

## CONTRACT FOR ENGINEERING SERVICES

This contract for structural engineering services ("Contract") is entered into this 4TH day of JUNE, 2024, by and between The City of Oklahoma City, a municipal corporation ("City"), and its successors in interest, and Kirkpatrick Forest Curtis, PC ("Engineer").

### WITNESSETH:

#### PROJECT NO. MC-0744-B STRUCTURAL ENGINEERING SERVICES

**WHEREAS**, the City and its beneficiary trusts intend to periodically utilize the services of a professional structural engineer to perform structural engineering services; and

**WHEREAS**, the Engineer will provide said services in accordance with this Contract, including the scope of work/services incorporated herein; and

**WHEREAS**, the Engineer has been selected under the standards adopted and the procedures prescribed by the resolution establishing procedures for selection of architects and engineers adopted by the City Council on July 23, 1974, amended on December 31, 1974, February 21, 1978, January 22, 1980, November 18, 1986, and August 29, 2023 which resolution, with its amendments, is made a part of this Contract by reference.

**NOW, THEREFORE**, in consideration of the mutual covenants contained hereinafter relating to the project, the parties agree to the following:

1. **Definitions.** All terms and phrases not expressly defined herein shall have their ordinary meanings, consistent with local and state law, except where the context clearly indicates a different meaning. For purposes of this Contract, the following terms and phrases shall have the meaning subscribed herein:
  - A. *Beneficiary Trusts* Any trust of which The City of Oklahoma City is a beneficiary.
  - B. *City* The City of Oklahoma City, a municipal Corporation, wherein the term "City" appears in this contract, the same shall also apply (as applicable) to any of the City's Beneficiary Trusts.
  - C. *City Engineer* The officer of the City in charge of engineering, construction and maintenance contracts on public rights-of-way, on public lands and capital improvement projects.
  - D. *Contract Documents* Those documents required to construct, renovate and/or modernize the project, including but not limited to standard provisions, special provisions, drawings, plans and specifications.

- E. *Fixed Limit of Construction* Not-to-exceed amount which has been designated as the maximum amount for the construction cost of the project.
- F. *Term of Contract* The term of this Contract shall run from date of execution through June 30, 2027.

2. **Engineering Services.** The Engineer is hereby engaged and employed by the City to perform in accordance with good engineering practices and in the best interest of the City all of the work as set out herein and the various engineering services, including but not limited to the following:

- A. The Engineer will provide services associated with research, development, design and construction, alteration, and/or repair of real property and improvements thereon, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including but not limited to studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual designs, design development, plans and specifications, cost estimates, observations, shop drawing reviews, sample recommendations, assemble operating and maintenance manuals, site visits and other related services, in addition to design, oversight and coordination of construction of streets or street widening, water, sanitary sewer or storm sewer facilities, and other civil engineering-related services, including normal and/or periodic preventative minor and major repairs, emergency repairs and response thereto, **with an estimated construction cost of \$2,000,000 per project.** In conjunction with these duties, the Engineer may be required to perform services as outlined in Item 2.E. below.

On occasion the City may release an architectural or engineering firm from performance of their respective City contracted services for cause, default or other reason determined by the City to be in the best interest of these respective governing bodies. In such cases and upon mutual consent/negotiation between the City and the Engineer, the City may assign to the Engineer any and/or all architectural or engineering services remaining in the contract of the architectural or engineering firm being released from performance of their respective contracted services. In each case, the Engineer will provide the City Engineer a scope of work and fee proposal for assumption of such services. Upon completion of negotiations between the Engineer and the City/Trust for such services, the City Engineer may prepare a work order to the Engineer to proceed with the negotiated services.

- B. **Structural Engineering Services.** The Engineer shall perform various engineering services including but not limited to the following:
- (1) Study of existing structural systems
  - (2) Load calculations as required in the preparation of reports
  - (3) Preparation of structural engineering reports, including estimated

construction/repair costs

C. Work and/or services provided under this Contract may require the following considerations:

- (1) Fixed Limit of Construction. If the lowest and best bid proposed in response to a timely solicitation of bids for construction of a project, in accordance with the bidding documents provided by the Engineer, exceeds the fixed limit of construction or funds available for the assigned project, the Engineer, at no increase or additional cost to the City, shall redesign the project and redraft the bidding documents so that the construction bids pursuant to a subsequent solicitation come within the fixed limit of construction.
- (2) Design Corrections. The Engineer agrees to make any necessary corrections to the designs, drawings, specifications or other documents, work or services furnished, when such documents or services contain any errors, deficiencies or inadequacies caused by the Engineer, at no cost to the City. The Engineer further agrees to be liable for any damages caused by its negligence and/or the negligent failure to timely discover and/or make such necessary corrections. The Engineer is not relieved of liability for design errors, deficiencies or inadequacies undiscovered by the City upon its review or inspection, nor is the Engineer relieved from liability for the City's lack of review or inspection of said documents.
- (3) Notice of Design Limitations. The Engineer will immediately advise the City at any time it believes that the project being designed will exceed, or is likely to exceed, the allocated cost for construction as set forth in this Contract.

D. Emergency Response Time. If an emergency exists, making it necessary to have the Engineer on the job site immediately, the Engineer shall respond as soon as possible, but not later than four (4) hours, otherwise the Engineer shall respond within twenty-four (24) hours.

E. As authorized by the City or its beneficiary trusts, the Engineer may be required to perform any or all of the following engineering services under the auspices of this Contract:

(1) Preliminary Report Services - Task 1

- (a) Prepare and make all necessary preliminary surveys, investigations, studies, reports and preliminary general plans and specifications. The preliminary investigation shall include a topographical survey of the site, layout of any existing, proposed, and/or recommended sanitary sewers, water lines, storm sewers, all other underground obstructions, street improvements, site drainage and detention studies, as appropriate, any and/or all of which might affect the construction of

the project. The City Engineer will approve the preliminary general plans and specifications. All plans shall be submitted with the appropriate title sheet as indicated on the Public Works web page: [www.okc.gov/pw](http://www.okc.gov/pw) (OKC Autocad Standards link).

- (b) Prepare a utility and right-of-way plan showing recommended alignment for relocation of utilities and recommended right-of-way needs. The plan shall include existing and proposed easements. The plan shall show ownership of all properties affected by the project. The Engineer shall acquire the limited ownership list. The Engineer shall complete and submit the limited ownership list within thirty (30) calendar days of the date of a written work order.
- (c) Prepare a construction cost estimate for said improvements, extensions and repairs, and an estimate of all engineering fees, testing costs, right-of-way costs, and inspection fees in connection therewith.
- (d) Hold all necessary conferences with the City and all other interested parties (inclusive is the requirement for the Engineer to ensure all utility and right-of-way/easement requirements are well established prior to Preliminary Report submittal). This includes the conduct of a Utility Conference by the Engineer at a location determined by the City.
- (e) Prepare the report for submittal to the City covering the Engineer's preliminary surveys, studies, investigations and other items as specified. If applicable, the report shall include a drainage study with complete computations and calculations and shall cover the total construction work by phases or sections and shall recommend to the City the order of construction and completion of each phase of construction.
- (f) Furnish the City three (3) hard copies and one (1) PDF copy of the Preliminary Report free of cost to the City. The cost of any additional copies of Preliminary Reports as the City may require will be reimbursed at the actual cost thereof.
- (g) Geotechnical Services
  - 1. The Engineer will recommend to the City the name of a geotechnical investigation/services firm from the City's listing of annual on-call engineering and testing laboratory contract firms.
  - 2. The Engineer will identify and coordinate all requirements for geotechnical investigation and procure all geotechnical services

related thereto, including but not limited to sampling, test boring, subsurface explorations, analysis and other investigations required for determining conditions and geotechnical recommendations for foundations and paving design. Identify and coordinate sampling and analysis of water and other substances as appropriate.

3. The City will approve the selected laboratory and the Engineer will pay the costs of such sampling, analysis, borings, tests, or explorations and investigations as a part of each Work Order.
  - (h) Prepare legal descriptions for the necessary temporary and permanent easements and prepare legal descriptions necessary for property to be acquired on forms provided by the City. Additionally, provide right-of-way ownership maps showing locations and dimensions of right-of-way to be acquired and assist the City when requested in negotiations with owners of property acquired for or affected by the improvements. When requested by the City, the Engineer will provide a proposal for staking of right-of-way for right-of-way acquisition purposes. Said right-of-way staking (when authorized by the City) will be billed to the City at the actual cost thereof in accordance with Paragraph "Payments" of this Contract.
  - (i) Review and recommend approval of testing laboratory claim vouchers within ten (10) calendar days of receipt of claim.
  - (j) The Preliminary Report shall be recommended by the City Engineer for formal approval by the City.
2. Final Plan Services - Task 2
- (a) Prepare final plans, specifications and construction cost estimate.
  - (b) After approval of the Preliminary Report in whole or in part by the City, the Engineer shall proceed as directed in writing by the City Engineer to prepare detailed plans and specifications, using wherever applicable, City standards, details and specifications for such work. The Engineer shall complete said plans and specifications for submission to the City for its approval.
  - (c) Prepare and furnish the City all final plans and specifications, all necessary forms for construction proposals and advertisements for Bids, subject to approval of the City, employing wherever applicable, standard City forms, in completed form.
1. Scale for plan and profile sheets for preliminary and final plans

shall be approved by the City Engineer prior to preparation of plans.

2. Aerial photographs will not be permitted for plan and profile sheets of the final construction plans.
  3. The Engineer shall indicate on final plan and profiles all water lines, sanitary sewer lines, gas lines, oil lines, telephone conduits and all other underground obstructions, which might affect the construction of the project.
- (d) Notify all known utility companies and other entities with facilities affected by the proposed Project. Furnish one (1) copy of the plans to each of the utility companies and entities as determined necessary. Coordinate necessary utility and facility relocations or modifications for the Project and conduct a final conference at 60% plans.
- (e) The 60% submittal shall include a complete drainage report. This report shall include all storm sewer design calculations to support the storm sewer design included in the 60% plans. The design calculations in this report shall conform with the storm sewer systems shown in the plans and shall include all drainage area maps; runoff calculations; storm sewer inlet, pipe, and other structure design calculations. This report shall incorporate any, and all, comments in reference to the storm sewer design that were included in the review of the Preliminary Report submittal.

Furnish the City up to two (2) copies of the project 60% plans for review along with a detailed Fixed Limit of Construction cost estimate for said improvements, extensions and repairs. This submittal does not stop, impact or otherwise delay the Engineer's contract-allotted work order time for completion and submittal of final plans and specifications. Incorporate all recommended changes prior to submittal of the 95% final plans and specifications.

- (f) The 95% submittal shall include a complete drainage report. This report shall include all storm sewer design calculations to support the storm sewer design included in the 95% plans. The design calculations in this report shall conform with the storm sewer systems shown in the plans and shall include all drainage area maps; runoff calculations; storm sewer inlet, pipe, and other structure design calculations that are required for a complete review of the storm sewer system design. This report shall incorporate any, and all, comments in reference to the storm sewer design that were included in the review of the Preliminary Report and 60% plan submittal.

Upon completion of 95% final plans, the Engineer will submit "check print" sets to the Project Manager for review by appropriate departments/divisions. Upon completion of the "check print" reviews,

the Engineer shall revise the plans accordingly. The Project Manager shall resolve any conflicts in comments. Upon completion of corrections, the Engineer will then submit a final plans check set (along with the annotated "check print" copies) for a "final" review by the Project Manager.

- (g) The Final Plan submittal shall include a complete drainage report. This report shall include all storm sewer design calculations to support the storm sewer design included in the Final plans. The design calculations in this report shall conform with the storm sewer systems shown in the plans and shall include all drainage area maps; runoff calculations; storm sewer inlet, pipe, and other structure design calculations that are required for a complete review of the storm sewer system design. This report shall incorporate any, and all, comments in reference to the storm sewer design that were included in the review of the Preliminary Report and 95% plan submittal.

Prepare and furnish the City an electronic copy of all final plans and specifications, all necessary forms for Electronic Bidding and advertisements for Bids, subject to approval of the City, employing standard City forms, in completed form.

Furnish the City one (1) PDF of the final plans and specifications, all free of cost to the City. The cost of any additional copies of plans and specifications as the City may require will be reimbursed at the actual cost thereof.

- (h) Meet with the City or its representatives at any time requested for consultation or conference as directed in writing by the City Engineer.
- (i) Prior to the submission of Bidding Documents to the City for solicitation of Bids, the Engineer shall submit plans and specifications required for the granting of all necessary building permits.
- (j) Prepare all necessary plans, studies and applications for submission to City, State and Federal authorities as may be required for the initiation, prosecution, construction and for approval of grants and permits at no additional cost to the City.
- (k) Final design shall include the establishment of permanent horizontal and vertical alignment control points throughout the entire project limits using United States Geological Survey (USGS) data. The Engineer shall provide a permanent benchmark within two hundred (200) feet of the beginning and ending of the proposed construction. All surveys and control points shall be tied to the City's GIS control network and datum.

3. Bidding Services - Task 3

- (a) Meet with the City or its representatives at any time requested for consultation or conference, as directed in writing by the City Engineer. In this connection, the Engineer shall hold at least one (1) Pre-Bid Conference with prospective Bidders.
- (b) Answer all City and Bidder's questions regarding the bidding of the project and, upon approval by the City Engineer, prepare an electronic copy of all addendums for distribution.
- (c) The City will receive the Bids through the Electronic Bidding System and the Engineer will receive a copy of the Bids from the City. The Engineer will review and evaluate the Bids and will make recommendations to the City for an award. The Engineer shall assist, review and make recommendations to the City on all construction contract issues.
- (d) If Bids are received, all of which exceed the Fixed Limit of Construction, the Engineer shall revise its plans as directed by the City, pursuant to the paragraph "Fixed Limit of Construction" of this Contract.

4. Construction Administration Services - Task 4

- (a) The Engineer shall provide administration of the construction contract during construction and until final payment is made to the Construction Contractor. The Engineer will have the authority to act on behalf of the City only to the extent provided in this Contract, unless otherwise modified by written instrument.
- (b) Meet with the City or its representatives at any time requested for consultation or conference as directed in writing by the City Engineer.
- (c) Assist in coordination of pre-work conferences for the Construction Contractor, the City and all other interested parties. The City will issue all work orders for the project.
- (d) Establish permanent horizontal and vertical alignment control points throughout the entire project limits from which the Construction Contractor shall set its control for construction (if applicable to this project, the Engineer will also provide bridge centerline horizontal and vertical control points). Provide a permanent benchmark within two hundred (200) feet of the beginning and ending of the proposed construction. All surveys and control points shall be tied to the City's GIS control network and datum. Construction staking is to be performed by the Construction Contractor. The Engineer will periodically review the Construction Contractor's construction staking survey field notes and



the actual staking to verify line and grade is in accordance with the Bidding Documents.

- (e) Provide interpretation of the plans and specifications in accordance with the intent of the Bidding Documents. Such interpretations shall be made upon request of the City and its representatives or the Construction Contractor, to safeguard the City against defects and deficiencies in the construction. When making such interpretations and decisions, the Engineer will endeavor to secure faithful performance by the Construction Contractor. The Engineer does not guarantee the performance of the contract by the Construction Contractor, nor is it responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, and it shall not be responsible for a Construction Contractor's failure to carry out the work in accordance with the Bidding Documents.
- (f) Perform coordination of the work of inspection bureaus and laboratories selected by the City for the inspection and testing of construction materials. Receive reports and recommend approval or rejection of the materials based upon reports made by such laboratories or bureaus. The costs of all such tests and inspection by laboratories or bureaus will be paid by the City.
- (g) Review and recommend approval of testing laboratory claim vouchers within ten (10) calendar days of receipt of claim.
- (h) The Engineer shall visit the site at intervals appropriate to the stage of construction to become familiar with the progress and quality of the work. The Engineer will further determine, in general, if the work is being performed in a manner indicating that the work, when completed, shall be in accordance with the Bidding Documents. However, the Engineer is not required to make exhaustive or continuous on-site inspections to check quality or quantity of the work. The Engineer will keep the City informed of progress of the work, and will endeavor to guard the City against defects and deficiencies of the work. The Engineer does not guarantee the performance of the contract by the Construction Contractor, nor is it responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, and it shall not be responsible for a Construction Contractor's failure to carry out the work in accordance with the Bidding Documents.
- (i) Review all necessary information for monthly estimates (**within seven (7) calendar days of receipt from the contractor**) of the quantity of work performed, and review the claim vouchers for payments to be made to the Construction Contractor during the progress of the work and upon

completion of any and all work and report the same to the City.

- (j) Review the Construction Contractor's final request for payment (**within fourteen (14) calendar days of receipt from the contractor**) and certify that, to the best of its knowledge and industry standards, the completed work conforms to plans and specifications.
- (k) Prepare and keep a record of the work performed by any contractor on this project and file with the City a monthly progress report covering the work performed by the contractor(s). The progress report shall be attached to the Construction Contractor's claim for partial or monthly payment.
- (l) Except as otherwise provided in this contract, communications with the Engineer's consultants will be through the Engineer. Communications with the Construction Contractor's subcontractors and material suppliers will be through the Construction Contractor. Communications with other City contractors will be through the City. The Engineer shall be available at all times for the purpose of communication.
- (m) The Engineer shall recommend to the City Engineer rejection of work that does not conform to the Bidding Documents. At any time during construction, the Engineer may be given the authority to require additional inspection or testing of the work by the City Engineer.
- (n) The Engineer shall review for conformance with Bidding Documents, and approve or take other appropriate action upon the Construction Contractor's submittals, such as shop drawings, product data and samples. The Engineer's review of submittals will be promptly completed, but no longer than fourteen (14) calendar days from receipt of submittals. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Construction Contractor as required by the Bidding Documents. The Engineer's review of the Construction Contractor's submittals will not relieve the Construction Contractor of its contractual obligation to the City as required by the Bidding Documents. The Engineer's review of the Construction Contractor's submittals will not constitute approval of safety precautions or of any construction means, methods, techniques, sequences or procedures. The Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- (o) The Engineer shall reply to the Construction Contractor's requests for information, prepare clarification drawings, prepare change orders, field

orders, amendments, field changes and construction change directives. The Engineer may recommend minor changes in the work, not inconsistent with the intent of the Bidding Documents. Such recommended changes shall be made by written order approved by the City Engineer and shall be binding upon the Construction Contractor.

- (p) The Engineer shall conduct observations and inspections as required to determine the quality of work to be accepted and the date or dates of final completion and acceptance. The Engineer shall receive and forward to the City all written warranties and any related documents required by the Bidding Documents and assembled by the Construction Contractor. The Engineer will recommend approval of the Construction Contractor's final certificate of payment upon completion of the work and compliance with the requirements of the Bidding Documents.
- (q) The Engineer will review daily reports furnished by the City's inspector to evaluate and determine compliance with the Bidding Documents. Significant variations between reported conditions and the Bidding Documents shall be verified by the Engineer and resolved with the Construction Contractor and the City. The Engineer's duty to review daily reports and initiate remedial action shall not extend to the Construction Contractor's construction means, methods, techniques, sequencing or procedures or for safety precautions and programs in connection with the work.
- (r) The Engineer shall maintain a record ("log") of all documents it receives, creates or transmits during the construction of the project. The log shall include time requirements of responses if needed.

5. As-Built Drawing Services - Task 5

- (a) Upon termination or completion of this Contract, the Engineer shall, at its expense, correct the original drawings, show all as-built changes based on information from as-built field surveys, reflecting the actual construction of the project and shall furnish the City, without expense, electronic files on CD ROM in the latest AutoCAD version 2013 format compatible with the City of Oklahoma City's current software and a PDF file in color. All written comments, changes or other markings on the final drawings must be highlighted in **RED** color.
- (b) Upon termination or completion of this Contract, the Engineer shall also furnish the City, without cost to the City, all basic calculations used in the design of the structures and original field notes on all land surveys.
- (c) The Engineer shall submit GPS permanent benchmark with as-built drawings.

- (d) For all building/facility projects, the Engineer shall provide to the City an Operations and Maintenance (O&M) Manual (three copies) covering all systems and equipment constructed, installed or remodeled as a part of the construction project.
- (6) Provide Inspection Services – Task 6 (To be used only by approval of the Public Works or Utilities Directors)
  - (a) The Engineer shall provide a qualified Inspector to perform the work identified within this task.
  - (b) Prior to the advertisement for bids, prepare and submit to the Trust, for review and acceptance, a résumé showing the Inspector's experience and qualifications for this particular project. However, the City, through their review and acceptance, does not take any responsibility or liability for the Inspector or their work.
  - (c) The Inspector will attend all pre-bid and pre-work conferences.
  - (d) The Inspector shall perform inspection of all work under the Construction Contract.
  - (e) The Inspector shall perform inspection of all materials received at the construction site and shall ensure that their storage is in accordance with all Construction Contract Requirements, manufacturer requirements and/or material labels.
  - (f) Should work-in-progress or completed work be identified to not meet the requirements of the Construction Contract Documents, the Inspector shall immediately notify the Construction Contractor, the Engineer, and the City and the Trust if the Inspector believes the work does not conform to the contract documents.
  - (g) The Inspector shall attend all job site meetings and shall report to the Engineer and the City and the Trust all issues concerning progress, quality assurance, quality control and dispute resolution.
  - (h) The Inspector shall maintain at a readily available location, a copy of all Construction Contract documents and other pertinent documents in an orderly manner including a current set of construction documents annotated to include all Construction Contract related changes and clarifications. The documents shall include, but not limited to, Construction Contract Documents, Requests for Information (RFIs) and the subsequent response to the RFI, Discrepancy and Nonconformance Reports, supplemental drawings, Engineer approved

shop drawings, submittals, samples, and color schedules, correspondence, accepted schedules, construction change orders, amendments, logs, meeting minutes and a Construction Contractor directory.

- (i) The Inspector shall prepare and submit a Daily Inspection Report to the Engineer, the City and the Trust and the Construction Contractor.
- (j) The Inspector shall maintain all shop drawings, project data, or samples in an easily retrievable filing system.
- (k) The Inspector shall maintain a daily log book or diary, recording all pertinent inspections, including but not limited to:
  - a. Inspector's time and activities;
  - b. Weather conditions at the site;
  - c. The nature and location of work being performed by the Construction Contractor;
  - d. Identification of any work that the Inspector believes fails to strictly conform to the contract documents, along with the Inspector's actions regarding such inspections;
  - e. Identification of any work determined to be nonconforming, along with the disposition of such nonconformance;
  - f. Copies of all reports made to the Construction Contractor of nonconforming work;
  - g. Description of all disputes among the Construction Contractor, Subcontractors and Suppliers; and
  - h. Description of how each dispute or nonconforming work is resolved.
- (l) The Inspector shall be present at the construction site while any critical installations and/or necessary testing will be required, is proceeding and shall provide inspection of the quality of construction on a regular and consistent manner. The Inspector will have authority to act on behalf of the City only to the extent provided by this Contract. The Inspector is not responsible for creating or implementing the Construction Contractor's schedules nor for any failure by the Construction Contractor to perform its work in accordance with Construction Contract Documents.
- (m) The Inspector shall pre-review the Contractor's pay application to reconcile pay quantities, review and sign the time of completion report, and initial the pay application.
- (n) The Inspector may NOT (unless authorized by the Trust):

- a. Authorize deviations from the Construction Contract Documents.
  - b. Conduct or participate in tests or third-party inspections.
  - c. Assume any of the responsibilities of the Construction Contractor, subcontractors or suppliers.
  - d. Expedite the work for the Construction Contractor.
  - e. Advise or issue directions to the Construction Contractor concerning aspects of construction means, method, techniques, sequences or procedures, or safety precautions and programs in connection with the work.
  - f. Authorize the City to beneficially occupy or begin operation and use of the facilities in whole or part.
  - g. Reject work or require special inspection or testing.
  - h. Order the Construction Contractor to stop the work or any portion thereof.
- (o) The discovery, presence, handling, removal or disposal of, or exposure of persons to hazardous materials in any form at the project site, including but not limited to, asbestos, asbestos products, polychlorinated biphenyls (PCBs), lead, or other toxic substances is not the responsibility of the Inspector. If the Inspector has actual notice of such hazardous materials, he/she shall notify the City and the Trust immediately of its discovery.

3. **Compensation.** The City agrees to pay the Engineer as compensation for such professional engineering services as listed above at the following hourly rates:

Position	Hourly Rate
Principal Engineer III	\$217
Principal Engineer II	\$196
Principal Engineer I	\$175
Senior Associate	\$164
Associate	\$154
Structural Engr. II	\$138
Structural Engr. I	\$127
Intern Engr. II	\$111
Intern Engr. I	\$ 85
BIM/CAD Manager	\$122
BIM/CAD Tech. III	\$106
BIM/CAD Tech II	\$ 95
BIM/CAD Tech. I	\$ 85
BIM/CAD Intern	\$ 53
Admin II	\$ 95
Admin I	\$ 74

**The rates shown are valid throughout the entirety of the contract term. The estimated annual engineering fee for work and/or services performed under this Contract is \$750,000 per fiscal year.**

The Engineer shall submit invoices, accompanied by detailed description of the total work accomplished to the City, not more than once per month.

**4. Payments.**

- A. Invoices shall be submitted monthly. Invoices for the amount and value of the work and services performed by the Engineer shall meet the standards of quality as established under this Contract. The City agrees to pay the Engineer, as compensation for such Engineering services as listed herein. The invoices shall be prepared and submitted by the Engineer and be accompanied by all supporting data required by the City. Additionally, the invoices must be accompanied by a description of the position of the employee with the Engineer, employee's hours expended. Payment of any invoice for any work or services may not be deemed to be recognition of satisfactory performance of said work or services or a waiver of any right of the City or any obligation of the Engineer should it be determined later that said work or services were negligently performed or provided or were not performed or provided in accordance with the standards required by this Contract. Material testing services, structural testing services, or other professional services engaged for normal structural engineering services required by this Contract shall be billed directly to the City at the net cost thereof.
- B. The Engineer shall present two (2) copies of the invoice with two (2) properly executed claim vouchers to the City for compensation and payment. The City will review the invoice and claim voucher for payment. Should the City question or request additional documentation or disapprove all or a portion of any invoice, the Engineer will be notified so that it may provide additional documentation sufficient to permit the invoice and claim to be paid, in whole or in part; provided, however, no invoices or claims shall be paid the aggregate of which are in excess of the Tasks as outlined in the Work Order.
- C. Final payment shall not be deemed to waive any rights or obligations of the parties to this Contract.
- D. Upon execution of the Contract, the Engineer shall provide the City with the vendor form and all other forms required by the City to effectuate payments to Engineer by wire transfer (the "Payment Information"). Engineer shall submit the initial Payment Information to the City by certified mail or hand delivery only. If the City receives a request to change such Payment Information, the City agrees that it will not modify or make a change to this Payment Information without oral confirmation, followed by written confirmation, from Engineer's Chief Financial Officer or Engineer's VP of Finance. The City shall make no changes to the Payment Information if it does not receive the oral and written confirmations as stated herein. If the City makes any

change to the Payment Information without first receiving the confirmations stated herein, it shall be solely responsible for any monies lost or stolen and not paid to Engineer as required under the terms of this Contract.

5. **No Extra Work.** No claims for extra work of any kind or nature or character shall be recognized by or be binding upon the City unless such work or service is first approved in writing by the City.
6. **Indemnity.** The Engineer will not be required to indemnify, insure, defend or hold harmless the City or participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property which arises out of the negligence or fault of the City or participating trusts or their agents, representatives, subcontractors, suppliers or any other entity for whom the Engineer is not otherwise legally responsible.

The Engineer must indemnify the City and participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property; provided, that indemnification shall not exceed an amount that is proportionate to the degree or percentage of negligence or fault for which the Engineer and any person or entity for which the Engineer is legally responsible are adjudicated liable..

7. **Insurance.** Prior to approval of this contract, the Engineer shall obtain insurance coverage as provided below. The Engineer must provide, pay for, and maintain the types of insurance policies provided herein, in amounts of coverage not less than those set forth below. Certified, true and exact copies of all insurance policies required and endorsement pages shall be provided to the City and its participating trusts on a timely basis if requested by City staff.

All insurance must be from responsible insurance companies which are authorized to do business in the state of Oklahoma and are acceptable to the City and its participating trusts. The required insurance coverage and policies shall be performable in Oklahoma City, Oklahoma, and shall be construed in accordance with the laws of Oklahoma.

Nothing in this Section shall define or limit the rights of any party to this Contract under any other provision of this Contract, including but not limited to any indemnification provision.

- A. **Additional Insureds:** All liability policies (except professional liability and worker's compensation and employer's liability policies) shall provide that the City and its participating trusts are named additional insureds without reservation or restriction.

All insurance coverage of the Engineer shall be primary to any insurance or self-insurance program carried by the City and its participating trusts.

All insurance policies shall include a severability of interest provision wherein claims involving any insured hereunder, except with respect to limits of insurance, interests shall be deemed separate from any and all other interest herein, and coverage shall apply as though each such interest was separately insured.



Subrogation as to any additional insured shall be waived.

- B. Deductibles: All policies must be fully insured with any single policy deductible not exceeding \$25,000 per occurrence. All deductibles must be declared on the certificate of insurance. If no deductible is declared, the Engineer is stating a deductible does not exist and thus a deductible is not approved or accepted. If the Engineer's deductible is higher than declared, then the City and its participating trusts will hold an equal amount from pay claims until corrected.

Self-insured retentions will not be accepted unless accompanied by a bond (financial guarantee bond) or irrevocable letter of credit guaranteeing payment of the losses, related investigations, claim administration and defense expenses not otherwise covered by the Engineer's self-insured retention.

- C. Policy Limits: The insurance coverage and limits required of the Engineer under this Contract are designed to meet the minimum requirements of the City and its participating trusts. Such coverage and limits are not designed as a recommended insurance program for the Engineer. The Engineer alone shall be responsible for the sufficiency of its own insurance program. Should the Engineer have any question concerning its exposures to loss under this Contract or the possible insurance coverage needed therefore, the Engineer should seek professional assistance.

Except for professional liability insurance, all policies shall be in the form of an "occurrence" insurance coverage or policy. If any insurance is written in a "claims-made" form, the Engineer shall maintain coverage for a minimum of two years from the expiration of this Contract.

The minimum aggregate limits of such insurance policies and continuing coverage shall be:

- (1) Worker's Compensation and Employer's Liability Insurance. The Engineer shall provide and maintain, during the term of the Contract, worker's compensation insurance as prescribed by the laws of the state of Oklahoma and employer's liability Insurance in an amount not less than One Hundred Thousand Dollars (\$100,000.00) each for all its employees employed at the site of the Project, and in case any work is subcontracted, the Engineer shall require the subcontractor similarly to provide worker's compensation and employer's liability insurance for all the subcontractor's employees, unless such employees are covered by the protection afforded by the Engineer. In the event any class of employees engaged in work performed under the Contract or at the site of the Project is not protected under such insurance heretofore mentioned, the Engineer shall provide and shall cause each subcontractor to provide adequate insurance for the protection of the employees not otherwise protected.

- (2) Commercial General Liability Insurance. The Engineer shall provide and maintain commercial general liability insurance coverage sufficient to meet the maximum cumulative liability of all parties to this Contract, including the City and any public trust participating in the Project, under the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, (GTCA) and any amendment or addition thereto, as provided herein.

Property damage liability in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages arising out of a single accident or occurrence.

All other liability in an amount not less than One Hundred Seventy Five Thousand Dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.

Single occurrence or accident liability in an amount not less than One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

- (3) Automobile Liability Insurance. The Engineer shall provide and maintain comprehensive automobile liability insurance coverage as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles sufficient to meet the maximum cumulative liability of all parties to this Contract, including the City and any public trust participating in the Project, under the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, (GTCA) and any amendment or addition thereto, unless otherwise specifically and expressly provided herein.

Property damage liability in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages arising out of a single accident or occurrence.

All other liability in an amount not less than One Hundred Seventy Five Thousand Dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.

Single occurrence or accident liability in an amount not less than One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

- (4) Professional Liability Insurance. The Engineer shall provide and maintain professional liability insurance coverage in an amount not less than

\$1,000,000 aggregate annual limit liability. Such insurance coverage shall be maintained during this Contract, during the construction of the Project, and for a period of two (2) years after the final, formal acceptance of this Project by the City.

- D. Certificates: The insurance coverage and limits required must be evidenced by properly executed certificates of insurance on the form furnished by The City or on forms approved by the Oklahoma Insurance Commissioner. Copies of these certificates have been provided to the City Engineer prior to execution of this Contract and are attached hereto. The certificate(s) must be signed by the authorized representative of the insurance company(s) shown in the certificate(s). The certificate must include the Project number and Project description or name.
- E. Cancellation. There may be no termination, non-renewal, reduction in coverage, or modification of such insurance coverage.

The Engineer authorizes the City and its participating trusts to confirm all information so furnished as to the Engineer's compliance with its bonds and insurance requirements with the Engineer's insurance agents, brokers, surety and insurance carriers. The lapse of any insurance policy or coverage required by this Contract is a breach of this Contract for which the Engineer shall repay and reimburse all payment made under the Contract and such other damages, losses, and costs incurred by the City and its participating trusts. The City and its participating trusts may at their option suspend this Contract until there is full compliance with this paragraph, or may cancel or terminate this Contract and seek damages for the breach of this Contract. The remedies in this paragraph shall not be deemed to waive or release any remedy available to The City and its participating trusts. The City and its participating trusts expressly reserve the right to pursue and enforce any other cause or remedy in equity or at law.

In the event of a reduction in any aggregate limit below the aggregate limit required to this contract, the Engineer shall immediately notify the City and its participating trusts and shall make reasonable efforts to have the full amount of the limits appearing on the certificate reinstated. If at any time the City and its participating trusts request a written statement from the insurance company(s) as to any impairments to or reduction of the aggregate limit below the aggregate limit required by this contract, the Engineer hereby agrees to promptly authorize and have delivered to the City and its participating trusts such statement.

The Engineer must carry and maintain the contract-required insurance coverages and may not cancel, fail to be renewed, nor decrease their limits without thirty (30) days written notice to the City and its participating trusts. In the event that a contract-required insurance coverage (policy) is canceled by the Engineer's insurance company and through no fault of the Engineer, the Engineer must immediately provide written notice to the City and its participating trusts and immediately provide properly executed Certificate(s) of Insurance evidencing coverage (policy)

replacement of the canceled coverage(s). The Certificate(s) of Insurance must specifically indicate (in the remarks section of the form or elsewhere) the project number and project description. An authorized representative of the insurance companies listed on the Certificate(s) of Insurance must sign the Certificate(s).

- F. Duration of Coverage. All insurance coverage required under this Contract except professional liability insurance shall be maintained in full force and effect until completion and formal acceptance of the Project by the City and its participating trusts. The Engineer shall maintain in full force in effect the required professional liability insurance stated above during this Contract, during the construction of the Project, and for a period of two (2) years after the final, formal acceptance of this Project by the City and its participating trusts.

The requirements of the insurance provisions listed above shall survive the completion, expiration, cancellation or termination of this Contract.

- G. The Engineer and its insurer will not be required to indemnify, insure, defend or hold harmless the City or participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property which arises out of the negligence or fault of the City or participating trusts or their agents, representatives, subcontractors, suppliers or any other entity for whom the Engineer is not otherwise legally responsible.

The Engineer and its insurer must indemnify the City and participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property; provided, that indemnification shall not exceed an amount that is proportionate to the degree or percentage of negligence or fault for which the Engineer and any person or entity for which the Engineer is legally responsible are adjudicated liable.

8. Termination for Convenience. The City may terminate this Contract, in whole or in part, for the City's convenience. The City may terminate by delivery of a notice to the Engineer, pursuant to paragraph "Notices" herein.

Upon receipt of the notice of termination, the Engineer shall (1) immediately discontinue all work and services affected (unless the notice directs otherwise), and (2), upon payment for work performed, deliver to the City all documents, data, drawings, specifications, reports, calculations, field notes, tracings, plans, models, computer files, estimates, summaries and other information and materials accumulated in performing this Contract, whether complete or incomplete unless the notice directs otherwise.

Upon termination for the convenience by the City, the City shall pay the Engineer for all work and services rendered, up to the time of the notice of termination, in accordance with the terms, limits and conditions of this Contract and as further limited by the not to exceed amounts set out in this Contract.

The rights and remedies of the City provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

Termination herein shall not terminate or suspend any of the required provisions of paragraph "Indemnity" or "Insurance" of this Contract.

9. **Stop Work.** Upon notice to the Engineer, the City may issue a stop work order suspending the performance of work and/or services under this Contract. The stop work order shall not terminate or suspend any of the required provisions of paragraph "Indemnity" and/or "Insurance" of this Contract. In the event the City issues a stop work order to the Engineer, the City will provide a copy of such stop work order to the contractor.
10. **Notices.** All notices given pursuant to this Contract shall be in writing, delivered or mailed by United States mail, postage prepaid or faxed (with hard copy follow up by mail or delivery) and addressed as follows:

To the City:

The City of Oklahoma City  
Department of Public Works  
420 W. Main Street, Suite 700  
Oklahoma City, Oklahoma 73102  
Attn: Debbie Miller, P.E., Director of Public Works/City Engineer  
Tele: (405) 297-2581 Fax: (405) 297-2117

To the Engineer:

Kirkpatrick Forest Curtis PC  
525 Central Park Drive, Suite 202  
Oklahoma City, OK 73105  
Attn: Alan Kirkpatrick, Principal  
Phone Number (405) 528-4596

The address of any person or party may be changed by notice to the other party, given in the manner described above. All such notices shall be deemed received when delivered.

11. **Compliance with Laws, Ordinances, Specifications and Regulations.** The Engineer shall comply with all existing and applicable federal, Oklahoma and Oklahoma City laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto, applicable to the work and/or services provided by this Contract. All work product provided by the Engineer must comply with and provide for compliance with all Oklahoma and Oklahoma City laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto in the use of the work product of the Engineer. All work product provided by the Engineer must specifically direct and must provide sufficient information and contacts for the Construction Contractor to timely comply with all Oklahoma and Oklahoma City laws, standards, codes, ordinances, administrative regulations, and all amendments and additions thereto, in the use of the work product of the Engineer and timely performance by the Construction Contractor.

12. **Records and Accounts.** During the term of this Contract and continuing for a period the longer of five (5) years after the final acceptance of the completed project by the City, or until the final resolution of any outstanding disputes between the City and the Engineer or the contractor(s) on the project, the Engineer shall maintain: all documents, notes, drawings, specifications, reports, estimates, summaries, renderings, models, photographs, field notes, as-built drawings, information, survey results, plans, computer files and any other materials produced, created or accumulated in performing this Contract that have not been submitted to the City subsequent to final completion of the project and its internal accounting records, and other supporting documents pertaining to the claims and/or invoices for costs of work and/or services of this Contract. The Engineer must maintain its accounting records in accordance with generally accepted accounting principles applied on a consistent basis. The Engineer shall permit periodic audits by the City and the City's authorized representative. The periodic audits of the records in support of claims and invoices for the Contract shall be performed at times and places mutually agreed upon by the City and Engineer. Agreement as to the time and place for audits may not be unreasonably withheld.
13. **Reporting to the City.** The Engineer shall report to the City as required.
14. **Prohibition Against Collusion.** The Engineer warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Engineer to solicit or secure this Contract. The Engineer further warrants that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Engineer, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract. In addition, the Engineer must execute the Anti/Non-Collusion Affidavit, attached as Exhibit A, prior to the effective date of this Contract.
15. **Sub-consultant, Subcontractor or Employee Conflict of Interest.** Any work performed by the Engineer's employees, sub-consultants or subcontractors on this project shall prohibit said persons from contracting with, working for, or otherwise assisting any potential bidder to do any project-related work for the bidder which may in any way be (or construed to be) a conflict of interest. It is the responsibility of the Engineer to require all employees, sub-consultants, or subcontractors engaged by the Engineer to inform the City of any business relationship (formal or otherwise) which may pertain directly or indirectly to this project and/or which may in any way be (or construed to be) a conflict of interest. The Engineer will also notify the City of any such business relationship and/or conflict of interest. Any conflict of interest discovered by the City may be cause for rejection of the bid in question and/or cancellation of the Engineer's contract.
16. **Work Orders.** The Engineer shall proceed with the provision of work and/or services for this Contract upon receipt of work orders from the City Engineer. The City Engineer will provide notice to proceed work orders for each task based on mutually agreed tasks, time required and engineering fees. If the Engineer cannot perform the work and/or services within the time provided, and upon the submission by the Engineer of a request in writing to the City, indicating the length of extension required to perform a task, the City Engineer may

grant a reasonable extension of time. The request from the Engineer shall state the reason for the extension request, along with evidence showing that the Engineer is unable to complete this work in the time specified in the work order for reasons beyond its control. The Engineer is prohibited from claiming damages for delays and extensions of time.

17. **Ownership of Documents.** All documents, notes, drawings, specifications, reports, estimates, summaries, computer files, renderings, models, photographs, field notes, as-built drawings, information, survey results, plans, computer files and any other materials produced, created or accumulated in performing this Contract, are and shall remain the property of the City and may be reproduced, distributed and published in whole or part without permission or any additional payments or fees to the Engineer. Reuse of said documents by the City shall be at the City's risk and responsibility and not that of the Engineer. The parties may use any portions of said documents at their own risk and responsibility. During preparation of design documents, the Engineer shall do weekly backups of CADD computer files and maintain said backups in a safe and secure off-site location. These back up CADD computer files are the property of the Engineer.
18. **References Not Incorporated.** The use of language or definitions from the Federal Acquisition Regulations, the ("FAR"), the American Institute of Architects ("AIA") or any other publication, is not intended to adopt by reference or otherwise any or all of the language, definitions, regulations or publications or any interpretation thereof.
19. **Standard of Care.** In providing the work and services herein, the Engineer shall maintain during the course of this Contract the standard of reasonable care, skill, diligence and professional competency for such work and/or services. The Engineer agrees to require all of its consultants, by the terms of its consultants' contracts, to provide services at the same standard of reasonable care, skill, diligence and professional competence required of the Engineer.
20. **Design Corrections.** The Engineer agrees to make any necessary corrections to the designs, drawings, specifications or other documents, work or services furnished, when such documents or services contain any errors, deficiencies or inadequacies caused by the Engineer, at no cost to the City. The Engineer further agrees to be liable for any damages caused by its negligence and/or the negligent failure to timely discover and/or make such necessary corrections. The Engineer is not relieved of liability for design errors, deficiencies or inadequacies undiscovered by the City upon its review or inspection, nor is the Engineer relieved from liability for the City's lack of review or inspection of said documents.
21. **Backup Required.** In accordance with good engineering practices, the Engineer must back up all data, surveys, tests, work, plans, specifications, notes, calculations, RFI, records, reports, documents (collectively referred to as "data") in the form of an electronic file on a USB drive, data storage, or to an offsite electronic storage facility. Should any data become lost, corrupted, inaccessible, or unusable (collectively "loss"), the Engineer must timely recreate all data within the original time frame of the engineering contract at its sole cost. No extensions or additional time will be granted the Engineer for loss of data. No additional payment or reimbursement will be made to the Engineer for loss of data. The Engineer will be

responsible for any and all costs, expenses, or lost opportunities incurred by The City, Trust, and construction contractor resulting from the failure to meet schedules, milestones, performance standards, or performance requirements related to loss of data.

22. **Sub-consultants.** The Engineer agrees to submit for approval by the City, prior to their engagement, a list of any sub-consultants or subcontractors the Engineer intends to engage to perform work and/or services related to this Contract. Such approval will not be unreasonably withheld. The Engineer shall notify the City and seek pre-approval of any substitutions or changes in sub-consultants or subcontractors.
23. **Nondiscrimination.** In connection with the performance of work and/or services under this Contract, the Engineer agrees as follows:
- A. The Engineer shall not discriminate against any employee or applicant for employment because of age, race, creed, color, sex, national origin, ancestry or disability as defined by the Americans with Disabilities Act of 1990, Section 3(2). The Engineer shall take affirmative action to ensure that employees or applicants for employment are treated without regard to their age, race, creed, color, national origin, sex, ancestry or disability as defined by the Americans with Disabilities Act of 1990, Section 3 (2). Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff, termination or cancellation, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Engineer shall agree to post, in conspicuous places, Exhibit B.
  - B. In the event of the Engineer's noncompliance with this nondiscrimination clause, this Contract may be suspended, canceled or terminated by the City. The City may declare the Engineer ineligible for further contracts or agreements until compliance, and/or satisfactory proof of intent to comply shall be made by the Engineer.
  - C. The Engineer agrees to include this nondiscrimination clause in any subcontracts connected with the performance of this Contract. The Engineer shall also execute the nondiscrimination certificate, attached and incorporated as Exhibit B, prior to the effective date of this Contract.
24. **Assignment.** Inasmuch as this Contract is a personal and professional service agreement which relies upon the personal and professional integrity, financial standing and unique ability and expertise of the Engineer to provide professional and personal services to the City, the parties agree that the Engineer may not assign its obligations, rights or interest in this Contract except the assignment of subcontractors and sub-consultants as set forth in paragraph "Termination for Default" subparagraph B.
25. **Termination for Default.** The City may terminate or cancel this Contract for cause, in whole or in part, for failure of the Engineer to fulfill in accordance with good engineering practices and in the best interests of the City or to promptly fulfill its obligations under this Contract.



- A. After due default notice and thirty (30) days within which to correct the default, this Contract may be terminated by the non-defaulting party upon written notice. Upon termination for cause by the City, the City shall pay the Engineer for all work and services completed in accordance with good engineering practices and in the best interests of the City and useable by the City for the project(s) in the Notice to Proceed, up to the time of the effective date of termination.
  - B. If this Contract is terminated by reason of a default of the Engineer prior to the completion of this project, regardless of the reason for said termination, the Engineer shall immediately assign to the City any contracts and/or agreements relative to this project entered into between the Engineer and its subcontractors and sub-consultants, as the City may designate in writing and with the consent of the subcontractors and sub-consultants so designated. With respect to those contracts and/or agreements assigned to and accepted by the City, the City shall only be required to compensate such subcontractors and sub-consultants for compensation accruing to such parties under the terms of their agreements with the Engineer from and after the date of such assignment to and acceptance by the City. All sums claimed by such subcontractors or sub-consultants to be due and owing for services performed prior to such assignment and acceptance by the City shall constitute a debt between the Engineer and the affected subcontractors or sub-consultants, and the City shall in no way be deemed liable for such sums. The Engineer shall include this provision and the City's rights and obligations hereunder in all agreements or contracts entered into with the Engineer's subcontractors and sub-consultants.
  - C. Termination herein shall not terminate or suspend any of the required provisions of the paragraph "Indemnity" or "Insurance" of this Contract.
26. **Time Is of the Essence.** Both the City and the Engineer expressly agree that time is of the essence with respect to this Contract, and the time for performance of each task established by the work orders shall be made a part of this Contract and shall be strictly observed and enforced. Any failure on the part of the City to timely object to the time of performance shall not waive any right of the City to object at a later time.
27. **No Damage for Delay.** No payment, compensation or adjustment of any kind (other than an approved extension of time) shall be made to the Engineer for damages because of hindrances or delays from any cause in the progress of the work, whether such hindrances or delays be avoidable or unavoidable. The Engineer agrees that it will make no claim for compensation or damages for any such delays and will accept as full satisfaction for such delays the extensions of time.
28. **Severability.** In the event that any provision, clause, portion or section of this Contract is unenforceable or invalid for any reason, such unenforceability or invalidity may not affect the enforceability or validity of any other paragraph or the remainder of this Contract.
29. **Entire Agreement.** This Contract, including its Exhibits and any other documents or certificates incorporated herein by reference, expresses the entire understanding of the City

and the Engineer concerning the Contract. Neither the City nor the Engineer has made or shall be bound by any agreement or any representation to the other concerning this Contract, which is not expressly set forth herein.

30. **Amendment.** This Contract may be modified only by a written amendment of subsequent date hereto, approved by the City and the Engineer. In the event the Engineer's scope of work is increased or changed so as to materially increase the need for Engineering services in excess of the not to exceed total compensation, the Engineer may seek to amend this Contract.
31. **Execution in Counterparts.** This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
32. **Descriptive Headings.** The descriptive headings of the sections of this Contract are inserted or annexed for convenience of reference only and shall not affect the meaning, construction, interpretation or effect of this Contract.
33. **Construction and Enforcement.** This Contract shall be construed and enforced in accordance with the laws of the State of Oklahoma. In the event of ambiguity in any of the terms of this Contract, it shall not be construed for or against any party on the basis that such party did or did not author the same.
34. **Survival of Representations.** All representations and covenants of the parties shall survive the expiration of the Contract.
35. **Parties Bound.** This Contract shall be binding upon and inure to the benefit of all parties. This Contract is solely for the benefit of the parties and their successors in interest, and none of the provisions hereof are intended to benefit third parties.
36. **Venue of Actions.** The parties agree that if any legal action is brought pursuant to this Contract, such action shall be instituted in the District Court of Oklahoma County.
37. **Effective Date.** The effective date of this Contract shall be the date of execution of this Contract by the City.
38. **Term of Contract.**
  - A. This Contract authorizes the City Engineer to issue Work Orders under this Contract during the contract term as provided herein and the term of this Contract will be from the effective date through June 30, 2027, plus such extended time as necessary until all Work Orders issued during the contract term are complete.
  - B. The City may issue Work Orders under this Contract at any time during the contract term.

- C. The Engineer will provide such services as set forth in any Work Order issued under this Contract and this Contract will be deemed extended for such extended time as may be necessary for the completion of services set forth in any Work Order issued during the contract term under this Contract.
- D. If this Contract is extended for completion of any Work Order, upon completion of all the Work Orders issued under this Contract, the City Engineer will issue a notice to the Engineer denoting the termination of this Contract and any extended time.
- E. The Engineer must provide such services and comply with this Contract until expiration of the contract term or through any extended time, if any, until notification of termination of this Contract from the City Engineer, whichever is later.
- F. The City will not be obligated to pay the Engineer under any Work Order (including any services, expenses, and additional services) until the funds have been encumbered. Any Work Order must not exceed the available funds for the year in which the Work Order was issued. Any extended time to complete the Work Order will not change the available funds for the year in which the Work Order was issued.
- G. If the City should need any additional services or a change of the scope of services in any Work Order issued during the contract term, a new separate Work Order must be issued under a separate contract or an amendment to this Contract. An extended time will not extend the authorization to issue a new Work Order under this Contract after the expiration of the contract term.

39. **Crime Prevention through Environmental Design** The Crime Prevention through Environmental Design (CPTED) concept suggests that natural surveillance, natural access control, and territoriality can be effectively applied to a project and its surrounding environment to provide safety for users. A CPTED design can also promote community confidence and improve natural surveillance methods to reduce/prevent common crime and vandalism.

The Engineer should implement the concepts of CPTED, where appropriate, to reduce the real and perceived areas of potential problems during the project design.

IN WITNESS WHEREOF, this Contract was executed and approved by the Engineer this 20<sup>th</sup> day of MAY, 2024.

KIRKPATRICK FOREST CURTIS PC

Richard L. Forest

Secretary

(and Corporate Seal – either print stamped or embossed – if embossed, must be leaded sufficiently to be visible in a PDF file reproduction)



Alan Kirkpatrick

Vice President

IN WITNESS WHEREOF, this Contract was approved and executed by The City of Oklahoma City this 4TH day of JUNE, 2024.

THE CITY OF OKLAHOMA CITY

ATTEST:

Amy K. Simpson

City Clerk



David Holt

REVIEWED for form and legality.

Heather Green

Assistant Municipal Counselor

**EXHIBIT A**  
**ANTI/NON-COLLUSION AFFIDAVIT**  
**PROJECT NO. MC-0744-B**  
**STRUCTURAL ENGINEERING SERVICES**

State of Oklahoma )  
 ) SS.  
County of Oklahoma )

The undersigned Engineer, of lawful age, being duly sworn, upon his/her oath, deposes and says: That the undersigned has the lawful authority to execute the within and foregoing proposal for, and on behalf of, the Engineer; that the Engineer has not, directly or indirectly, entered into any agreement, express or implied, with any other architect/engineer(s), having for its object the controlling of the price or amount of the Contract, the limiting of the services of the architect/engineers, the parceling or farming out to any architect/engineer(s) or other persons, of any part of the Contract or any part of the subject matter of the Contract, or of the profits thereof.

The Engineer further states that the Engineer has not been a party to any collusion among other persons, firms or contractors in restraint of freedom of competition, by any agreement to Contract at a fixed price or to refrain from competing; or with any city official, city employee or city agent as to the quantity, quality, or price in the prospective Contract, or any other terms of the said prospective Contract; or in any discussions between the Engineer or city official, city employee or city agent concerning the exchange or money or other thing of value for special consideration in the letting of a Contract. The Engineer states that it has not paid, given or donated or agreed to pay, give or donate to any city official, officer or employee of the City or awarding agency, any money or other thing of value, either directly or indirectly, in the procuring of the award of this Contract.

Printed name of the Engineer: Alan E. Kirkpatrick

Signature of executing individual: Alan Kirkpatrick

Title: President

525 Central Park Drive, Ste 202, OKC, OK 73105  
Address of the Engineer

(405) 528-4596

(A.C.) Tel. Number and FAX Number

Signed and sworn to before me on this 20<sup>th</sup> day of MAY, 2024 by

Alan E. Kirkpatrick, as President.

My Commission Expires/Commission Number

01/27/2028 / #20001022



Karen A. Munroe  
Notary Public

State of Oklahoma )  
 ) SS.  
County of Oklahoma )

- A. The Engineer agrees not to discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, ancestry, age or disability, as defined by the Americans with Disabilities Act of 1990, Sec. 3(2). The Engineer shall take affirmative action to insure that employees are treated without regard to their race, creed, color, national origin, sex, ancestry, age or disability, as defined by the Americans with Disabilities Act of 1990, Sec. 3(2). Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship. The Engineer and sub-consultants shall agree to post in a conspicuous place, Exhibit B.
- B. In the event of the Engineer's noncompliance with this Nondiscrimination Certificate, the Contract may be canceled, terminated or suspended by the City. The Engineer may be declared, by the City, ineligible for further contracts until satisfactory proof of intent to comply shall be made by the Engineer and/or sub-consultants.
- C. The Engineer agrees to include the requirements of this Nondiscrimination Certificate in any subcontracts connected with the performance of this Contract.

Printed name of the Engineer: Alan E. Kirkpatrick

Signature of executing individual: Alan Kirkpatrick

Title: President

525 Central Park Drive, Ste 202, OKC, OK 73105

Address of the Engineer

(405) 528-4596

(A.C.) Tel. Number and FAX Number

Signed and sworn to before me on this 28<sup>th</sup> day of MAY, 2024 by Alan E. Kirkpatrick, as President.

My Commission Expires/Commission Numbers

01/27/2028 #20001022



Karen Moore  
Notary Public



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/20/2024

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

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

<b>PRODUCER</b> Professional Insurance Experts 9355 John W. Elliott Dr Suite 25467 Frisco, TX 75033	<b>CONTACT</b> NAME: Edita Abrudeanu PHONE (A/C, No, Ext): 469-777-3025 E-MAIL ADDRESS: edita@proiexp.com FAX (A/C, No): 469-777-3976														
<b>INSURED</b>  Kirkpatrick Forest Curtis PC 525 Central Park Drive, Suite 202 Oklahoma City, OK 73105	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A : Capitol Specialty Insurance Corp</td><td></td></tr><tr><td>INSURER B :</td><td></td></tr><tr><td>INSURER C :</td><td></td></tr><tr><td>INSURER D :</td><td></td></tr><tr><td>INSURER E :</td><td></td></tr><tr><td>INSURER F :</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Capitol Specialty Insurance Corp		INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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INSURER B :															
INSURER C :															
INSURER D :															
INSURER E :															
INSURER F :															

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> Property Coverage  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ Property \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? <input type="checkbox"/> Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Errors & Omissions, Professional Liability			AE20241003-01	03/24/2024	03/24/2025	\$2,000,000 Each Cllaim(including defense cost) \$2,000,000 Aggregate (including defense cost)

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

**Engineering Firm**Project:  
MC-0744-B Structural Engineering Services**CERTIFICATE HOLDER****CANCELLATION**City of Oklahoma City  
Department of Public Works  
420 W. Main Street, Suite 700  
Oklahoma City, OK 73102

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

AUTHORIZED REPRESENTATIVE

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/23/2024

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

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

PRODUCER INSURICA 2420 Springer Dr, Suite 105 Norman, OK 73069	CONTACT NAME:	
	PHONE (A/C, No, Ext): (405) 310-1583	FAX (A/C, No): (405) 217-0311
	E-MAIL ADDRESS: service@INSURICAexpress.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Hartford Casualty Insurance Co.	
INSURED  Kirkpatrick, Forest, Curtis, P.C. 525 Central Park Dr. Suite 202 Oklahoma City, OK 73105	NAIC #	
	29424	
	INSURER B : Twin City Fire Insurance Company	
	29459	
	INSURER C :	
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <div><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR</div> <div>GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:</div>	X	X	38SBANQ4838	10/1/2023	10/1/2024	<div>EACH OCCURRENCE \$ 1,000,000</div> <div>DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000</div> <div>MED EXP (Any one person) \$ 10,000</div> <div>PERSONAL &amp; ADV INJURY \$ 1,000,000</div> <div>GENERAL AGGREGATE \$ 2,000,000</div> <div>PRODUCTS - COMP/OP AGG \$ 2,000,000</div> <div>\$</div>
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <div><input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS</div> <div><input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY</div>			38SBANQ4838	10/1/2023	10/1/2024	<div>COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000</div> <div>BODILY INJURY (Per person) \$</div> <div>BODILY INJURY (Per accident) \$</div> <div>PROPERTY DAMAGE (Per accident) \$</div> <div>\$</div>
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <div><input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE</div> <div>DED <input checked="" type="checkbox"/> RETENTION \$ 10,000</div>			38SBANQ4838	10/1/2023	10/1/2024	<div>EACH OCCURRENCE \$ 5,000,000</div> <div>AGGREGATE \$ 5,000,000</div> <div>\$</div>
B	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <div>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N</div> <div>If yes, describe under DESCRIPTION OF OPERATIONS below</div>		N / A	38WECAC20DZ	10/1/2023	10/1/2024	<div><input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER</div> <div>E.L. EACH ACCIDENT \$ 1,000,000</div> <div>E.L. DISEASE - EA EMPLOYEE \$ 1,000,000</div> <div>E.L. DISEASE - POLICY LIMIT \$ 1,000,000</div>
A	<input checked="" type="checkbox"/> Property			38SBANQ4838	10/1/2023	10/1/2024	<div>Personal Property 218,400</div>

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

Project: MC-0744-B Structural Engineering Services

Additional Insureds:

City of Oklahoma City and its participating trusts

CERTIFICATE HOLDER

CANCELLATION

City of Oklahoma City  
Department of Public Works  
420 W. Main Street, Suite 700  
Oklahoma City, OK 73102

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AUTHORIZED REPRESENTATIVE