

CONTRACT

Between

ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS

and the

CITY OF NORMAN

I. PARTIES AND PURPOSE

This CONTRACT made and entered into this _____ day of _____, 2018, by and between the Association of Central Oklahoma Governments (ACOG) and the City of Norman (NORMAN) reaffirms the Metropolitan Transportation Planning process of the Oklahoma City Area Regional Transportation Study (OCARTS). The above cited parties to this CONTRACT will hereinafter be referred to individually as ACOG and NORMAN respectively or, individually or collectively as the PARTICIPANT and PARTICIPANTS. Frequent reference will be made in this CONTRACT to the Federal Highway Administration, United States Department of Transportation, hereinafter referred to as FHWA.

The intent of this CONTRACT is to provide NORMAN funding of the Metropolitan Transportation Planning activities within the OCARTS transportation management area (TMA) as identified in the FY 2019 Unified Planning Work Program (UPWP). The purpose of this CONTRACT is to maintain the comprehensive, continuing and cooperative transportation planning process in order to provide the most desirable multi-modal transportation system that is compatible with community goals and at minimum expense.

II. EFFECTIVE DATE

The provisions of this CONTRACT shall become effective on the first day of July 2018, or on the day this Federal-aid project is authorized by FHWA, whichever comes later. This CONTRACT shall be effective until all funding provided under Section V have been expended but in no event shall the term of this CONTRACT be extended beyond June 30, 2019 for expenditure of FHWA Planning (PL) Funds without supplementation as provided by Section XV of this CONTRACT. This

CONTRACT may be terminated earlier upon thirty (30) days written notice by either party as provided for in Section XVI of this CONTRACT.

III. ORGANIZATION

Policy direction, plan selection, and development of programs for plan implementation of the OCARTS Planning Process shall be vested in an Intermodal Transportation Policy Committee (ITPC) whose membership and responsibilities are detailed in the Memorandum of Understanding signed December 18, 2008. The ITPC will send ACOG, the Metropolitan Planning Organization (MPO), transportation plans, policies and implementation programs for review and endorsement.

IV. UNIFIED PLANNING WORK PROGRAM

The specific activities to be conducted and financed during the CONTRACT period are prescribed in the FY 2019 UPWP. The UPWP details the tasks, work responsibilities, costs and funding sources of each activity to be undertaken within the TMA. The product of the UPWP will be a twenty-year comprehensive and multi-modal transportation plan for the OCARTS TMA. Approval of the UPWP by the PARTICIPANTS, the ITPC, and FHWA will constitute acceptance of the UPWP as a part of this CONTRACT, subject to the financing provisions of Section V herein.

V. FINANCING

ACOG presently has funds available, allocated through the FHWA and administered by ODOT, which may be used to facilitate Metropolitan Transportation Planning. Contingent upon the continued availability of such funds, ACOG agrees to participate in the planning effort to be conducted within the TMA boundary as detailed in the UPWP. The PARTICIPANTS agree that the financing of the OCARTS as set forth in this CONTRACT shall not exceed **\$13,000** of which **\$10,400** are FHWA's PL Funds and shall be on the basis of direct and indirect actual auditable costs incurred as a part of this study and the provisions of the Office of Management and Budget Circular A-133. The actual costs shall be limited to the equipment rental, office supplies, printing costs, personnel salaries, legal fees, personnel selection and placement, personnel relocation expenses, office rent and other necessary expenses directly associated with actual work performed under this CONTRACT. Allowable costs will be determined in accordance with the Office of Management and Budget Circular A-87.

The financing provided by this CONTRACT is for eighty percent (80%) of total actual auditable costs. The remaining twenty percent (20%) of the costs are to be funded by NORMAN.

VI. DISPUTES RELATED TO FINANCES

In the event of disagreement between the PARTICIPANTS relative to the eligibility of or NORMAN's financial participation in any work item or items contained in the UPWP, the details of such disagreement shall be forwarded to both the Executive Director of ACOG and the City Manager of NORMAN who jointly shall make the final determination.

VII. PAYMENT

Payments for services described in the UPWP and this CONTRACT for cooperative funding shall be disbursed by ACOG on the basis of documented monthly billings from NORMAN showing the total actual costs incurred in conformance with the UPWP. Such billings shall be submitted to ACOG along with a narrative progress report. The billings shall be submitted by the tenth (10th) day after the end of any month in which data for 10 or more traffic count locations (including midblock and intersection turning movement counts) have been collected, except for work completed during the month of June as noted below. The billings shall include a list of the traffic count locations, billable at the agreed upon rate of \$100/count. If fewer than 10 traffic counts are collected in any given month, the data shall accumulate to a total of 10 or more, and a billing shall be submitted in a later month, accordingly. The final billing, for work completed before or during June 2019, shall be submitted on or before **July 11, 2019**.

VIII. PROGRESS REPORTS

NORMAN shall provide ACOG progress reports regarding the date, time, and location of the traffic counts. Such reports shall provide hourly and 24-hour counts at midblock locations, and 15-minute interval counts for turning movements at the intersections specified on the forms furnished by ACOG. NORMAN shall provide ACOG progress reports regarding the date, time, and location of the bicycle and pedestrian counts. The reports shall be submitted along with a billing by the tenth (10th) day after the end of a month for which the billing and report are prepared. The final progress report shall be submitted on or before **July 11, 2019**.

IX. INSPECTION OF WORK

ACOG shall be accorded proper facilities for review and inspection of the work hereunder and shall at all reasonable times have access to the premises, to all reports, books, records, correspondence, instructions, receipts, vouchers, memoranda and any other materials of every description which ACOG considers pertinent to the work hereunder. The PARTICIPANTS will fully inform each other in the event of any review and inspection of work specified hereunder by other than PARTICIPANTS. ACOG shall maintain the responsibility of review and concurrence in all techniques and methodology utilized in this study.

X. RECORDS

NORMAN shall maintain accounting records and other evidence pertaining to the costs incurred under this CONTRACT. This data will be made available for inspection by ACOG, at all reasonable times at the respective offices during the contract period and for three years after the date of the final payment of Federal funds to ACOG with respect to the study. Copies of such records shall be furnished at cost to ACOG.

XI. OWNERSHIP OF DATA

The ownership of the data collected under this CONTRACT, together with reports, brochures, summaries, and all other materials of every description derived therefrom, shall be vested in the PARTICIPANT having the major funding responsibility for its development, subject to the applicable Federal and State laws and regulations.

XII. INFORMATION AND REPORTS

All information, reports, proposals, brochures, summaries, written conclusions, graphic presentations and similar materials developed by NORMAN and/or its consultants and financed in whole or in part by ACOG, shall be submitted to ACOG for review and concurrence and shall have the approval of the appropriate study committee prior to its public release, presentation, dissemination, publication, or other distribution. The distribution of such information and reports, whether draft or final and including the UPWP, to any unit of the FHWA shall be made through ACOG only. NORMAN is a public entity subject to the Oklahoma Open Records Act. To the extent that anything in this paragraph conflicts with the Open Records Act, it shall be void.

XIII. PUBLICATION PROVISIONS

NORMAN shall be free to copyright material developed under this CONTRACT with the provision that ACOG and FHWA reserve a royalty-free, nonexclusive, and irrevocable License to reproduce, publish or otherwise use, and to authorize others to use, the work for Government purposes. All reports published under this CONTRACT shall contain a credit reference to the FHWA; such as "prepared in cooperation with the U.S. Department of Transportation, Federal Highway Administration."

XIV. TRAVEL

There are no travel or training expenses eligible for reimbursement under this CONTRACT.

XV. AMENDMENTS OR MODIFICATION OF CONTRACT

No changes, revisions, amendments or alterations in the manner, scope or type of work or compensation to be paid by ACOG shall be effective unless reduced to writing and executed by the PARTICIPANTS with the same formalities as are observed in the execution of this CONTRACT.

XVI. TERMINATION OF CONTRACT

This CONTRACT was entered into by the PARTICIPANTS because of their mutual accord that the comprehensive, continuing, and cooperative transportation planning process provided herein was necessary. Either PARTICIPANT may terminate its interest and its obligation under this CONTRACT by giving thirty (30) days notice in writing to the other PARTICIPANT, it being understood that such termination may be adverse to the interests of the other PARTICIPANT. In the event of such termination, NORMAN shall deliver at cost to ACOG all items mentioned in Sections X and XI of this CONTRACT within thirty (30) calendar days following the effective termination date.

XVII. GOVERNMENTWIDE NONPROCUREMENT SUSPENSION AND DEBARMENT

In order to protect the public interest, the "Federal-aid Eligibility Certification" (Exhibit A) shall be signed by the City Clerk of NORMAN as to current history regarding suspension, debarment, ineligibility, voluntary exclusion, criminal convictions, or civil judgements involving fraud or official misconduct of himself/herself and any person associated in the administration and management of this federally funded project.

XVIII. USE OF CONSULTANTS

Under the terms of this CONTRACT, NORMAN may engage qualified consultants to perform certain duties on their behalf. All contracts with other parties for services within the scope of the Transportation Planning Process shall be justified, in writing, by NORMAN and are subject to prior written approval by ACOG. Contracts for work to be done, must, as a minimum, meet the requirements of law relative to non-collusion and the provisions of 49 CFR Part 18. U.S. Department of Transportation regulations (49 CFR Part 29) require that ACOG shall insure that NORMAN insert in each subcontract the provisions required by "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" (Exhibit B) and further shall require its inclusion in any covered transaction NORMAN may make. All contracts and discussions between ACOG and consultants retained by NORMAN must be initiated through NORMAN.

XIX. RESPONSIBILITY FOR CLAIMS AND LIABILITY

NORMAN and/or its consultants shall hold harmless ACOG, ODOT, and FHWA from all suits, actions, or claims brought on account of any injuries or damages sustained by any person or property in consequence of any negligent acts or misconduct by NORMAN and/or its consultants or the negligent acts or misconduct of their subcontractors, agents, or employees arising from this CONTRACT or on account of any claims or amount recovered for an infringement of patent, trademark, or copyright, or from any claim or amounts arising or recovered under the Workers' Compensation Laws or any other laws. NORMAN and/or its consultants shall not be released from such responsibility until all claims have been settled and suitable evidence to the effect furnished ACOG.

XX. COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

NORMAN and ACOG agree that all operations under the terms of this CONTRACT will be in compliance with the applicable requirements of Title 49, Code of Federal Regulations, Part 21, which was promulgated to effectuate Title VI of the Civil Rights Act of 1964. In furtherance of requirements of Title 49, the following clauses and the "Nondiscrimination of Employees" (Exhibit C) are made a part of this contract.

The term contractor or consultant shall mean NORMAN and/or its consultants.

- (1) Compliance with Regulations: The contractor will comply with the Regulations of the US Department of Transportation relative to nondiscrimination in Federally-assisted programs of the US Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Exhibit C of the Regulations.
- (3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this

contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

- (4) Information and Reports: The contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by ACOG or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to ACOG or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the non-discrimination provisions of this contract, ACOG shall impose such contract sanctions as it or the FHWA may determine to be appropriate including, but not limited to:
 - (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b) cancellation, termination or suspension of the contract, in whole or in part.
- (6) Incorporation of Provisions: The contractor will include the provisions of paragraph (1) through (6) in every subcontract, including procurement of the Regulations, order, or instructions issued pursuant thereto. The contractor will take such action with respect to any subcontract or procurement as ACOG or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States Attorney to enter into such litigation to protect the interests of the United States.

XXI. COMPLIANCE WITH MINORITY BUSINESS ENTERPRISE ACT

NORMAN and ACOG agree to adhere to the requirements that are specified in Sec. 23. 43, (General Requirements for Recipients) of 49 CFR 23 "Participation by Minority Business Enterprise in Department of Transportation Programs." A copy of the "Disadvantaged Business/Women's Business Enterprises" (Exhibit D) is attached hereto and becomes part of this CONTRACT.

XXII. COMPLIANCE WITH CERTIFICATION REGARDING LOBBYING

NORMAN agrees to adhere to Section 1352, Title 31, U.S. Code which in part prohibits the use of Federal appropriated funds by the PARTICIPANT(S) for influencing the making or modification of any Federal contract, grant, loan or cooperative agreement. A signed copy of the "Certification for Federal-Aid Contracts" (Exhibit E) regarding lobbying is attached hereto and becomes part of this CONTRACT.

XXIII. COVENANTS AGAINST CONTINGENT FEES

NORMAN warrants that it has not employed or retained any company or person specifically to solicit or secure this CONTRACT, and that it has not paid or agreed to pay any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this CONTRACT. For breach or violation of this warranty ACOG shall have the right to annul this CONTRACT without liability, or at its discretion, to deduct from the CONTRACT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee.

XXIV. PRIOR UNDERSTANDING

This CONTRACT incorporates and reduces to writing all prior understanding, promises, agreements, commitments, covenants or conditions, and constitutes the full and complete understanding and contractual relationship of the PARTICIPANTS.

XXV. GOVERNING RULES AND REGULATIONS

NORMAN and its subcontractors shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any nature affecting the performance of this CONTRACT including workman's compensation laws, minimum and maximum salary and wage statutes and regulations. When required, NORMAN shall furnish ACOG with satisfactory proof of its compliance therewith.

XXVI. GOVERNING LAW AND REGULATIONS

This CONTRACT shall be governed and construed in accordance with the laws of the State of Oklahoma and the applicable rules, regulation, policies and procedures of the Oklahoma Transportation Commission.

XXVII. HEADINGS

Article headings used in this CONTRACT are inserted for convenience of reference only and shall not be deemed a part of this CONTRACT for any purpose.

XXVIII. BINDING EFFECT

This CONTRACT shall be binding upon and inure to the benefit of ACOG and NORMAN and shall be binding upon their successors and subject to the limitation of Oklahoma Law.

XXIX. NOTICES

All demands, requests, or other communications which may be or are required to be given, served or sent by either party to the other pursuant to the CONTRACT shall be in writing and shall be deemed to have been properly given or sent:

- (1) if intended for ACOG, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to ACOG at:

Association of Central Oklahoma Governments
4205 N. Lincoln Blvd.
Oklahoma City, OK 73105

- (2) if intended for NORMAN, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to NORMAN at:

The City of Norman
Attention: Transportation Engineer
201 A. West Gray
PO Box 370
Norman, OK 73070

XXX. SEVERABILITY

If any provision, clause or paragraph of this contract or any document incorporated by reference shall be determined invalid by a court of competent jurisdiction, such determination shall not affect the other provisions, clauses or paragraphs of this contract which is not affected by the determination. The provisions, clauses or paragraphs and any documents incorporated by reference are declared severable and the invalidation of any such provision, clause, paragraph or document incorporated by reference shall not affect the remaining provisions, clauses, paragraphs and documents incorporated by reference which shall continue to be binding and of full legal efficacy.

EXECUTION OF CONTRACT

IN WITNESS WHEREOF, ACOG AND THE CITY OF NORMAN HAVE EXECUTED THIS CONTRACT AS OF THE DATE FIRST ABOVE WRITTEN.

ATTEST:

ASSOCIATION OF CENTRAL
OKLAHOMA GOVERNMENTS

Secretary

Chairman, Board of Directors

Pete White, General Counsel

ATTEST:

THE CITY OF NORMAN

City Clerk

Mayor

Approved as to form and legality this _____ day of _____, 2018.

Legal Counsel, City of Norman

EXHIBIT A

FEDERAL-AID ELIGIBILITY CERTIFICATION

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

- (1) That he or she is the fully authorized agent of the Prospective Participant in this project which involves, Federal funding and has full knowledge and authority to make this certification.
- (2) That, neither the Prospective Participant nor any person associated therewith in the capacity of director, officer, manager, auditor or accountant, nor any person in a position involving the administration of federal funds:
 - a. Is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; and
 - b. Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; and
 - c. Has a proposed debarment pending; and
 - d. Has been indicted, convicted, or had a civil judgment rendered against any of the aforementioned by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years, except:

None

(If none so state by entering the word none.)

Date

City Clerk, City of Norman

EXHIBIT B (page 1 of 2)**ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS**

This certification applies to subcontractors, material suppliers, vendors and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

Appendix B -- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospect lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

EXHIBIT B (page 2 of 2)

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

EXHIBIT C (page 1 of 3)

NONDISCRIMINATION OF EMPLOYEES

During the performance of this contract, NORMAN, for itself, its assignees, and successors in interest hereby covenants and agrees as follows:

- (1) NORMAN and its subcontractors shall provide equal employment opportunities for all qualified persons within the limitations hereinafter set forth, and shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, or handicap.
- (2) That any subcontract entered into by NORMAN for performance of any portion of the work covered under this Contract shall incorporate all of the provisions of this Special Provision, "Nondiscrimination of Employees," and the same shall be appended to said subcontract and incorporated therein by reference.
- (3) NORMAN shall refrain from "discriminatory practices," as hereinafter defined. It is a discriminatory practice for NORMAN to:
 - (a) Fail or refuse to hire, to discharge or otherwise to discriminate against an individual with respect to compensation or the terms, conditions, privileges or responsibilities or employment, because of race, color, religion, sex, national origin, age or handicap; or
 - (b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee, because of race, color, religion, sex, national origin, age or handicap; or
 - (c) Discriminate against an individual because of race, color, religion, sex, national origin, age or handicap, in admission to, or employment in, any program established to provide apprenticeship, on-the-job training or retraining; or
 - (d) Publish or cause to be printed or published any notice or advertisement relating to employment by NORMAN indicating a preference, limitation, specification, or discrimination, based on race, color, religion, sex, national origin, age or handicap, except where such preference, limitation, specification or discrimination based on religion, sex or national origin is a bona fide occupational qualification for employment; or

EXHIBIT C (page 2 of 3)

- (e) Retaliate or discriminate against a person because said person has opposed a discriminatory practice, or because said person has made a charge, filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under Chapter 21, Title 25, Oklahoma Statutes, 1991; or
 - (f) Aid, abet, incite or coerce a person to engage in a discriminatory practice; or
 - (g) Willfully interfere with the performance of a duty or the exercise of a power by the Oklahoma Human Rights Commission or one of its members or representatives; or
 - (h) Willfully obstruct or prevent a person from complying with the provisions of Chapter 21, Title 25, Oklahoma Statutes, 1991; or
 - (i) Attempt to commit, directly or indirectly, a discriminatory practice, as defined herein and as defined in Chapter 21, Title 25, Oklahoma Statutes, 1991.
- (4) NORMAN further agrees to refrain from discrimination by reason of race, color, religion, sex, national origin, age or handicap, against any persons, firm or corporation furnishing independent contract labor or materials to NORMAN in the performance of this Contract.
- (5) Sanctions for Noncompliance - In the event NORMAN violates or refuses to abide by any of the provisions herein set forth, ACOG reserves the right and option to:
- (a) Withhold payments to NORMAN until NORMAN furnishes satisfactory evidence of compliance and correction of all violations; or
 - (b) Cancel, terminate or suspend the Contract, in whole or in part, without further liability to ACOG other than payment for work performed up to the effective date of cancellation or termination of the contract.
 - (c) All violations which are not corrected by NORMAN within such time as is specified by ACOG in its notice of violation, shall be reported to the Oklahoma Human Rights Commission for such further proceedings as said Commission deems reasonable and necessary.
- (6) Immediately upon notification of Contract award, NORMAN shall submit to ACOG's Internal Equal Employment Officer a list by number, percentage, and position, including the identifying minority group employees who will be actively engaged in the Contract performance.

EXHIBIT C (page 3 of 3)

- (7) NORMAN hereby agrees to be bound by and subject itself to the provisions of Title 29, Code of Federal Regulations, Parts 1601-1605, inclusive, insofar as the same have been adopted by the Oklahoma Human Rights Commission for governing procedural matters concerning the administrative operations, functions, duties and responsibilities of said Commission.
- (8) NORMAN further agrees to be bound by and be subject to any and all laws, statutes, or regulations of administrative agencies of the State of Oklahoma, pertaining to employment practices in contracts being funded either in whole or in part with funds of the State of Oklahoma, and to the requirements of any and all laws, statutes or regulations of administrative agencies of the State of Oklahoma, and to the requirements of any and all laws, statutes or regulations of administrative agencies of the State of Oklahoma pertaining to equal employment opportunity and nondiscrimination requirements in such contracts and public projects being so funded.

EXHIBIT D (page 1 of 2)

OKLAHOMA DEPARTMENT OF TRANSPORTATION

DISADVANTAGED BUSINESS/WOMEN'S BUSINESS ENTERPRISES

POLICY STATEMENT

It is the policy of the Oklahoma Department of Transportation to ensure that Disadvantaged Business/Women's Enterprises (DBE/WBE) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this CONTRACT. Consequently, the DBE/WBE (formerly MBE) requirements of 49 CFR Part 23 apply to this CONTRACT.

The Oklahoma Department of Transportation or its Consultants which are recipients of Federal-aid funds agree to ensure that disadvantaged business/women's enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this CONTRACT. In this regard, the Oklahoma Department of Transportation, ACOG, NORMAN, and Consultants shall take all necessary and reasonable steps in accordance with 40 CFR Part 23 to ensure that disadvantaged business/women's business enterprises have the maximum opportunity to compete for and perform contracts. The Oklahoma Department of Transportation, ACOG, NORMAN, and Consultants shall not discriminate on the basis of race, color, national origin, religion, or sex in the award and performance of Oklahoma Department of Transportation assisted contracts.

Failure to carry out the requirements set forth above shall constitute a breach of contract and, after the notification of the Oklahoma Department of Transportation, may result in termination of the contract by the recipient or other such remedy as the recipient deems appropriate.

EXHIBIT D (page 2 of 2)

OKLAHOMA DEPARTMENT OF TRANSPORTATION

CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S

BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS

- (1) It is national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, and services. Affirmative steps shall include the following:
 - (a) Including qualified small and minority business on solicitation lists.
 - (b) Assuring that small and minority businesses are solicited whenever they are potential sources.
 - (c) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
 - (d) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.
 - (e) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.
 - (f) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in (a) through (e) above.
- (2) Grantees shall take similar appropriate affirmative action in support of women's business enterprises.
- (3) Grantees are encouraged to procure goods and services from labor surplus areas.
- (4) Grantor agencies may impose additional regulations and requirements in the foregoing areas only to the extent specifically mandated by statute or presidential direction.

EXHIBIT E**CERTIFICATION FOR FEDERAL-AID CONTRACTS**

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Forms to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards in excess of \$100,000, at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Date

City Clerk, City of Norman