

CONTRACT

THIS CONTRACT made and entered into this 26th day of January, 2016, by and between Oklahoma Water Resources Board as Party of the First Part, hereinafter designated as the CONTRACTOR, and the City of Norman, a municipal corporation, hereinafter designated as the CITY, Party of the Second Part.

WITNESSETH

WHEREAS, the CITY has caused to be prepared in accordance with law, specifications, and other bidding documents for the work hereinafter described and has approved and adopted or endorsed all of said bidding documents, and has caused Notice to Bidders to be given and advertised as required by law, and has received sealed proposals for the furnishing of all labor and materials for the following project:

CONTRACTUAL SERVICES FOR THE LAKE THUNDERBIRD TMDL MONITORING PLAN IMPLEMENTATION

as outlined and set out in the bidding documents and in accordance with the terms and provisions of said CONTRACT; and,

WHEREAS, the CONTRACTOR in response to said Notice to Bidders, has submitted to the CITY on the manner and at the time specified, a sealed proposal in accordance with the terms of this Contract; and,

WHEREAS, the CITY, in the manner provided by law, has publicly opened, examined, and canvassed the proposals submitted and has determined and declared the above-named CONTRACTOR to be the lowest and best Bidder on the above prepared project, and has duly awarded this CONTRACT to said CONTRACTOR, for the sum named in the proposal, to wit:

Two hundred twenty nine thousand seven hundred fifty six and 23/00 Dollars (\$ 229,756.23);

NOW, THEREFORE, for and in consideration of the mutual agreements and covenants herein contained, the parties to this CONTRACT have agreed, and hereby agree, as follows:

1. This CONTRACT shall be for a term of one year; however, the CONTRACT shall automatically renew for two successive one year terms upon appropriation of funds by the City Council. In addition, upon consent of the parties, the CONTRACT may be renewed for two more successive one year terms.

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2. The CONTRACTOR shall, in a good and first-class, workman-like manner at his own cost and expense, furnish all labor, materials, tools, and equipment required to perform and complete said work in strict accordance with this CONTRACT and the following CONTRACT Documents: The Bid Notice published in the Norman Transcript, the Notice to Bidders, Instructions to Bidders, the Contractor's Bid or Proposal, the maps and drawings, Specifications, Provisions, and Bonds thereto, all of which documents are on file in the Office of the Purchasing Agent of the City of Norman, and are made a part of this CONTRACT as fully as if the same were set out at length.
3. The CITY shall make payments to the CONTRACTOR in the following manner: On or about the first day of each month, the project engineer, or other appropriate person, will make accurate estimates of the value, based on CONTRACT prices, or work done, and materials incorporated in the work during the preceding calendar month. The CONTRACTOR shall furnish to the project engineer, or other appropriate person, such detailed information as he may request to aid him as a guide in the preparation of the monthly estimates.

Each monthly estimate for payment must contain or have attached an affidavit in accordance with the Constitution of the State of Oklahoma, Title 74, Section 3109-3110, and Title 62, Section 310.9.

On completion of the work, but prior to the acceptance thereof by the CITY, it shall be the duty of the project engineer, or other appropriate person, to determine that said work has been completely and fully performed in accordance with said CONTRACT Documents; and upon making such determinations said official shall make his final certificate to the CITY.

The CONTRACTOR shall furnish proof that all claims and obligations incurred by him in connection with the performance of said work have been fully paid and settled; said information shall be in the form of an affidavit, which shall bear the approval of the surety on the CONTRACT Bonds for payment of the final estimate to the CONTRACTOR; thereupon, the final estimate (including retainages) will be approved and paid.

4. It is further agreed that the CONTRACTOR will commence said work within 5 days following receipt of a NOTICE-TO-PROCEED.
5. That the CITY shall pay the CONTRACTOR for the work performed as follows:
 - a. Payment for unit price items shall be at the unit price bid for actual quantities.
 - b. Any items specified but not included as bid items shall be considered incidental and shall not be paid for directly, but shall be included in the bid price for any or all of the pay quantities.

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Should any defective work or materials be discovered or should a reasonable doubt arise as to the quality of any work completed, there will be deducted from the next estimate an amount equal to the value of the defective or questionable work and shall not be paid until the defects are remedied.

And that the CONTRACTOR'S bid is hereby made a part of this Agreement.

6. That the CITY reserves the right to add to or subtract from the estimated quantities or amount of work to be performed up to a maximum of 15% of the total bid price. The work to be performed or deducted shall be at the unit price bid.
7. That the CONTRACTOR will not undertake to furnish any materials or to perform any work not specifically authorized under the terms of this Agreement unless additional materials or work are authorized by written Change Order, executed by the CITY; and that in the event any additional work or materials are provided by the CONTRACTOR without such authorization, the CONTRACTOR shall not be entitled to any compensation therefore whatsoever.
8. That if any additional work is performed or additional materials provided by the CONTRACTOR upon authorization by the CITY, the CONTRACTOR shall be compensated therefor at the unit price and as agreed to by both parties in the execution of the Change Order.
9. That the CONTRACTOR shall perform the work and provide the materials strictly in accordance with the specifications as to quality and kind and all work and materials shall be subject to rejection by the CITY through its authorized representatives for failure to meet such requirements, and in the event of such rejection, the CONTRACTOR shall replace the work and materials without compensation thereof by the CITY.
10. The CONTRACTOR shall complete the work in accordance with the terms of this Agreement within the period of time specified.
11. The CONTRACTOR shall furnish surety bonds and certificate of insurance as specified herein which bonds and insurance must be approved by the CITY prior to issuance of the Work Order and commencement of work on the project.
12. IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed, in four (4) duplicate originals, the day and year first above written.

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To that end, no provision of this CONTRACT or of any such aforementioned document shall be interpreted or given legal effect to create an obligation on the part of the CITY to third persons, including, by way of illustration but not exclusion, sureties upon performance bonds, payment bonds or other bonds, assignees of the CONTRACTOR, subcontractors, and persons performing labor, furnishing material or in any other way contributing to or assisting in the performance of the obligations of the CONTRACTOR; nor shall any such provisions be interpreted or given legal effect to afford a defense against any obligation owed or assumed by such third person to the CITY or in any way to restrict the freedom of the CITY to exercise full discretion in its dealing with the Contractor.

13. The attached sworn, notarized contract affidavit must be signed and notarized before this Contract will become effective.

IN WITNESS WHEREOF, the said parties of the First and Second Part have hereunto set their hands and seals respectively the _____ day of _____, 2016.

(Corporate Seal) (where applicable)

Principal

ATTEST:

Signed:

Authorized Representative

Corporate Secretary (where applicable)

Title

Address:

Telephone:

CITY OF NORMAN:

Approved as to form and legality this _____ day of _____, 2016.

City Attorney

Approved by the Council of the City of Norman, this _____ day of _____, 2016.

ATTEST:

City Clerk

Mayor

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CONTRACT AFFIDAVIT

STATE OF _____)
) SS
COUNTY OF _____)

_____, of lawful age, being first duly sworn, on oath says that (s)he is the Agent authorized by the Firm of _____ to submit the above Contract to the City of Norman, Oklahoma.

Affidavit further states that such firm has not paid, given or donated or agreed to pay, give, or donate to any officer or employee of the City of Norman, Oklahoma, any money or other thing of value, either directly or indirectly, in the procuring of the Contract.

CONTRACTOR

Subscribed and sworn to before me this _____ day of _____, 2016.

Notary Public

My Commission Expires:

_____.

GENERAL REQUIREMENTS SUMMARY OF WORK

PART 1 GENERAL

- 1.1 SUBMITTALS
- 1.2 WORK COVERED BY CONTRACT DOCUMENTS
 - 1.2.1 Project Description
 - 1.2.2 Location
- 1.3 WORK RESCHEDULING
- 1.4 OCCUPANCY OF PREMISES
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- 1.6 UTILITY CONNECTION REQUESTS
- 1.7 LOCATION OF UNDERGROUND UTILITIES
 - 1.7.1 NMCI Contractor Access
- 1.8 SALVAGE MATERIAL AND EQUIPMENT

PART 1 GENERAL

1.1 SUBMITTALS

All submittals shall meet the City of Norman requirements and shall follow requirements stated in the Lake Thunderbird TMDL Monitoring Plan approved by Oklahoma Department of Environmental Quality (DEQ) and adopted by the City of Norman. Submittals will include monthly report of stormwater sampling results from seven sites out falls and 10 monitoring sites outlined in the Lake Thunderbird TMDL Monitoring Plan per requirements stated in that plan and its associated Quality Assurance Project Plan (QAPP).

1.2 WORK COVERED BY CONTRACT DOCUMENTS

1.2.1 Project Description

The work includes stormwater sampling, analysis and monitoring and flow monitoring as outlined in Lake Thunderbird TMDL Monitoring Plan approved by Oklahoma Department of Environmental Quality (DEQ) and adopted by the City of Norman.

1.2.2 Location

The work is located at the sampling locations outlined in Lake Thunderbird TMDL Monitoring Plan approved by Oklahoma Department of Environmental Quality (DEQ) and adopted by the City of Norman. The exact location of the sampling sites shall be identified by contractor and shall be approved by the CITY.

1.3 WORK RESCHEDULING

Normal duty hours for work are from 8 a.m. to 5 p.m., Monday through Friday. Requests for additional work requires notification to the OWNER 24 hours prior to the work. Monitoring during storm events that require after hour work shall be done with approval of the CITY.

1.4 OCCUPANCY OF PREMISES

Before work is started, arrange with the CITY a sequence of procedure, means of access, space for storage of materials and equipment, and use of approaches, corridors, and stairways.

1.5 ON-SITE PERMITS

All required rights of entry and site access permissions shall be secured by the CONTRACTOR and with the approval of the CITY. All required permits for collection of samples, analysis, field and lab work shall be identified and obtained by the CONTRACTOR and a copy shall be presented to the CITY.

1.6 UTILITY CONNECTION REQUESTS

Submit requests connections in writing to the CITY for approval at least 30 calendar days in advance of the time required. In each request, state the system involved, area involved, and the nature of work involved.

1.7 LOCATION OF UNDERGROUND UTILITIES

Identify and mark all utilities within the 30 feet radius of each sampling site and clearly mark so they can be avoided during each sampling event.

1.8 DELIVERY SCHEDULE AND LOCATION

Record of monthly findings from each site shall be submitted at the last calendar day of each month to the City of Norman at their offices at 201 W. Gray Street, Norman, Oklahoma. Report delivery shall conform to the requirements of the Lake Thunderbird TMDL Monitoring Plan approved by Oklahoma Department of Environmental Quality (DEQ) and adopted by the City of Norman. An annual report shall be submitted to the CITY for their approval.

PART 2 PRICE AND PAYMENT PROCEDURES

- 2.1 REFERENCES
- 2.2 SUBMITTALS
- 2.3 SCHEDULE OF PRICES
 - 2.3.1 Data Required
 - 2.3.2 Schedule Instructions
- 2.4 CONTRACT MODIFICATIONS
- 2.5 CONTRACTOR'S INVOICE AND CONTRACT PERFORMANCE STATEMENT
 - 2.5.1 Content of Invoice
 - 2.5.2 Submission of Invoices
 - 2.5.3 Final Invoice
- 2.6 PAYMENTS TO THE CONTRACTOR
 - 2.6.1 Obligation of CITY Payments

2.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by the basic designation only.

Lake Thunderbird TMDL Monitoring Plan ("The Monitoring Plan")

2.2 SUBMITTALS

CITY's approval is required for submittals that are not for information only.

Submittals shall include:

- a. Monthly reports that will include description of sampling, field tests, lab analysis, data handling and Quality Control for sampling and data gathering in ten designated sampling sites and seven stormwater outfalls in format determined by the CITY. The submittal shall include five copies both in electronic format and paper format(including the supporting data) Per CITY requirements for accepted media.
- b. Annual report of all findings stated in Monthly Reports with the conclusion of results in a format determined by the CITY. The submittal shall include five copies both in electronic format and paper format(including the supporting data) Per CITY requirements for accepted media.
- c. The Custody of all equipment and material purchased for performing the WORK in functional conditions acceptable by the CITY.

All submittals shall meet all requirements of the Lake Thunderbird TMDL Monitoring Plan and its accompanying QAPP.

2.3 SCHEDULE OF PRICES

All equipment and work shall meet the requirements stated in the Lake Thunderbird TMDL Monitoring Plan as approved by Oklahoma Department of Environmental Quality (DEQ) and adopted by the City of Norman and its attached QAPP document. All equipment shall be approved by the CITY prior to its purchase.

2.6.1 Data Required

CONTRACTOR shall provide a detailed breakdown of the contract price, giving quantities for each of the various kinds of work, unit prices, and extended prices. Costs shall be summarized and totals provided for each work component. Provide price quotes for equipment to be purchased in addition to the equipment description and operation and maintenance requirements.

2.6.2 Schedule Instructions

Payments will not be made until the Schedule of Prices has been submitted to and accepted by the CITY. Identify the cost for Sampling (both site sampling and outfall sampling), analysis, data handling and compilation, and report writing and include incidental work.

2.4 CONTRACT MODIFICATIONS

Modification Proposals-Price Breakdown, shall follow the prices provided in section 1.3 of this section if and where actual ownership and operating costs of work and equipment cannot be determined from CONTRACTOR accounting records.

2.5 CONTRACTOR'S INVOICE AND CONTRACT PERFORMANCE STATEMENT

2.6.1 Content of Invoice

The requests for payment shall include the documents listed below.

1. The CONTRACTOR's invoice, showing in summary form, the basis for arriving at the amount of the invoice.
2. The Contract Performance Statement showing in detail: the estimated cost, percentage of completion, and value of completed performance[for each of the construction categories stated in this contract]. Use NAVFAC LANT Form 4-330/110 (New 7/84) on NAVFAC LANT contracts when a Monthly Estimate for Voucher is required.
3. Updated Project Schedule and reports required by the contract.

4. CONTRACTOR Safety Self Evaluation Checklist.
5. Other supporting documents as requested.
6. Updated copy of submittal register.
7. Invoices not completed in accordance with contract requirements will be returned to the CONTRACTOR for correction of the deficiencies.

2.6.2 Submission of Invoices

Monthly invoices and supporting forms for work performed through the month shall be submitted to the CITY within first 15 calendar days of each.

2.6.3 Final Invoice

A final invoice shall be accompanied by the certification that all required work is completed and custody of all equipment and material in satisfactory condition has been given to the CITY by CONTRACTOR. If the CONTRACTOR is incorporated, the Final Release shall contain the corporate seal. An officer of the corporation shall sign and the corporate secretary shall certify the Final Release.

2.6 PAYMENTS TO THE CONTRACTOR

Payments will be made on submission of itemized requests by the CONTRACTOR which comply with the requirements of this section, and will be subject to reduction for overpayments or increase for underpayments made on previous payments to the CONTRACTOR.

2.6.1 Obligation of CITY Payments

- i. The obligation of the CITY to make payments required under the provisions of this contract will, at the discretion of the CITY, be subject to reductions and/or suspensions
 1. Reasonable deductions due to defects in material or workmanship;
 2. Claims which the CITY may have against the CONTRACTOR under or in connection with this contract;
 3. Unless otherwise adjusted, repayment to the CITY upon demand for overpayments made to the CONTRACTOR; and
 4. Failure to provide up to date record of data and satisfactory reports.

PART 3 SUBMITTALS AND SUBMITTAL PROCEDURES

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 - 3.2.1 Submittal Descriptions (SD)
 - 3.2.2 Approving Authority
 - 3.2.3 Work
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 - 3.4.2 Substitutions
 - 3.4.3 For Information Only
- 3.5 DISAPPROVED SUBMITTALS
- 3.6 WITHHOLDING OF PAYMENT

3.1 SUMMARY

The CITY may request submittals in addition to those specified when deemed necessary to adequately describe the work covered in the respective sections.

Each submittal is to be complete and in sufficient detail to allow ready determination of compliance with contract requirements.

CONTRACTOR's Quality Control (CQC) System Manager is to check and approve all items prior to submittal and stamp, sign, and date indicating action taken. Proposed deviations from the contract requirements are to be clearly identified. Include within submittals items such as: Descriptive literature including (but not limited to) diagrams, operating charts or curves; test reports; samples; O&M manuals (including parts list); certifications; warranties; and other such required submittals.

Submittals requiring CITY approval are to be scheduled and made prior to the acquisition of the material or equipment covered thereby and pick up and dispose of samples not incorporated into the work in accordance with manufacturer's Material Safety Data Sheets (MSDS) and/or in compliance with existing laws and regulations.

A submittal register showing items of equipment and materials for when submittals are required by the specifications shall be provided by the CONTRACTOR to keep track of submittals and future schedule of submittals.

3.2 DEFINITIONS

3.2.1 Submittal Descriptions (SD)

Submittals requirements are specified in the QAPP section of the Lake Thunderbird TMDL Monitoring Plan approved by Oklahoma Department of Environmental Quality (DEQ) and

adopted by the City of Norman. Submittals are identified by Submittal Description (SD) numbers and titles as follows:

SD-01 Premonitoring Submittals

Submittals which are required prior to start of work: issuance of contract notice-to-proceed, schedules, tabular list of data, or tabular list including location, features, or other pertinent information regarding products, materials, equipment, or components to be used in the work, Certificates of insurance Surety bonds, List of proposed SubCONTRACTORS, List of proposed products, Monitoring schedule, Submittal register, Schedule of prices, Health and safety plan, Work plan, Quality Control(QC) plan

SD-02 Samples

Field samples and mock-ups constructed on the project site establish standards by which the ensuring work can be judged. Includes assemblies or portions of assemblies which are to be incorporated into the project and those which will be removed at conclusion of the work.

SD-03 Outfall Data

Field data, calculations results, analyses results or other data pertaining to stormwater sampling at the outfall sampling locations.

SD-04 Monitoring Data

Field data, calculations results, analyses results or other data pertaining to stormwater sampling at the monitoring locations.

Design submittals, design substantiation submittals and extensions of design submittals.

SD-05 Monthly Reports

Report signed by authorized official of testing laboratory and the CONTRACTOR stating that samples provided has been tested in accord with specified requirements in the Lake Thunderbird TMDL Monitoring Plan. The resulted data shall be provided to the CITY for approval in a format previously approved by the CITY and in accordance with Lake Thunderbird Monitoring Plan.

SD-06 Annual Report

Report signed by authorized official of testing laboratory and the CONTRACTOR stating that samples provided has been tested in accord with specified requirements in the Lake Thunderbird TMDL Monitoring Plan. The resulted data shall be provided to the CITY for approval in a format previously approved by the CITY and in accordance with Lake Thunderbird Monitoring Plan.

SD-07 Certificates

Statements printed on the CONTRACTOR's letterhead and signed by responsible officials attesting that sampling and analysis meets specification requirements. Must be dated at the time of each submittal and clearly name the project.

Document required of CONTRACTOR, and all Sub-CONTRACTOR through CONTRACTOR. The document purpose is to further promote the orderly progression of a portion of the work by documenting procedures, acceptability of methods or personnel qualifications.

SD-10 Installation, Operation and Maintenance

Installation, Operation, Maintenance, Security and all other items regarding the required equipment shall be the responsibility of the CONTRACTOR. CONTRACTOR shall submit a descriptive log of all items used and actions taken for the use and protection of the required equipment to the CITY for approval and record keeping.

This data is intended to be incorporated in an operations and maintenance manual.

SD-11 Closeout Submittals

Close out documents and items shall be submitted to the CITY with the submittal of the annual report to surrender the custody of all equipment and items used for the work to the CITY.

3.2.2 Approving Authority

All submittals shall be approved by the City of Norman ("CITY") City Engineer or member of City of Norman ("CITY") staff that is his appointee.

3.2.3 Work

Work shall consist of the following:

- i. The purchase, installation, maintenance, security, monitoring and data gathering from flow monitoring level measuring gages as describe in Lake Thunderbird TMDL Monitoring Plan approved by Oklahoma Department of Environmental Quality (DEQ) and adopted by the City of Norman.
- ii. The establishment of remote monitoring of level gage data.
- iii. The monthly sampling and analysis of stormwater from ten sampling sites in accordance with procedures, frequencies and methods described in Lake Thunderbird TMDL Monitoring Plan and at the locations defined in that document and its accompanied QAPP document. Sampling shall be done per standards provided in EPA technical document “NPDES Storm Water Sampling Guidance Document” (EPA 833-8-92-001).
- iv. The reporting of results of flow monitoring and monthly sampling and analysis of stormwater on a monthly basis to the CITY in a format approved by the CITY.
- v. Stormwater Outfall discharge sampling and analysis from seven stormwater outfalls as described in the Lake Thunderbird TMDL Monitoring Plan and at the locations set forth in that document, unless the CITY chooses to replace monitoring locations with other locations within the limits of the City of Norman.
- vi. The reporting of the results of Stormwater Outfall sampling and analysis on a monthly basis to the CITY in a format approved by the CITY.
- vii. The production of an annual report that will include a compilation of all gathered data from sampling analysis and field tests and will provide a conclusion from the data analysis in a format that is determined by the CITY.

3.3 SUBMITTALS

CITY’s approval is required for submittals that are not for information only.

Submittals shall include,

- i. Monthly reports that will include description of sampling, field tests, lab analysis, data handling and Quality Control for sampling and data gathering in ten designated sampling sites and seven stormwater outfalls in format determined by the CITY. The submittal shall include five copies both in electronic format and paper format (including the supporting data) Per CITY requirements for accepted media.

- ii. Annual report of all findings stated in Monthly Reports with the conclusion of results in a format determined by the CITY. The submittal shall include five copies both in electronic format and paper format (including the supporting data) Per CITY requirements for accepted media.
- iii. The Custody of all equipment and material purchased for performing the WORK in functional conditions acceptable by the CITY.

All submittals shall meet all requirements of the Lake Thunderbird TMDL Monitoring Plan and its accompanying QAPP.

3.4 SUBMITTAL CLASSIFICATION

3.2.1 Deviations to the Accepted Plan

No deviations to the approved monitoring plan adopted by the City of Norman will be allowed without a written approval by the CITY.

3.2.2 Substitutions

Substitution of equipment for monitoring and sampling will only be allowed by written permission by the CITY.

3.2.3 For Information Only

Submittals such as obtained rights of entry or utility location within the sampling area can be submitted to the CITY in For Information Only format. These submittals shall be on CONTRACTOR's official document paper and shall clearly identify the project and purpose of the submittal.

3.5 DISAPPROVED SUBMITTALS

CONTRACTOR shall make corrections required by the CITY. If the CONTRACTOR considers any correction or notation on the returned submittals to constitute a change to the contract notice is to be given to the CITY. Failure to point out deviations may result in the CITY requiring rejection and removal of such work at the CONTRACTOR's expense.

3.6 WITHHOLDING OF PAYMENT

Payment for materials incorporated in the work will not be made if required approvals have not been obtained. No payment for materials incorporated in the work will be made if all required approvals have not been obtained. No payment will be made for any materials incorporated into the work for any conformance review submittals or information only submittals found to contain errors or deviations from the Solicitation or Accepted Proposal.