by the Supplier shall not be reimbursed.
- 5.2** Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price.
- 5.3** The price of a product offered under the Contract shall include and Supplier shall prepay all shipping, packaging, delivery and handling fees. All product deliveries will be free on board Customer's Destination. No additional fees shall be charged by Supplier for standard shipping and handling. If Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

6 Ordering, Inspection, and Acceptance

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

Supplier warrants and represents that a product or deliverable furnished by or through the Supplier shall individually, and where specified by Supplier to

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

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

Pursuant to OAC 260:115-9-5, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be notified as soon as is reasonably practicable. The Supplier shall retrieve and replace the Acquisition at Supplier's expense or, if unable to replace, shall issue a refund to Customer. Refund under this section shall not be an exclusive remedy.

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

7 Invoices and Payment

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

The following terms additionally apply:

- A. An invoice shall contain the purchase order number, description of products or services provided and the dates of such provision.
- B. Failure to provide a timely and proper invoice may result in delay of processing the invoice for payment. Proper invoice is defined at OAC 260:10-1-2.
- C. Payment of all fees under the Contract shall be due NET 45 days. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.
- D. The date from which an applicable early payment discount time is calculated shall be from the receipt date of a proper invoice. There is no obligation, however, to utilize an early payment discount.
- E. If an overpayment or underpayment has been made to Supplier any subsequent payments to Supplier under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be issued to Supplier.
- F. Supplier shall have no right of setoff.
- G. Because funds are typically dedicated to a particular fiscal year, an invoice will be paid only when timely submitted, which shall in no instance be later than six (6) months after the end of the fiscal year in which the goods are provided or services performed.
- H. Intentionally Omitted.

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

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

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A. Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B. Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C. Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D. Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;
- E. Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F. Additional coverage required in writing in connection with a particular Acquisition.

- 8.2 Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the

Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.

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

9 Compliance with Applicable Laws

- 9.1** As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:
- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
 - B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
 - C.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
 - D.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
 - E.** Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;

- F. Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
 - G. Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
 - H. Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at www.dhs.gov/E-Verify;
 - I. Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
 - J. Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.
- 9.2 The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG_0.pdf. Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.
- 9.3 At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- 9.4 In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory

contract provisions required in connection with the receipt of federal funds or other funding source.

- 9.5 The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6 As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7 The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8 Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9 Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.
- 9.10 If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant, Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format

usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

10 Audits and Records Clause

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

11 Confidentiality

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer's prior express written

permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information.

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

representatives, independent contractors, and subcontractors improperly use, appropriate, sell, assign, convey, provide, release, access, acquire, disclose or otherwise disseminate such confidential information to any person or entity in violation of the Contract, the Customer will immediately be entitled to injunctive relief and/or any other rights or remedies available under this Contract, at equity or pursuant to applicable statutory, regulatory, and common law without a cure period.

- 11.6** The Supplier shall immediately forward to the State Purchasing Director, and any other applicable person listed in the Notices section(s) of the Contract, any request by a third party for data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.
- 11.7** Customer may be provided access to Supplier Confidential Information. State agencies are subject to the Oklahoma Open Records Act and Supplier acknowledges information marked confidential information will be disclosed to the extent permitted under the Open Records Act and in accordance with this section. Nothing herein is intended to waive the State Purchasing Director's authority under OAC 260:115-3-9 in connection with Bid information requested to be held confidential by a Bidder. Notwithstanding the foregoing, Supplier Confidential Information shall not include information that: (i) is or becomes generally known or available by public disclosure, commercial use or otherwise and is not in contravention of this Contract; (ii) is known and has been reduced to tangible form by the receiving party before the time of disclosure for the first time under this Contract and without other obligations of confidentiality; (iii) is independently developed without the use of any of Supplier Confidential Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

12 Conflict of Interest

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Prompt disclosure is required under this section if the activity or interest is

related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.

13 Assignment and Permitted Subcontractors

- 13.1** Supplier's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Supplier assign its rights to payment, in whole or in part, under the Contract, Supplier shall provide the State and all affected Customers with written notice of the assignment. Such written notice shall be delivered timely and contain details sufficient for affected Customers to perform payment obligations without any delay caused by the assignment.
- 13.2** Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.
- 13.3** If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to

the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

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

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

14 Background Checks and Criminal History Investigations

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

15 Patents and Copyrights

Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party. Should any third party threaten or make a claim that any portion of a product or service provided by Supplier under the Contract infringes that party's patent, intellectual property,

copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this section is not an exclusive remedy and is not intended to operate as a waiver of legal or equitable remedies because of acceptance of relief provided by Supplier.

16 Indemnification

16.1 Acts or Omissions

- A.** Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
- B.** To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents, representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

16.2 Infringement

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

16.3 Notice and Cooperation

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

16.4 Coordination of Defense

In connection with indemnification obligations under the Contract, when a State agency is a named defendant in any filed or threatened lawsuit, the defense of the State agency shall be coordinated by the Attorney General of Oklahoma, or the Attorney General may authorize the Supplier to control the defense and any related settlement negotiations; provided, however, Supplier shall not agree to any settlement of claims against the State without obtaining advance written concurrence from the Attorney General. If the Attorney General does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall have authorization to equally

participate in any proceeding related to the indemnity obligation under the Contract and shall remain responsible to indemnify the applicable Indemnified Parties.

16.5 Limitation of Liability

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

17 Termination for Funding Insufficiency

- 17.1 Notwithstanding anything to the contrary in any Contract Document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

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

18 Termination for Cause

- 18.1 Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.
- 18.2 The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.
- 18.3 Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence

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

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

19 Termination for Convenience

- 19.1** The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days' written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.
- 19.2** Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but

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

20 Suspension of Supplier

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

21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters

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

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

22 Certification Regarding State Employees Prohibition From Fulfilling Services

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

23 Force Majeure

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

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

23.3 Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay

or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

24 Security of Property and Personnel

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

25 Notices

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

If sent to the State:

State Purchasing Director
2401 North Lincoln Boulevard, Suite 116
Oklahoma City, Oklahoma 73105

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

Purchasing Division Deputy General Counsel
2401 North Lincoln Boulevard, Suite 116
Oklahoma City, Oklahoma 73105

26 Miscellaneous

26.1 Choice of Law and Venue

Any claim, dispute, or litigation relating to the Contract Documents, in the singular or in the aggregate, shall be governed by the laws of the State without regard to application of choice of law principles. Pursuant to 74 O.S. §85.14, where federal granted funds are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure benefit of such federal funds to the State. Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents, shall be in Oklahoma County, Oklahoma.

26.2 No Guarantee of Products or Services Required

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

26.3 Employment Relationship

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

26.4 Transition Services

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

26.5 Publicity

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

26.6 Open Records Act

Supplier acknowledges that all State agencies and certain other Customers are subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 *et seq.* Supplier also acknowledges that compliance with the Oklahoma Open Records Act and all opinions of the Oklahoma Attorney General concerning the Act is required.

26.7 Failure to Enforce

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

26.8 Mutual Responsibilities

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

26.9 Invalid Term or Condition

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or

condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, no representation or warranty is made regarding the enforceability of such term or condition. Likewise, any applicable State or federal law or regulation which conflicts with the Contract or any non-conflicting applicable State or federal law or regulation is not waived.

26.10 Severability

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

26.11 Section Headings

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

26.12 Sovereign Immunity

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

26.13 Survival

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

26.14 Entire Agreement

The Contract Documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition,

understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid. The Supplier's representations and certifications, including any completed electronically, are incorporated by reference into the Contract.

26.15 Gratuities

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

26.16 Import/Export Controls

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

ATTACHMENT C

OKLAHOMA STATEWIDE CONTRACT TERMS

1. Statewide Contract Type

- 1.1** The Contract is a mandatory contract.
- 1.2** The Contract is a firm, fixed price contract for indefinite delivery and quantity for the Acquisitions available under the Contract.

2. Orders and Addendums

- 2.1** Unless mutually agreed in writing otherwise, orders shall be placed directly with the Supplier by issuance of written purchase orders or by Purchase Card by state agencies and other authorized entities. All orders are subject to the Contract terms and any order dated prior to Contract expiration shall be performed. Delivery to multiple destinations may be required.
- 2.2** Any ordering document shall be effective between Supplier and the Customer only and shall not be an Addendum to the Contract in its entirety or apply to any Acquisition by another Customer.
- 2.3** Additional terms added to a Contract Document by a Customer shall be effective if the additional terms do not conflict with the General Terms and are acceptable to Supplier. However, an Addendum to the Contract shall be signed by the State Purchasing Director or designee. Regarding information technology and telecommunications contracts, pursuant to 62 O.S., §34.11.1, the Chief Information Officer acts as the Information Technology and Telecommunications Purchasing Director.

3. Termination for Funding Insufficiency

In addition to Contract terms relating to termination due to insufficient funding, a Customer may terminate any purchase order or other payment mechanism if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. The determination by the Customer of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

4. Termination for Cause

In addition to Contract terms relating to termination for cause, a customer may terminate its obligations, in whole or in part, to Supplier if it has provided Supplier with written notice of material breach and Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. The Customer may also terminate a purchase order or other payment mechanism or Supplier's activities under the Contract immediately without a thirty (30) day written notice to Supplier, if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements if such non-compliance relates or may relate to Supplier provision of products or services to the Customer or if Supplier's material breach is reasonably determined (i) to be an impediment to the function of the Customer and detrimental to the Customer, or (ii) when conditions preclude the thirty (30) day notice.

5. Termination for Convenience

In addition to any termination for convenience provisions in the Contract, a Customer may terminate a purchase order or other payment mechanism for convenience if it is determined that termination is in the Customer's best interest. Supplier will be provided at least thirty (30) days' written notice of termination.

6. Contract Management Fee and Usage Report

6.1 Pursuant to 74 O.S. § 85.33A, the State assesses a contract management fee on all Acquisitions under a statewide contract. The payment of such fee will be calculated for all Acquisitions, net of returns and the Supplier has no right of setoff against such fee regardless of the payment status of any Customer or any aggregate accounts receivable percentage. Supplier acknowledges and agrees that all prices quoted under any statewide contract shall include the contract management fee and the contract management fee shall not be reflected as a separate line item in Supplier's billing. The State reserves the right to change this fee upward or downward upon sixty (60) calendar days' written notice to Supplier without further requirement for an Addendum.

6.2 While Supplier is the awardee of a statewide contract, Acquisitions that occur under the terms of the statewide contract are subject to a one percent (1%) contract management fee to be paid by Supplier. Supplier shall submit a Contract Usage Report on a quarterly basis for each contract

using a form provided by the State and such report shall include applicable information for each transaction. Reports shall include usage of the statewide contract by every Customer during the applicable quarter. A singular report provided late will not be considered a breach of the statewide contract; provided, however, repeated failure to submit accurate quarterly usage reports and submit timely payments may result in suspension or termination, in whole or in part, of the Contract.

6.3 All Contract Usage Reports shall meet the following criteria:

- i.** Electronic submission in Microsoft Excel format to strategic.sourcing@omes.ok.gov;
- ii.** Quarterly submission regardless of whether there were Acquisitions under the Contract during the applicable quarterly reporting period;
- iii.** Submission no later than forty-five (45) days following the end of each calendar quarter;
- iv.** Contract quarterly reporting periods shall be as follows:
 - a.** January 01 through March 31;
 - b.** April 01 through June 30;
 - c.** July 01 through September 30; and
 - d.** October 01 through December 31.
- v.** Reports must include the following information:
 - a.** Procuring entity;
 - b.** Order date;
 - c.** Purchase Order number or note that the Acquisition was paid by Purchase Card;
 - d.** City in which products or services were received or specific office or subdivision title;
 - e.** Product manufacturer or type of service;
 - f.** Manufacturer item number, if applicable;
 - g.** Product description;

- h. General product category, if applicable;
- i. Quantity;
- j. Unit list price or MSRP, as applicable;
- k. Unit price charged to the purchasing entity; and
- l. Other Contract usage information requested by the State.

- 6.4 Payment of the contract management fee shall be delivered to the following address within forty-five (45) calendar days after the end of each quarterly reporting period:

State of Oklahoma
Office of Management and Enterprise Services, Central Purchasing
Will Rogers Building
2401 North Lincoln Boulevard, Suite 116
Oklahoma City, Oklahoma 73105

To ensure payment is properly accounted for, Supplier shall provide the following information with payment: (i) reference to the applicable Contract Usage Report and quarterly reporting period and (ii) the applicable statewide contract number(s) and the amount of the contract management fee being paid for each contract number.

ATTACHMENT E

Current Supplier pricing is available on the Statewide Contract 0035 webpage. Please reach out to the Contracting Officer if there are any questions.

Regular Board of Commissioners

6.

Meeting Date: 11/07/2022

Agreement

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consideration of an agreement to partner with Shawnee Housing Authority for the Mental Health Assistance portion of the CDBG-CV2 grant awarded by the Oklahoma Department of Commerce.

Attachments

Agreement



Community Development

222 N. Broadway Ave.
Shawnee, OK 74801
ShawneeOK.org

Date: November 3, 2022
To: City Commission
From: Rian Harkins, Community Development Director
Subject: Consideration of an agreement to partner with Shawnee Housing Authority for the Mental Health Assistance portion of the CDBG-CV2 grant awarded by the Oklahoma Department of Commerce

Background: This item would provide a partnership between the City and the Shawnee Housing Authority (SHA) related to the implementation of the Mental Health Assistance component of the City's Community Development Block Grant (CDBG) Corona Virus (CV) relief grant. The agreement between the City and SHA would allow for the use of CDBG CV2 funding to provide infrastructure and devices for the purpose of remote access to mental health services for low- to moderate-income residents of SHA's public housing units.

The implementation of the Mental Health Assistance portion of the City's CDBG-CV2 grant award is compliant with the scope of services approved by the grantor, the Oklahoma Department of Commerce (ODOC). The scope of grant activities draws on a Public Hearing, conducted on June 16, 2021, which focused on possible uses of the CV2 funds. Community mental health needs were identified as priority areas and subsequently selected as services to be funded with this grant award.

The City has budgeted \$175,844.42 of the total \$1,112,013.35 CDBG CV2 award toward this project. This amount will allow SHA to service all of the residents of their two public housing units with the ability to remotely access mental health assistance.

Fiscal Impact: Funds for this agreement are derived from the CDBG-CV2 grant award and do not impact the City's general fund.

Attachment: CDBG-CV2 Grant Shawnee Housing Authority Mental Health Assistance Agreement.

Recommendation: Approval of the item.

CDBG-CV2 GRANT
HOUSING AUTHORITY MENTAL HEALTH AGREEMENT

PART I – SUMMARY

Contractor	City of Shawnee
Subcontractor	Shawnee Housing Authority
Amount	\$175,844.42
Funding Period	September 2022 to September 2023
Project Description	Utilize funds to provide mental health support to low-income families living in the Shawnee Housing Authority's public housing units

PART II – GENERAL TERMS AND CONDITIONS

DEFINITION(S)

CONTRACTOR

Cities, towns, counties, or agencies who are direct recipients of CDBG-CV2 grant funds and have agreed to be responsible for the oversight of the proposed CDBG-CV2 project. Since contractors are the direct recipient of the CDBG-CV2 funds, they are also considered the sub-grantee.

SUBCONTRACTOR

Any agency that indirectly receives CDBG-CV2 funds through a Unit of Local Government or agency, and is responsible for implementation of the proposed CDBG-CV2 project.

1. a. Subcontractor will provide the necessary personnel, facilities, supplies, equipment, and/or related resources and skills to accomplish the program described in Part III in accordance with the terms and conditions of this contract. All of the work and services required should be performed by Subcontractor or a Subcontractor fully qualified and authorized under state and local law to perform such work and services.
- b. None of the work and services covered by this contract may be contracted to a third party without prior written approval of the City of Shawnee.
- c. In no event will Subcontractor incur any obligation on the part of the City of Shawnee.
2. The City of Shawnee will provide funding for the program up to the total amount subcontracted by Shawnee Housing Authority which is the maximum amount of \$175,844.42
3. Compensation to Subcontractor

The City of Shawnee will provide payment to the vendor(s) on behalf of the Subcontractor based on itemized statements submitted in accordance with the budget attached hereto as Attachment A. Subcontractor shall verify to the City that all work contained in the itemized statements was completed according to the contract with the vendor(s). Subcontractor shall also identify any and

all in-kind funds associated with completing work associated with itemized statements, if any were utilized.

4. Records, Reports and Documentation

- a. Contractor shall maintain records and accounts including property, personnel, and financial records that properly document and account for all project funds.
- b. Subcontractor shall document and report funds provided by the Oklahoma Department of Commerce on the monthly Reimbursement Claim Forms.
- c. Contractor shall retain all books, documents, papers, records and other materials involving all activities and transactions related to this contract for at least five (5) years from the ending date of this contract.

5. Procurement

Procurement of all goods and services under this contract shall be carried out in compliance with procedures described in the CDBG-CV Policy and Procedure Manual, Requirement No. 405 - Procurement.

6. Hold Harmless

Subcontractor shall, within limitations placed on such entities by state law, save harmless the State of Oklahoma and the City of Shawnee (contractor), their agents, officers and employees from all claims and actions, and all expenses defending same, that are brought as a result of any injury or damage sustained by any person or property in consequence of any act or omission by Subcontractor. Subcontractor shall, within limitations placed on such entities by state law, save harmless the State of Oklahoma and the City of Shawnee (contractor), their agents, offices, and employees from any claim or amount recovered as a result of infringement of patent, trademark, copyright, or from any claim or amounts arising or recovered under Workers' Compensation Law or any other law.

7. Modification

- a. This contract is subject to such modification as may be required by federal or state law or regulations.
- b. Except as otherwise provided in this contract, the work and services to be performed and the total contract amount may be modified only upon written agreement of the duly authorized representatives of the parties.

8. Termination OR Suspension

This contract may be terminated or suspended in whole or in part at any time by written agreement of the parties.

PART III – SPECIFIC TERMS AND CONDITIONS

1. The Subcontractor shall provide infrastructure for mental health assistance in compliance with 24 CFR Part 570.
2. Actual mental health assistance services to be provided are as specified in Attachment “B” to this document
3. The Subcontractor assures that no assisted renovation, rehabilitation, or conversion activities will affect historic properties, flood plains, endangered species or prime farmland.
4. Subcontractor specifically certifies and assures that it will comply with applicable terms of the following statutes, regulations and executive orders:

Non-Discrimination and Equal Opportunity

Title VI of the Civil Rights Act of 1964, 42 USC 200d, (et. seq.), which prohibits discrimination on the basis of race, color or national origin under any program receiving federal funds. HUD regulations are at 24 CFR Part 1.

1. The requirements of the Fair Housing Act (42 USC 3601-19) and implementing regulations at 24 CFR Part 100.
2. Executive Order 11063 (1962) as amended by Executive Order 12259 (1981), which requires equal opportunity in housing. HUD regulations are at 24 CFR Part 107.
3. 42 USC 5309, which prohibits discrimination on the basis of race, color, national origin or sex in connection with funds made available pursuant to the Act. Section 109 also prohibits discrimination on the basis of age and disability as provided in:
 - a. Age Discrimination Act of 1975 (42 USC 6101-07) and implementing regulations at 24 CFR Part 146.
 - b. Section 504 of Rehabilitation Act of 1973 (29 USC 794) and implementing regulations at 24 CFR Part 8. For the purposes of the Community Development Block Grants Program, the term “dwelling units” in 24 CFR Part 8 shall include sleeping accommodations.
4. Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), which requires that, to the greatest extent feasible, opportunities for training and employment be provided to lower-income persons in the project area that contracts for work in connection with the project be awarded to businesses in, or owned in substantial part by, residents of the project area. Regulations are at 24 CFR Part 135.
5. Executive Order 11246 (1965), which prohibits discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action in connection with Federally assisted construction contracts. Regulations are at 24 CFR Part 130 and 41 CFR Part 60-1.
6. Executive Orders 11625, 12432 and 12138 requiring efforts to encourage the use of minority and women’s business enterprises in connection with activities funded by this subcontract.

Affirmatively Furthering Fair Housing

Under section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to affirmatively further fair housing. HUD requires the same of its funding recipients. Contractor will have a duty to affirmatively

further fair housing opportunities for classes protected under the Fair Housing Act. Protected classes include race, color, national origin, religion, sex, disability, and familial status.

Drug-Free Workplace

The Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et seq.) and HUD's implementing regulations at 24 CFR part 21 apply to HPRP. The Contractor must have and follow policies stating that it is unlawful and prohibited for employees to distribute, dispense, possess, or use a controlled substance in the workplace and specifying the actions that will be taken against employees for violation of such prohibition.

Contractor will establish and/or maintain an ongoing drug-free awareness program to inform employees about:

- a) The dangers of drug abuse in the workplace;
- b) The grantee's policy of maintaining a drug-free workplace;
- c) Any available drug counseling, rehabilitation, and employee assistance programs; and
- d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

Discharge Policy

The Contractor must have an established policy for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons.

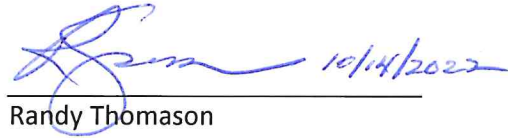
Lead-Based Paint

Title IV of the Lead-Based Paint Poisoning Prevention Act (42 USC 4831, et. Seq.) which prohibits the use of lead-based paint in residences for which Federal assistance is provided. Regulations found at 24 CFR Part 35.

EXECUTED BY:

Subcontractor (Mental Health Community Partner)

Shawnee Housing Authority



Randy Thomason
Director

EXECUTED BY:

Contractor (Sponsor)

City of Shawnee

Ed Bolt
Mayor

Attest:

Lisa Lasyone, CMC
City Clerk

ATTACHMENT "A"

Category	Item	Justification	Amount
Mental Health	Scalefusion Software for 187 Client Devices x 24 Mo	For client devices, limits what can be accessed on device \$5.00 per device per month (24 months)	\$23,400.00
Mental Health	Internet Service	\$495/month/building x 2 years + \$90 1 time fee per site	\$23,940.00
TOWER:			
Mental Health	Cabling & Hardware for Network Installation	Wireless CAT6 Cable Installation, Hardware for Install, Wireless Security Hardware	\$8,330.00
Mental Health	Wireless Access Point(s) and Network Switch(es)	Wireless Network Access for Clients	\$6,207.00
Mental Health	Client Chromebooks for Tele-Health	Tower - 81 x \$525.00 + 10% replacement (89 total)	\$46,725.00
Mental Health	Blue Tooth Headsets for Hearing Impaired	(4) @ \$129.99	\$519.96
HI-RISE:			
Mental Health	Cabling & Hardware for Network Installation	Wireless CAT6 Cable Installation, Hardware for Install, Wireless Security Hardware	\$6,380.00
Mental Health	Wireless Access Point(s) and Network Switch(es)	Wireless Network Access for Clients	\$4,172.50
Mental Health	Client Chromebooks for Tele-Health	Hi-Rise - 96 x \$525.00 + 10% replacement (106 total)	\$55,650.00
Mental Health	Blue Tooth Headsets for Hearing Impaired	(4) @ \$129.99	\$519.96
TOTAL			\$175,844.42

ATTACHMENT "B"

SHAWNEE HOUSING AUTHORITY MENTAL HEALTH ASSISTANCE SERVICES

CDBG-CV2 funding will be utilized to provide mental health supports to low-income families throughout Shawnee, but specifically for families living in the Shawnee Housing Authority's public housing units: The Housing Authority Hi-Rise Apartments and the Housing Authority Tower. These two multiunit housing complexes contain 177 low-income apartments. Due to current lack of access to the internet in these low-income housing units, these families are unable to access any kind of telehealth services, including mental health.

CDBG-CV2 funding will be utilized to develop the infrastructure necessary for these families to access mental health services remotely. Infrastructure costs will include running the necessary cabling in the two buildings, the purchase and installation of modems, routers, and wireless access points, as well as the purchase of (1) Chromebook for each apartment and the required software for individuals to access telehealth services. These devices will utilize the software "Scalefusion" to lock the device down, thus limiting their usage to ONLY mental health services.

Regular Board of Commissioners

7.

Meeting Date: 11/07/2022

Agreement

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consideration of an agreement with Dunnington Consulting and Latham Consulting for governmental and community affairs.

Attachments

Memo

Agreement



City Manager's Office

16 W. 9th St.
Shawnee, OK 74801
ShawneeOK.org

Date: November 2, 2022
To: City Commission
From: Jacob Foos, Assistant City Manager
Subject: Consideration of an agreement with Dunnington Consulting and Latham Consulting for governmental and community affairs.

Background: In October 2021, the City of Shawnee first engaged Dunnington Consulting and Latham Consulting for governmental and community affairs services. The City of Shawnee has worked closely with these consultants to help build important relationships between City staff and state agencies and elected officials.

Another key service provided by the consultants is the active monitoring of state legislation and alerting City staff of potential legislation which could impact the people of Shawnee. By having this early notice and review, City staff is able to talk through challenges and opportunities with state lawmakers to ensure that Shawnee's voice is heard.

Financial Impact: \$60,000 budgeted in the General Fund, City Manager's Department, Other Contractual Services, 001-5-0110-53390.

Attachment: Agreement.

Staff Recommendation: Approval of the item.

CONSULTING AGREEMENT

THIS AGREEMENT is made and entered into as of ___October 1st_____, 2021, by and between Dunnington Consulting, and Latham Consulting an Oklahoma limited liability company, (“Consultant”) and the City of Shawnee, Oklahoma (“Client”).

RECITALS

A. Client is an Oklahoma Municipal Corporation, and Consultant has expertise related to the State of Oklahoma and its laws, regulations, and governmental agencies.

B. Client desires to retain the services of Consultant, and Consultant desires to render those services to Client.

In consideration of the mutual covenants contained in this agreement, the parties agree as follows:

1. Retention of Services. Client hereby appoints and retains the services of Consultant to provide the consulting services set forth on Exhibit A (the “Services”). Consultant accepts such appointments.

2. Term. This Agreement shall commence on the date hereof and shall continue for a period of 1 year.

3. Compensation and Billing. As compensation for the Services, Client shall pay Consultant in accordance with Exhibit B.

4. Reimbursement of Expenses. Client shall reimburse Consultant for all reasonable expenses incurred by Consultant in connection with the performance of the Services, including but not limited to filing and registration costs, meals, travel, and entertainment expenses, and copies and postage.

5. Representations, Warranties, and Covenants by Consultant. Consultant represents and warrants to, and covenants with, Client as follows:

(a) Consultant has obtained all licenses, permits, and approvals necessary for Consultant to perform the Services hereunder.

(b) Consultant will comply with all applicable laws, rules, and regulations in the performance of the Services.

6. Termination.

(a) In General. This Agreement may be terminated in any of the following events.

(i) By mutual agreement of the parties;

(ii) By either party, without cause, on 45 days' prior written notice to the other party; or

(i) By reason of material breach, as provided hereafter.

(b) Termination for Material Breach. If either party defaults by the failure to comply in all material respects with the terms of this Agreement, the other party may terminate this Agreement upon fifteen (15) days prior written notice to the defaulting party, unless the defaulting party cures such default within the 15-day period. This provision shall not constitute an election of remedies by either party, and each party shall have and retain all rights to damages at law and rights to equitable relief in the event of breach by the other party.

(c) On Termination. Upon termination of this Agreement, Client shall pay Consultant for Services rendered through the date of termination. Neither party shall have any further obligation to the other except for (i) obligations accruing prior to the date of termination, and (ii) obligations contained in this Agreement that are expressly made or otherwise contemplated to extend beyond the term of this Agreement.

7. Indemnification.

(d) By Consultant. Consultant shall indemnify and hold harmless Client and its employees, directors, officers, managers, members, shareholders, agents, and affiliates from and against any and all liability, claims, demands, costs, actions, and expenses, including reasonable attorneys' fees, which may result from or arise in connection with (i) the failure by Consultant, its employees, or agents to perform their obligations in accordance with this Agreement, or (ii) the negligent or intentional acts or omissions of Consultant, its employees, or agents.

(e) By Client. Client shall indemnify and hold harmless Consultant and its employees, directors, officers, agents, and affiliates from and against any and all liability, claims, demands, costs, actions, and expenses, including reasonable attorneys' fees, which may result from or arise in connection with (i) the failure by Client, its employees, or agents to perform their obligations in accordance with this Agreement, (ii) the negligent or intentional acts or omissions of Client, its employees, or agents.

8. Relationship between Parties. Consultant will furnish the Services as an independent contractor and not as an employee of Client. Except as required by this Agreement, Consultant shall be free to dispose of such portion of Consultant's time, energy, and skill which Consultant is not requested to devote hereunder to Client in such manner as Consultant sees fit to such persons, firms, or corporations as Consultant deems advisable. Consultant has no power or authority to bind Client in any manner. Consultant shall not by virtue of this Agreement be deemed to be partners or joint venturers.

9. Disclaimer of Warranties. Consultant agrees to put forth a good faith effort as it relates to time and talent to accomplish the stated legislative and governmental objectives of Client. It is mutually agreed and understood that Consultant cannot and does not either expressly or impliedly guarantee or warrant the results of Client's efforts.

10. Notices. Any and all notices, consents, or other communications by one party intended for the other shall be deemed to have been properly given if in writing and personally delivered, transmitted by electronic means, or deposited in the United States first class mails, postpaid, to the addresses or numbers set forth below the signatures of the parties.

2. General. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision. Neither party may assign its rights or delegate its duties under this Agreement without the prior written consent of the other. This Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective legal representatives, successors and permitted assigns. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Oklahoma. No right or remedy conferred in this Agreement upon or reserved to either Client or Consultant is intended to be exclusive of any other right or remedy. Each and every right and remedy shall be cumulative and in addition to any other right or remedy provided in this Agreement. The failure of Client or Consultant to insist upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof with respect to subsequent defaults. This Agreement is not intended to confer any right or benefit upon, or permit enforcement of any provision by, any patient or any person other than the parties to this Agreement.

11. Entire Agreement. This Agreement and its exhibits constitute the entire understanding and agreement of the parties with respect to its subject matter and cannot be changed or modified except by another agreement in writing signed by all parties.

[SIGNATURE PAGE FOLLOWS]

CONSULTANT:

DUNNINGTON CONSULTING, LLC

By _____
Name: _____ Jason Dunnington _____



Title: _____ President _____

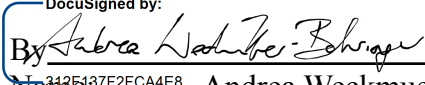
Address: _____ 220 NW 13th St Suite #6
Oklahoma City, OK 73103 _____

Email: _____ jason@dunningtonconsulting.com _____

Fax: _____

CLIENT:

THE CITY OF SHAWNEE

DocuSigned by:
By  _____
Name: _____ 3125F437F2FCA4E8... Andrea Weckmueller-Behringer _____

Title: _____ City Manager _____

Address: _____ 16 W. 9th Street
Shawnee, OK 74801 _____

Email: _____
Andrea.Weckmueller-Behringer@shawneeok.org _____

Fax: _____

EXHIBIT A

Services

- Assist, inform, and advise Client regarding Client's legislative agenda in Oklahoma
- Work with Client on legislation during the 2022 OK Legislative Session as well as track bills and work against legislation deemed harmful to Client's cause.
- Help with managing coalitions and long term planning.
- Assist and develop strategic relationships between The City of Shawnee and legislative and community leaders
- Periodically meet with representatives and update representatives of Client to discuss Client's objectives and progress on legislation or other strategic plans

EXHIBIT B

Compensation

Dunnington Consulting will charge a monthly retainer of \$5,000 per month or \$15,000 per quarter depending on the desired billing of the client.

Regular Board of Commissioners

8. a.

Meeting Date: 11/07/2022

Presentation

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

2023 Sales Tax Election – Andrea Weckmueller-Behringer, City Manager

Attachments

Fact Sheet and FAQ



Your Vote! Your Choice!

Shawnee needs a new Wastewater Treatment Plant.

You will decide whether the project is paid for
by **fee** or by **sales tax**.

HOW WILL WE PAY FOR THIS?

A **No** vote means the new **Utility Improvement Fee** will be charged starting **March 1, 2023**

Paid By Every Utility Customer

Effective 3/1/23: \$5.00 per month
Effective 3/1/24: \$9.75 per month
Effective 3/1/25: \$14.50 per month
Effective 3/1/26: \$19.25 per month
Effective 3/1/27: \$24.00 per month

OR

A **Yes** vote means the extra **0.5% sales tax** will be charged starting **April 1, 2023**

Paid by Residents & Visitors

\$10 of fast food = \$0.05
\$80 pair of shoes = \$0.40
\$200 of groceries = \$1.00
\$1,250 of rent/mortgage = not taxable

The fee would have a maximum rate of \$24 per month for every utility customer.

The 0.5% Sales Tax increase would replace the new Utility Improvement Fee, which has been approved to begin on March 1, 2023.

Either the fee or the tax is needed to fund the replacement of the City's 40- and 70-year-old wastewater treatment plants.

Decide how to pay and who pays for this critical project!

A Shawnee household would have to spend \$4,800 in taxable purchases each month to pay the equivalent of the \$24 Utility Improvement Fee.



YOU CHOOSE ON JANUARY 10, 2023

Frequently Asked Questions



Why vote? Each voter has a choice to make.

In order to secure financing for the project that replaces the City of Shawnee's 40- and 70-year old wastewater treatment plants, a new Utility Improvement Fee was approved on August 15, 2022 and will take effect on March 1, 2023. Understanding the significance of a new fee, the City Commission asked that the voters be given the opportunity to decide whether they prefer a fee or sales tax option.

Why are we not using ARPA funding? And how can I learn more about this project?

The American Rescue Plan Act funding the City received was not enough to complete the project. For more information scan the QR Code on the right or call 405-878-1601.



How much will the 0.5% sales tax cost a Shawnee family every month?

This will depend on how much the household spends on taxable goods and products each month. If a family spends \$2,400 per month on taxable purchases, the additional sales tax would equal \$12.00, which is half of the final monthly Utility Improvement Fee.

What will happen to the Utility Improvement Fee that is set to begin in March of 2023?

Based on the choice of the voters, if the 0.5% sales tax is approved, it would enable the City of Shawnee to remove the Utility Improvement Fee prior to its start date.

How much would the Utility Improvement Fee be if the new sales tax is not approved?

The Utility Improvement Fee's monthly rate is set to increase according to the following schedule:

Starting March 1, 2023:	\$5.00 per month / \$60 per year per account
March 1, 2024:	\$9.75 per month / \$117 per year
March 1, 2025:	\$14.50 per month / \$174 per year
March 1, 2026:	\$19.25 per month / \$231 per year
March 1, 2027:	\$24.00 per month / \$288 per year

Once the maximum of \$24 per month / \$288 per year is reached, the Utility Improvement Fee would stay in place until rescinded by the City Commission. At this time, an end date to the fee has not been set.

When would the 0.5% sales tax end?

Similar to the fee option, the proposed 0.5% sales tax does not have an end date. The 0.5% sales tax would continue and also provide permanent funding for critical needs, including water, wastewater, and street infrastructure. These investments will support schools, businesses, and residents, alike.

Who pays sales tax?

Everyone who makes taxable purchases will contribute. This includes visitors who come to Shawnee.

Will this change the municipal sales tax rate?

Yes, the municipal sales tax rate would increase from 3.5% to 4.0%. This increase is equivalent to one half of one penny per dollar in taxable purchases.

I thought the current sales tax rate was 9.495%. Where does the rest of the sales tax go?

The current combined sales tax rate of 9.495% consists of 4.5% for the State of Oklahoma, 1.495% for Pottawatomie County, and 3.5% for the City of Shawnee. With the proposed increase, the new combined sales tax rate would be 9.995%.

How does Shawnee's municipal rate compare to nearby communities?

Among neighboring communities, a municipal sales tax rate of 4.0% would tie Shawnee with McLoud and Stillwater and would remain below the sales tax rates of Midwest City, Norman, and Oklahoma City.

When is the election and how can people register?

The sales tax election is set for January 10, 2023. To confirm your registration and find your polling place, please visit the Oklahoma State Election Board's [Online Voter Tool](#).



VOTE JANUARY 10, 2023