



**State of Oklahoma
Office of Management and Enterprise Services
Division of Capital Assets Management
Construction and Properties**

**Agreement Between Owner and
Contractor For Minor Projects
Projects Under the Statutory Amount (61
O.S. § 103 (B)) And Other Projects Without
a Design Consultant**

AGREEMENT made as of the [Insert day of month] day of [Insert month], in the year [Insert year].

BETWEEN the Owner: **The State of Oklahoma
acting through the Office of Management and Enterprise Services,
Division of Capital Assets Management
Construction and Properties Department (DCAM/CAP)
P. O. Box 53448
Oklahoma City, Oklahoma 73152-3448**

And the Contractor: **[Insert Contractor name and address]**

On behalf of the Using Agency: **[Insert Using Agency name and address]**

For the Project: Solicitation No.: **[Insert Using Agency solicitation number]**

CAP Project No.: **[Insert CAP project number]**

Project Name: **[Insert project name]**

Project Location: **[Insert project location]**

The Owner and Contractor agree as follows:

ARTICLE 1. THE CONTRACT DOCUMENTS

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

ARTICLE 2. THE WORK OF THIS CONTRACT

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

ARTICLE 3. DATE OF COMMENCEMENT AND FINAL COMPLETION

- 3.1** The date of commencement of the Work shall be the date of the Work Order issued by the Owner and affixed to the State's separate Purchase Order issued to encumber the cost of the Work. The Contract Time shall be measured from the date of Work Order.
- 3.2** The Contractor shall achieve Final Completion of the entire Work not later than **[Insert Number Of Days]** days from the date of commencement.
- 3.3** If provided for in the Solicitation, in regard to as-needed maintenance or trade services, the Contract Time may be extended for additional annual renewal periods by amendment to the Agreement.

ARTICLE 4. CONTRACT SUM AND PAYMENTS

[Select the appropriate version for paragraph 4.1 from the two choices below, and then delete the other paragraph and also delete this note]

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

SAMPLE

ARTICLE 5. OTHER TERMS AND CONDITIONS

5.1 OWNER'S REPRESENTATIVE

For the purposes of this Contract, the Administrator of DCAM/CAP or a designated person shall serve as the Owner's Representative, and serve as the Supervisory Official for the purposes of accepting the work and approving Invoices for Payment. No work will be accepted, nor any payments made without approval by the Owner or the Owner's Representative.

5.2 CONTRACT CHANGES

Contract Changes shall be provided only upon prior written authorization by the Owner, and are subject to the statutory limits set forth in 61 O.S. § 121. Upon request by the Owner's Representative, Contractor shall prepare an itemized cost proposal for the requested contract change and submit to Owner's Representative for review and approval. If accepted by Owner, a Change Order will be processed and returned to Contractor, authorizing the change in the work and providing a notice to proceed.

5.3 AUDITS AND RECORDS CLAUSE

As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any contract with the State, the Contractor agrees any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant contract. The Contractor is required to retain all records relative to this contract for the duration of the contract term and for a period of three years following completion and/or termination of the contract. If an audit, litigation, or other action involving such records is started before the end of the three year period, the records are required to be maintained for three years from the date that all issues arising out of the action are resolved or until the end of the three year retention period, whichever is later. Records and receipts of the Contractor's costs pertaining to this Contract shall be kept on a generally recognized accounting basis.

5.4 OWNERSHIP OF DOCUMENTS

All documentation generated as an instrument of service is and shall remain the property of the Owner, including shop drawings, equipment manuals, equipment warranties and as-built drawings. Contractor shall deliver said documents to Owner's Representative or as otherwise stated in the Solicitation upon final completion of the work.

5.5 SUCCESSORS AND ASSIGNS

The Owner and the Contractor each binds themselves, partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The Contractor shall not assign, sublet or otherwise transfer its interest in this Agreement without the written consent of the Owner.

5.6 DISPUTES AND CLAIMS

The Owner and Contractor shall endeavor to resolve claims, disputes and other matters in question between them by participating in good faith in a settlement meeting to obtain a mutual agreement that resolves the claim or dispute. If an agreement cannot be attained, the Contractor may appeal to the Administrator of the Division of Capital Assets Management, by submitting written notice of a protest to the Administrator within twenty-one (21) days of the previous settlement meeting. The Administrator may hear the protest or may assign the Contractor's appeal to an administrative law judge the Division retains. If the appeal is assigned to an administrative law judge, the administrative law judge shall review the protest for legal authority and jurisdiction. If legal authority and jurisdictional requirements are met, the administrative law judge shall conduct an administrative hearing in accordance with the Administrative Procedures Act, 75 O.S. § 309 et seq., and provide findings of fact and conclusions of law to the Administrator. The Administrator shall send written notice to the Contractor of the final decision sustaining or denying the Contractor's appeal. If the Administrator denies Contractor's appeal, the Contractor may appeal pursuant to provisions of 75 O.S., § 309 et seq. of the Administrative Procedures Act.

5.7 TERMINATION

5.7.1 This Agreement may be terminated by the Owner upon mailing notice of termination to the Contractor at least seven (7) working days in advance of the date of termination if the Contractor substantially fails to perform according to the terms and conditions of this Agreement in the opinion of the Owner or funds for the Project are insufficient to proceed with the Project. In the event of termination, the Contractor shall be paid compensation for services performed up until the date of termination subject to amounts withheld to satisfy any rightful claim or set off by the Owner.

5.7.2 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

5.7.3 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Contractor for the Owner's convenience and without cause.

5.8 INSURANCE

Insurance meeting the minimum limits of coverage listed below shall be maintained in full force by Contractor for the duration of the Contract. Certificates of Insurance shall be furnished naming the Owner as the Certificate Holder prior to acceptance of the Contract or issuance of a Work Order.

General Liability Insurance	\$100,000/\$300,000
Auto – Owned, Hired and Non-Owned	\$100,000/\$300,000
Property Damage (for projects under \$50,000.00)	\$50,000/\$100,000
Builder's Risk (for projects \$50,000.00 and above)	\$50,000/\$100,000
* Workers Compensation	Statutory

* Companies exempt from the Workers Compensation Act may substitute DCAM/CAP Form A312D in lieu of a Certificate of Coverage.

The above are minimum limits of insurance coverage. If higher limits or additional insurance provisions are stated in the Bid Solicitation, the requirements of the Solicitation shall be the minimum required.

5.9 BONDS

Bonds are required for any contract where the firm, fixed price contract sum equals or exceeds fifty thousand dollars (\$50,000), or where an individual work order under a non-binding service or maintenance contract exceeds fifty thousand dollars (\$50,000).

Performance Bond for 100% of the value of the Contract to insure completion of the Work.

Defect Bond for 100% of the value of the Contract to provide correction of defects in the construction and equipment for one year after acceptance of the Work; and

Payment Bond for 100% of the Contract to assure that the Owner is protected from the action of Subcontractors, suppliers and employees for unpaid debts of the Contractor.

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

Irrevocable Letters of Credit may be used as a substitute for the required bonds, on the forms prescribed and provided by the Owner and issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

5.10 JURISDICTION

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

The Contractor certifies that it and all proposed subcontractors, whether known or unknown at the time this contract is executed or awarded, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employee Verification Program (E-Verify) available at www.dhs.gov/E-Verify.

The Contractor also certifies that they are in compliance with the State of Oklahoma Governor's Executive Order 2012-01, filed February 6, 2012 and effective July 1, 2012, the use of any tobacco product shall be prohibited on any and all properties owned, leased or contracted for use by the State of Oklahoma, including but not limited to all buildings, land and vehicles owned, leased or contracted for use by agencies or instrumentalities of the State of Oklahoma.

ATTACHMENTS:

1. Contractor's Bid Form
2. Contractor's Bid Affidavit
3. Contractor's Insurance Certificate(s)
4. Contractor's Bonds (if applicable)
5. Copy of Solicitation for Bids

Agreed upon and Accepted by:

State of Oklahoma
Office of Management and Enterprise Services
Division of Capital Assets Management
Construction and Properties Department

Owner
Mickerl Jones
Acting State Construction Administrator

Contractor

Signature

Name/Title

Company

FEI No.: _____