



OKLAHOMA CITY
COMMUNITY COLLEGE

SOLICITATION FOR BID POTHOLE AND CONCRETE REPAIRS (FY2022)

SFB Number:

2-RFP-22-025

Submission Deadline Date/Time:

April 4, 2022; 2:00 p.m. CST

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**SOLICITATION FOR BIDS
POTHOLE AND CONCRETE REPAIRS (FY2022)
OKLAHOMA CITY COMMUNITY COLLEGE**

Sealed bids will be received by Oklahoma City Community College ("OCCC") for Pothole and Concrete Repairs for Fiscal Year 2022 no later than the Bid Submission date and time indicated below. Due to State requirements for sealed bids, electronic delivery by email will not be accepted. All bids must be sealed and clearly marked with the Solicitation for Bids (SFB) Number and the Submission Deadline and Bid Opening Dates and Times on the outside of the bid envelope.

Bid documents and information concerning the solicitation may be accessed on the OCCC Purchasing Department Webpage at <https://www.occc.edu/purchasing/>. Requests for information or questions concerning the solicitation must be directed solely to the OCCC Director of Purchasing at the email address or telephone number provided below.

OCCC Project Number:	#2-RFP-22-025
Project Name:	Pothole and Concrete Repairs (FY2022)
Project Location:	7777 S. May Ave., Oklahoma City, OK 73159
Bid Documents:	https://www.occc.edu/purchasing/
Pre-bid Conference:	<u>Mandatory</u>
Day, Date, Time:	Wednesday, March 23, 2022; 2:00 p.m. CST
Location:	Oklahoma City Community College Keith Leftwich Memorial Library, Room 401 7777 S. May Avenue Oklahoma City, OK 73159
Masks encouraged	
Deadline for Questions from Bidders <i>(Questions must be submitted in writing only by email)</i>	March 25, 2022; 1:00 p.m. CST
Bid Submission Deadline	April 4, 2022; 2:00 p.m. CST
Day, Date, Time:	Oklahoma City Community College
Delivery Location:	Attn: Craig Sisco, Director of Purchasing John Massey Center, Room 140
Public Bid Opening	Monday, April 4, 2022; 2:15 p.m. CST
Day, Date, Time:	
Location:	Oklahoma City Community College John Massey Center, Room 143 7777 S. May Ave. Oklahoma City, OK 73159
Contact Person:	Craig Sisco, Director of Purchasing michael.c.sisco@occc.edu

Mandatory Pre-Bid Conference

A **mandatory** pre bid conference will be held for this Bid. The purpose of this conference is to provide an opportunity for potential Contractors to ask OCCC representatives questions regarding terms, conditions, and specifications of the Bid. Failure of potential Contractors to attend this conference will preclude their ability to submit proposal under this Bid. Notification of attendance must be made prior to the pre-bid conference to the contact listed below.

Location:	Oklahoma City Community College Keith Leftwich Memorial Library, Room 401 7777 S. May Avenue Oklahoma City, OK 73159
Date:	March 23, 2022
Time:	2:00 p.m. CST
Point of Contact:	Craig Sisco, Director of Purchasing michael.c.sisco@occc.edu

Bid Bond or Other Security:

A bidder on a public construction contract exceeding \$100,000.00 or a construction management trade contract or subcontract exceeding \$50,000.00 shall accompany the bid with security in the form of a cashier's check or certified check from a federally insured institution, a surety bond from a company authorized in Oklahoma, or irrevocable letter of credit from a federally insured institution in the amount of five percent (5%) of the total bid. After the bid opening, OCCC will release the bid securities except those of the three lowest bidders. The three lowest bid securities will be placed with OCCC until the contract is entered or cancelled. Afterward, OCCC will return the bid securities to the bidders.

Bid Documents – Bidders must use the complete set of Bidding Documents from the Purchasing Department Webpage. OCCC assumes no responsibility for errors or misrepresentation arising from use of incomplete Bid Documents.

Bid Forms – Bidders must use the bid form contained in this Bid Notice for bid submissions.

Addenda – OCCC will attempt to email Addenda notices to the bidders shown in OCCC records to have received bidding documents. Addenda and other information will additionally be located on the OCCC Purchasing Webpage at <https://www.occc.edu/purchasing/>. Bidders are responsible to check the Webpage to determine if addenda or additional information is posted. OCCC is not responsible for email notification to any bidder during the solicitation process when the solicitation information and updates are posted on the Purchasing Webpage. Therefore, bidders must review the Webpage for all bid information before bid submission.

Sealed Bid Envelope Label – All bids must be sealed with the following information label on the outside envelope. Improperly labeled bids may be excluded from consideration.

SFB No: 2-RFP-22-025

SFB Submission Deadline: April 4, 2022, 2:00 p.m. CST

Bid Opening: April 4, 2022, 2:15 p.m. CST

Bidder's Name: _____

Bidder's Address: _____

Project Title: POTHOLE AND CONCRETE REPAIRS

Mail or Deliver this package to:

**Oklahoma City Community College
John Massey Center, Rm 140
7777 S. May Ave.
Oklahoma City, OK 73159
Attn: Craig Sisco, Director of Purchasing**



Bidder Document Checklist

All information and items listed below must be included in your bid submission.

Your bid may be excluded from consideration if any omissions are made.

- ☐ Provide company name, company contact, address, telephone number, Tax ID/FEIN, and email address on the form.
- ☐ Complete and sign the bid statement; if any questions do not apply, enter "None".
- ☐ Complete each field in the form, including notice of addenda, base bid or total bid amount, and any alternate prices.
- ☐ Include the required five percent (5%) bid security. Copies are not acceptable. Checks must be either certified or cashier's, and irrevocable letters of credit for bids must be provided on OCCC's form.
- ☐ Check the OCCC Purchasing Department Webpage to ensure you are aware of, and acknowledge all addenda, and bid information at <https://www.occc.edu/purchasing>.
- ☐ Check pricing to verify each entry is correct.
- ☐ Include all documentation requested.
- ☐ Properly label the bid envelope as directed.

OCCC reserves the right to reject any or all bids.



OKLAHOMA CITY
COMMUNITY COLLEGE

Bid Form

Re: Bid #2-RFP-22-025

To: Oklahoma City Community College Purchasing Department John Massey Ctr, Rm 140 7777 S. May Ave. Oklahoma City, OK 73159 Attn: Craig Sisco, Director of Purchasing _____ (Addenda Numbers, if any)	From: _____ (Company Name) _____ (Address) _____ (City, State, Zip) _____ (Telephone) (Tax No./EIN) _____ (Email Address)
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ARTICLE 1: General.

1.1 The undersigned Bidder, who represents that Bidder is knowledgeable about the local area and conditions affecting the cost and performance of the Work, and being familiar with the Contract Documents, including the Solicitation for Bids, General Conditions, Special Conditions, Specifications, and Addendum Number(s) related to the Solicitation listed above, proposes to furnish all labor, materials and equipment necessary for the Project in accordance with specifications provided for the amounts listed below.

1.2 Bidder acknowledges that OCCC reserves the right to reject any and all bids. Bidder agrees that this bid may not be withdrawn for a period of thirty (30) days after the Bid Opening. Work is to start within ten (10) days after receipt of Notice to Proceed, unless otherwise agreed in writing.

1.3 If the bid exceeds one hundred thousand dollars (\$100,000.00) for public construction contract or fifty thousand dollars (\$50,000.00) for construction management trade contracts or subcontracts, it shall be accompanied by a bid security in the form of a certified check or cashier's check from a federally insured institution, surety bond from a company authorized to do business in the State of Oklahoma, or irrevocable letter of credit from a federally insured institution for five percent (5%) of the total bid amount, conditioned upon the Bidder contracting with OCCC under the terms of the bid. It is agreed that said bid security of the successful bidder will constitute liquidated damages, and not a penalty for the failure of the bidder to enter into a contract in accordance with this bid.

ARTICLE 2: Compliance.

2.1 The Bidder certifies that:

- 2.1.1 Bidder is an Equal Employment Opportunity Employer and does not discriminate in any business or employment practices;
- 2.1.2 Bidder, and all sub-contractors and suppliers performing work on the Project, will comply with the provisions of the Oklahoma Taxpayer and Citizen Protection Act of 2007 and participate in the Status Verification System defined in the Oklahoma Statutes, Title 25, §1312;
- 2.1.3 Bidder will comply with all applicable laws concerning construction requirements for OCCC as a public institution for higher education in the State of Oklahoma; and
- 2.1.4 Bidder will comply with the Governor's Executive Order prohibiting use of all tobacco products on State property, including OCCC properties and buildings.

ARTICLE 3: Bid Requirements – Price Proposal

3.1 Base Bid – Pothole Repair and Crack Fill, Sealcoating and Restriping

Provide services to repair various asphalt potholes on the Oklahoma City Community college main campus.

All full depth pothole/asphalt repairs should adhere to the following specifications unless otherwise specified.

Cut edges of damaged areas by mechanical means. Corners of repair areas shall be at right angles, whenever possible. Remove existing pavement that has failed to a depth not less than 10". Compact sub-grade, wet or damaged sub-grade material shall be removed and replaced with suitable material, not less than 6" (treated soil, crushed stone or concrete). Sub-grade shall be of consistent depth throughout the repair area. Edges of repair areas shall have vertical edges, cleaned and tacked with emulsified asphalt for adhesion. Place hot mix asphalt in lifts not exceeding 3" per lift and not less than two lifts equaling 4".

Hot mixed asphalt shall meet or exceed current DOT specifications. Placed hot mixed asphalt shall be compacted to a minimum density of 96%.

All mill & overlay asphalt repair should adhere to the following specifications unless otherwise specified.

Mill area of damaged asphalt by mechanical mill. Corners of repair area shall be at right angles, whenever possible. Remove existing pavement that has failed to 2" depth. Clean and tack with emulsified asphalt for adhesion. Place hot mix asphalt in lifts not exceeding 2" per lift. Hot mixed asphalt shall meet or exceed current DOT specifications. Placed hot mixed asphalt shall be compacted to a minimum density of 96%.

1. Asphalt Repair in Lot C
 - Picture #12 & #13 in Exhibit A
 - Partial depth asphalt repairs
 - Saw cut and excavate damaged asphalt area 4"
 - Compact base
 - Install and compact asphalt surface
 - 2 square yards
2. Lot B Crack fill, sealcoating and restriping
 - Crack fill: clean and fill all cracks with hot rubber
25,114 L.F.
 - Seal coating: Apply 3 coats of coal tar emulsion sealer per P-327 specifications
18,821 S.Y.
 - Restripe to match existing:
 - 10,728 L.F. of 4" yellow
 - 144 L.F. of 4" blue
 - 25 stop bar
 - 9 Faculty/staff parking stencil
 - 12 Handicap parking stencils
3. Lot C Crack fill, sealcoating and restriping
 - Crack fill: clean and fill all cracks with hot rubber
35,114 L.F.
 - Seal coating: apply 3 coats of coal tar emulsion sealer per P-627 specifications
24,005 S.Y.
 - Restripe to match existing
 - 10,685 L.F. of 4" yellow
 - 818 L.F. of 4" blue
 - 204 L.F. of 4" white
 - 25 stop bar
 - 38 Faculty/staff parking stencil
 - 11 Handicap parking stencils
4. FACE Center Crack fill, sealcoating and restriping
 - Crack fill: clean and fill all cracks with hot rubber
11,200 L.F.
 - Seal coating: Apply 3 coats of coal tar emulsion sealer per P-627 specifications
8,330 S.Y.
 - Restripe to match existing
 - 4,788 L.F. of 4" yellow
 - 25 stop bar
 - 10 Arrows stencil
 - 6 Handicap parking stencils

3.2 **Alternate #1 - Concrete Repairs, Asphalt Repairs and Faculty Circle Striping**

Provide services to make a variety of concrete repairs, asphalt repairs and Faculty Circle striping. All full depth pot hole/asphalt repairs should adhere to the following specifications unless otherwise specified.

Cut edges of damaged areas by mechanical means. Corners of repair areas shall be at right angles, whenever possible. Remove existing pavement that has failed to a depth not less than 10". Compact sub-grade, wet or damaged sub-grade material shall be removed and replaced with suitable material, not less than 6" (treated soil, crushed stone or concrete). Sub-grade shall be of consistent depth throughout the repair area. Edges of repair areas shall have vertical edges, cleaned and tacked with emulsified asphalt for adhesion. Place hot mix asphalt in lifts not exceeding 3" per lift and not less than two lifts equaling 4".

Hot mixed asphalt shall meet or exceed current DOT specifications. Placed hot mixed asphalt shall be compacted to a minimum density of 96%.

All mill & overlay asphalt repair should adhere to the following specifications unless otherwise specified.

Mill area of damaged asphalt by mechanical mill. Corners of repair area shall be at right angles, whenever possible. Remove existing pavement that has failed to 2" depth. Clean and tack with emulsified asphalt for adhesion. Place hot mix asphalt in lifts not exceeding 2" per lift. Hot mixed asphalt shall meet or exceed current DOT specifications. Placed hot mixed asphalt shall be compacted to a minimum density of 96%.

1. Concrete sidewalk repairs on TTC sidewalk
 - Picture #1 on Exhibit A
 - 4" concrete sidewalk paving removal and replacement
 - Saw cut damaged concrete
 - Excavate and haul off debris
 - Compact base
 - Install #3 bars of steel on 12" centers
 - Pour and finish 3500 PSI concrete
 - 52 square feet
2. Concrete sidewalk repairs on sidewalk next to field leading to CPD lot
 - Picture #2 on Exhibit A
 - 4" concrete sidewalk paving removal and replacement
 - Saw cut damaged concrete
 - Excavate and haul off debris
 - Compact base
 - Install #3 bars of steel on 12" centers
 - Pour and finish 3500 PSI concrete
 - 60 square feet

3. Concrete sidewalk repairs on sidewalk next to field leading to CPD lot
 - Picture #3 on Exhibit A
 - 4" concrete sidewalk paving removal and replacement
 - Saw cut damaged concrete
 - Excavate and haul off debris
 - Compact base
 - Install #3 bars of steel on 12" centers
 - Pour and finish 3500 PSI concrete
 - 60 square feet
4. Drain flume repairs near Library
 - Picture #8 on Exhibit A
 - 4" concrete sidewalk paving removal and replacement
 - Saw cut damaged concrete
 - Excavate and haul off debris
 - Compact base
 - Install #3 bars of steel on 12" centers
 - Pour and finish 3500 PSI concrete
 - 33 square feet
5. Concrete sidewalk removal and replacement by TTC entrance 1
 - Picture #9 on Exhibit A
 - 4" concrete sidewalk paving removal and replacement
 - Saw cut damaged concrete
 - Excavate and haul off debris
 - Compact base
 - Install #3 bars of steel on 12" centers
 - Pour and finish 3500 PSI concrete
 - 90 square feet
6. Drain flume repairs by CPD and Loop Road
 - Picture #10 on Exhibit A
 - 4" concrete sidewalk paving removal and replacement
 - Saw cut damaged concrete
 - Excavate and haul off debris
 - Compact base
 - Install #3 bars of steel on 12" centers
 - Pour and finish 3500 PSI concrete
 - 30 square feet

7. Concrete sidewalk removal and replacement at intersection of Faculty Circle and Lot A
 - Picture #11 on Exhibit A
 - 4" concrete sidewalk paving removal and replacement
 - Saw cut damaged concrete
 - Excavate and haul off debris
 - Compact base
 - Install #3 bars of steel on 12" centers
 - Pour and finish 3500 PSI concrete
 - 12 square feet
8. Asphalt Repair in Faculty Circle
 - Picture #4 in Exhibit A
 - Partial depth asphalt repairs
 - Saw cut and excavate damaged asphalt area 4"
 - Compact base
 - Install and compact asphalt surface
 - 7.7 square yards
9. Asphalt Repair in Lot G
 - Picture #5 & 6 in Exhibit A
 - Partial depth asphalt repairs
 - Saw cut and excavate damaged asphalt area 4"
 - Compact base
 - Install and compact asphalt surface
 - Restripe for picture # 6 in Exhibit A
 - 15.5 square yards
10. Asphalt Repair in Lot D
 - Picture #7 in Exhibit A
 - Partial depth asphalt repairs
 - Saw cut and excavate damaged asphalt area 4"
 - Compact base
 - Install and compact asphalt surface
 - 1 square yard
11. Faculty Circle Striping
 - Restripe to match existing
 - 6,570 L.F 4" Yellow
 - 17 Stop Bar

3.3 Price Proposal

3.3.1 Base Bid

Please provide the associated project costs in the tables below.

The Contractor will provide an expected duration of the project, **in calendar days** (e.g. 25 days). Oklahoma City Community College may elect to perform any, all or none of the base bid pothole repairs.

- Duration begins upon Contractor receiving Notice to Proceed
- Liquidated damages will incur at \$250.00 per day past the provided duration
- The College reserves the right to extend the duration upon request of the Contractor due to unforeseen circumstances impeding project progress

BASE BID – POTHOLE REPAIR AND CRACK FILL, SEALCOATING AND RESTRIPING	
WORK	COST
1. Asphalt Repair in Lot C	\$
2. Lot B Crack fill, sealcoating and restriping	\$
3. Lot C Crack fill, sealcoating and restriping	\$
4. FACE Center Crack fill, sealcoating and restriping	\$
TOTAL BASE BID – POT HOLE REPAIR	\$

- Contractor shall provide a project schedule/plan for each of the bid

Expected Duration of Project (calendar days): _____

3.3.2 Alternate #1

Please provide the associated project costs in the tables below.

The contractor will provide an expected duration of the project, in calendar days (e.g. 25 days). Oklahoma City Community College may elect to perform any, all or none of the alternate concrete repairs.

- Duration begins upon contractor receiving Notice to Proceed
- Liquidated damages will incur at \$250 per day past the provided duration
- The College reserves the right to extend the duration upon request of the Contractor due to unforeseen circumstances impeding project progress
- Contractor shall provide a project schedule/plan for each of the bid

ALTERNATE #1 – CONCRETE REPAIRS, ASPHALT REPAIRS AND FACULTY CIRCLE STRIPING	
WORK	COST
1. Concrete sidewalk repairs on TTC sidewalk	\$
2. Concrete sidewalk repairs on sidewalk next to field leading to CPD lot	\$
3. Concrete sidewalk repairs on sidewalk next to field leading to CPD lot	\$
4. Drain flume repairs near Library	\$
5. Concrete sidewalk removal and replacement by TTC entrance 1	\$
6. Drain flume repairs by CPD and Loop Road	\$
7. Concrete sidewalk removal and replacement at intersection of Faculty Circle and Lot A	\$
8. Asphalt Repair in Faculty Circle	\$
9. Asphalt Repair in Lot G	\$
10. Asphalt Repair in Lot D	\$
11. Faculty Circle Striping	\$
TOTAL ALTERNATE BID	\$

Expected Duration of Project (calendar days): _____

3.3.3 Project Pricing Summary

Total Expected Duration of Project (calendar days): _____

Base Bid – Pothole Repair & Crack Fill & Slurry Covering with Striping \$ _____

Alternative #1 – Concrete Repairs, Asphalt And Faculty Circle Striping \$ _____

TOTAL PROJECT BID \$ _____

ARTICLE 4: Unit Prices for Concealed or Unknown Conditions.

- 4.1 Refer to General Construction Contract Conditions, Paragraph 4.3.6 "Claims for Concealed or Unknown Conditions".
- 4.2 In the event additional work is required for repair or remediation of concealed or unknown conditions, Unit Prices shall be submitted by the bidder for the purpose of establishing sums to be added to or deducted from the Contract. Unit prices shall cover the cost of materials, labor required, demolition, equipment, incidentals and services, overhead and profit required to complete any necessary additional work.

4.3 Unit Prices shall be within a competitive range of the then current market value. OCCC shall be the sole judge of the competitive range determination as reasonably determined by reference to pricing in the industry.

4.4 A Change Order shall be submitted and executed before any work using unit prices is started.

ARTICLE 5: Statements.

5.1 Non-collusion Statement.

For the purposes of a competitive bid for a public construction contract, the undersigned, being first duly sworn, certifies that:

5.1.1 I am the duly authorized agent of the Bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to the bid to which this statement is attached;

5.1.2 I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and

5.1.3 Neither the Bidder nor anyone subject to the bidder's direction or control has been a party:

- a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
- b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
- c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract.

5.2 I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement is attached

5.3 Business Relationship Statement.

5.3.1 I further certify that the nature of any partnership, joint venture or other business relationships presently in effect or which existed within one (1) year prior to the date of this statement with the Architect, Engineer, or other party of the project is:

(If none, so state; use additional sheet if necessary.)

5.3.2 That any such business relationship presently in effect or which existed within one (1) year prior to the date of this statement between any officer or director of the bidding company and any officer or director of the architectural or engineering firm or other party to the project is:

(If none, so state; use additional sheet if necessary.)

5.3.3 And that the names of all persons having any such business relationships and the positions they hold with their respective companies or firms are:

(If none of the business relationships herein above mentioned exist, then a statement to that effect. Use additional sheet if necessary.)

BIDDER:

If awarded a contract, the Bidder affirms that the work will be carried out in conformance with the contract requirements and that all invoices submitted for payment will reflect a true and accurate accounting of the work completed. I affirm that I have read and acknowledge all addenda issued in connection with this Bid, if any.

I solemnly swear or affirm, under penalty of perjury, that the foregoing is true and correct.

(Bidder Signature)

(Bidder Printed Name)

(Bidder Printed Title)

(Date)



Bidder Instructions

ARTICLE 1: Definitions.

- 1.1 **Bidding Documents** include the Bidding Requirements and the Proposed Contract Documents. The Bidding Requirements consist of the advertisement or invitation to bid (Solicitation for Bids), Instructions to Bidders, supplementary instructions to bidders, the bid form(s), and any other sample bidding and contract forms, and the proposed contract documents including any Addenda issued prior to the receipt of Bids.
- 1.2 **Definitions** set forth in the General Conditions of the Contract for Construction, or in other Proposed Contract Documents apply to the Bidding Documents.
- 1.3 **Addenda** are written or graphic instruments issued by the OCCC, which, by additions, deletions, clarifications, or corrections, modify or interpret the Bidding Documents.
- 1.4 A **Bid** is a complete and properly executed proposal to do the Work or designated portion thereof for the sums stipulated therein, submitted in accordance with the Bidding Documents.
- 1.5 The **Base Bid** is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents, to which Work may be added or deleted by sums stated in the Alternate Bids.
- 1.6 An **Alternate Bid** (or Alternate) is an amount stated in the Bid to be added to or deducted, or does not change, the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.
- 1.7 A **Unit Price** is a price per unit of measurement for materials, equipment, or services, or a portion of the Work, as described in the Bid Documents.
- 1.8 A **Bidder** is a person or entity that submits a Bid and meets the requirements set forth in the Bidding Documents.
- 1.9 The **Website** of OCCC is www.occc.edu. The Purchasing Department **Webpage** is <https://www.occc.edu/purchasing/>.
- 1.10 The **Owner** is Oklahoma City Community College (OCCC), 7777 S. May Ave., Oklahoma City, OK 73159.
- 1.11 The **Consultant** is the Licensed Architect, Licensed Landscape Architect, Registered Professional Engineer, or Registered Land Surveyor under contract to OCCC for the purpose of designing and monitoring the construction of the project acting in the capacity as the OCCC's Representative; if OCCC does not contract for a Consultant, OCCC will designate an OCCC employee as the Consultant.

ARTICLE 2: Pre-bid Conference.

- 2.1 The Solicitation for Bids will indicate the date, time, and place for a pre-bid conference if one is to be held.
- 2.2 In some instances, a mandatory pre-bid conference will be announced. In such instances, each prospective Bidder must be present at the meeting or represented by a full-time company employee or an independent contractor authorized to represent the company. Failure to comply will disqualify that Bidder. Attendees must arrive on time and sign in no later than fifteen minutes after the scheduled meeting time. Exceptions to the sign-in requirement may be granted by the OCCC Project Manager for unusual or unforeseen conditions, in the OCCC Project Manager's sole discretion.
- 2.3 **Verbal communications at any pre-bid meeting are non-binding.** All clarifications or changes to the bidding documents will be memorialized in written addenda. Such addenda will be posted on the OCCC Purchasing Department Webpage. Bidders are responsible to check the Webpage for all updates and addenda.

ARTICLE 3: Bidder's Representations and Prequalification.

- 3.1 By submitting a Bid, the Bidder represents that:
 - 3.1.1 The Bidder has read and understands the Bidding Documents;

3.1.2 The Bidder has toured the site, is familiar with the local conditions affecting performance of the work, and has a plan to implement the requirements of the proposed contract documents under existing site conditions; and

3.1.3 The submitted Bid is based upon the materials, systems and equipment required by the Bidding Documents without exception.

3.2 **Pre-qualification of Bidders and Special Requirements.** The Solicitation for Bids / Bid Notice indicates the General Contractors, Sub-Contractors, and Material Suppliers that require pre-qualification in order to bid on the project. When designated on the Solicitation for Bids / Bid Notice, the General Contractors, Sub- Contractors, and Material Suppliers shall submit a completed OCCC Form, Contractor's Qualification Statement, describing required specialized experience, for approval by the Owner, fourteen (14) calendar days prior to the Bid Date unless stated otherwise. Printed or electronic forms are available on request from the Owner.

ARTICLE 4: Bidding Documents.

4.1 Copies.

4.1.1 Bidders may obtain complete sets of the Bidding Documents from the OCCC Purchasing Department Webpage.

4.1.2 Bidders shall ensure submission of complete sets of Bidding Documents. Bidders shall be responsible for any omissions or errors due to submission of incomplete Bidding Documents or sets thereof.

4.2 Interpretation or correction of Bidding Documents:

4.2.1 Bidders shall promptly notify OCCC of any ambiguity, issue or mistake that may be discovered within the Bidding Documents or related to the site.

4.2.2 Any change, addition, clarification, or other amendment concerning the Bidding Documents will be in writing and posted on the Purchasing Department Webpage in an Addendum. Communications in any other form concerning any change, addition, clarification, or other amendment to the Bidding Documents shall not be binding in any manner and Bidders may not rely on such communications.

4.3 Substitutions.

4.3.1 When name brands are used to describe materials, products, or equipment, the name brands are used only to establish a standard of required function, dimension, appearance and quality to be met by any properly proposed substitution.

4.3.2 No substitutions for bidding will be considered unless written request for approval has been received by the OCCC at least ten (10) calendar days prior to the date for receipt of Bids, if not otherwise stated in the Bidding Documents. Each request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in any other materials, equipment or other work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the proposer. OCCC's decision of approval or disapproval of a proposed substitute shall be final.

4.3.3 If OCCC approves any proposed substitution prior to receipt of Bids, such approval will be set forth in a written Addendum and published on the Webpage. Approvals in any other form shall not be valid and Bidders may not rely upon them.

4.3.4 Substitutions after the contract award shall not be authorized unless expressly addressed the contract documents.

4.4 Addenda.

4.4.1 Addenda will be posted on the OCCC Purchasing Department Webpage. Bidders are responsible to check the Webpage to ensure they have all information before submitting bids.

4.4.2 Addenda will not be issued any later than one business day after the Deadline for Bidder Questions contained on the Bid Notice, except for withdrawal of the request for bids or a change to the Deadline for Bid Submission or Bid Opening dates.

4.4.4 Bidders are responsible to ensure they have reviewed all Addenda and acknowledge review on the Bid Form.

ARTICLE 5: Bidding Procedure.

5.1 Completion of Bids.

5.1.1 Bidders shall complete all blanks on the bid forms.

5.1.3 Sums shall be written in both words and figures, and if they are inconsistent, the amount written in words shall govern.

5.1.4 Interlineation, alteration or erasure of the Bidder's entries on the bid form is not permitted unless the Bidder initials them.

5.1.5 All requested Alternates shall be bid. If no change to the Base Bid is required, enter "No Change".

5.1.6 Each copy of the Bid shall be signed by the person legally authorized to bind the Bidder to a contract.

5.2 Bid Security.

5.2.1 Each Bid must be accompanied by a certified or cashier's check, irrevocable letter of credit, or bid bond for five percent (5%) of the total amount of the Bid and all Alternates (collectively, Bid Securities) as a guarantee that, if awarded the contract, the Bidder will execute the contract and furnish bonds and insurance as required herein. An Irrevocable Bid Letter of Credit used as bid security must be issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation on a form obtained from OCCC. Bonds used as Bid Securities must be issued by companies authorized to conduct business in Oklahoma. All Bid Securities must be delivered to the Purchasing Department of OCCC prior to the Bid Submission Deadline. OCCC reserves the right to hold the bid security of the three (3) lowest Bidders until the successful Bidder has executed the contract and furnished the required bonds and proof of insurance. No bid security is required if the total of the Base Bid and Alternates is for \$100,000.00 or less for a public construction contract or \$50,000.00 or less for a construction management trade contract or subcontract.

5.2.2 Failure of the successful Bidder to enter into a contract within the time specified in 5.2.3 of these instructions shall result in forfeiture to OCCC of the cost of republication of Notice to Bidders, all actual expenses incurred by reason of the Bidder's default and the difference between the low Bid of the defaulting Bidder and the amount of the bid of the Bidder to whom the contract is subsequently awarded, but not to exceed the amount of the Bid Security placed with OCCC.

5.2.3 An extension of sixty (60) days may be given to the normal twenty (20) days permitted Bidders to return their contracts when the Bidder experiences issues in obtaining bonds. The Bidder must submit a written request before OCCC may authorize any extension.

5.3 Submission of Bids.

5.3.1 All Bids must be submitted by mail or in person to the OCCC Purchasing Department, John Massey Center, Rm 140, 7777 S. May Ave., Oklahoma City, OK 73159. No bids will be accepted electronically. The Bid Security described above must be included with the Bid and delivered to the OCCC Purchasing Department no later than the Bid Submission Deadline.

5.3.2 The Bidder shall assume full responsibility for timely completion of the bid submission.

5.3.3 Bids received more than ninety-six (96) hours before, excluding weekends and holidays, as well as Bids received after the time set for submission of Bids, will not be considered and will be excluded as non-responsive.

5.4 Modification, withdrawal or cancellation of Bids.

5.4.1 A Bid may not be modified, withdrawn or canceled by the Bidder after the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting a Bid.

5.4.2 Withdrawn Bids may be resubmitted up to the time designated for the submission of Bids provided they are in complete conformance with these Instructions to Bidders.

ARTICLE 6: Consideration of Bids.

6.1 Bids will be opened publicly immediately after the time set for Bid Openings at Oklahoma City Community College, 7777 S. May Ave., John Massey Center, Rm 131, Oklahoma City, OK 73159. The Bids will be read aloud and abstracted.

6.2 Rejection of Bids.

6.2.1 OCCC has the right to reject any or all Bids and to reject a Bid not accompanied by any required bid security, or by other data required by the Bidding Documents, or to reject a Bid which is in any way incomplete or irregular.

6.2.2 OCCC will reject any Bid that is not signed by the authorized representative of the Bidder or does not contain the certification included in the Bidding Documents. The certification must be properly signed by the Bidder.

6.2.3 OCCC may reject bids that are materially unbalanced as non-responsive. A bid is materially unbalanced when it contains prices significantly less than cost for some work and prices which are significantly higher in relation to cost for other work. Further, if reasonable doubt exists concerning whether a bid will actually result in the lowest overall cost to OCCC or if a bid is so unbalanced that it appears to require advance payment, such bids may, and likely will be, rejected.

6.3 Award of contract.

6.3.1 It is the intent of OCCC to award a contract to the lowest responsible Bidder provided the Bid was submitted in accordance with the requirements of the Bidding Documents and does not exceed the OCCC funds available. OCCC shall have the right to waive any informality or irregularity in any Bid or Bids received and to accept the Bid or Bids that are in the best interest of OCCC.

6.3.2 OCCC has the right to accept Alternates in any combination and determine the lowest responsible Bidder from the sum of the Base Bid and/or Alternates that may be accepted.

6.3.3 Time is of the essence in all OCCC work.

ARTICLE 7: Surety Bonds.

7.1 Bond requirements.

7.1.1 All bonds are for the full value of the contract and shall be issued by a surety company authorized by the Oklahoma Insurance Department to do business in the State of Oklahoma and approved by OCCC.

7.1.2 A bond is required for all contracts with a value exceeding one hundred thousand dollars (\$100,000.00) for public construction projects or exceeding fifty thousand dollars (\$50,000.00) for construction management trade contracts or subcontracts that includes coverage for (1) Performance - to insure the completion of the work in accordance with the contract documents in the time stipulated; (2) Defect - to provide for defects in construction or materials for a period of one (1) year from the date of acceptance of the completed work; and (3) Payment - to assure OCCC is protected from the actions of subcontractors, suppliers and employees for unpaid debts of the contractor.

7.1.3 All bonds must be on the forms prescribed and issued by OCCC to the successful Bidders with the contract.

7.1.4 Irrevocable Letters of Credit may be used as a substitute for the bonds required in 7.1.2 of these instructions. The letters of credit must be issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation on forms obtained from OCCC.

ARTICLE 8: Insurance Requirements.

8.1 The contractor shall carry on his work in accordance with the Worker's Compensation Act, Title 85A of the Oklahoma Statutes, and shall not reject the provisions thereof during the life of the contract. A certificate of coverage must be returned with the contract.

8.2 General Liability to include contractual liability and Automobile Liability insurance in the amount of not less than \$100,000/\$300,000 are required during the life of the contract.

8.3 Builder's Risk insurance of not less than \$50,000/\$100,000 shall be carried by the contractor during the life of the contract.

8.4 Certificates of all required coverages must be returned with the contract.

ARTICLE 9: Form of Contract Agreement.

9. A sample of the contract form to be used as the agreement between OCCC and the successful Bidder is contained in the Bidding Documents. Bidder substitutions, changes, alterations or interlineation to the form of the contract are prohibited.

ARTICLE 10: Labor.

10. The Contractor shall comply with all State and Federal Laws in the employment and payment of labor.

ARTICLE 11: Documents of Construction.

11. Any additional sets of plans and specifications will be the responsibility of the Contractor.

END OF INSTRUCTIONS TO BIDDER



General Construction Contract Conditions

ARTICLE 1: General Provisions.

1.1 Basic Definitions.

1.1.1 **The Contract Documents.** The Contract Documents consist of the agreement between OCCC and the Contractor (hereinafter called the Contract), Conditions of the Contract (General, Supplementary and other Conditions), Drawings and Specifications, along with Addenda issued prior to execution of the Contract, and other documents listed in the Contract and Change Orders issued after execution of the Contract. A Change Order is a written modification of the Contract and must be approved by the Board of Regents of Oklahoma City Community College and signed by both parties.

1.1.2 **The Contract.** The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties thereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract shall be amended or modified only by a Change Order. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Consultant, if any, and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor or (3) between any persons or entities other than the Owner and Contractor. The Consultant shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Consultant's duties.

1.1.3 **The Work.** The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

1.1.4 **The Project.** The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate Contractors.

1.1.5 **The Drawings.** The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, and includes plans, elevations, sections, details, schedules, diagrams and drawing notes.

1.1.6 **The Specifications.** The Specifications are located in the Project Manual and are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services. Where there is a discrepancy between the Drawings and the Specifications, the Specifications will take precedence. Such discrepancies must be brought to the attention of the Owner's Representative (Consultant) and the Owner before execution of any work related to the discrepancies.

1.2 Execution, Correlation and Intent.

1.2.1 The Contract Documents shall be signed by the Owner and Contractor as provided in the Contract.

1.2.2 Execution of the Contract by the Contractor is a representation that the Contractor has toured the site, is acquainted with local conditions affecting the Work to be performed, and has considered the impact of personal observations on completing the requirements of the Contract Documents.

1.2.3 The Contract Documents are to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

1.2.4 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

1.2.5 Unless otherwise stated in the Contract Documents, words which have well known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.3 **Ownership and Use of Drawings and Specifications.**

1.3.1 The Drawings, Specifications and other documents prepared by OCCC or its Consultant are the property of OCCC. The Contractor may retain one contract record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Consultant. All copies of them, except the Contractor's record set, shall be returned or suitably accounted for to the Owner, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Consultant, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents appropriate to and for use in the execution of their Work under the Contract Documents.

1.3.2 The Contractor shall provide all copies of the Drawings and Project Manuals required to complete the Work. The Owner will provide an electronic copy of the documents to the reproduction company for printing purposes.

1.4 Capitalization. Terms capitalized in these General Conditions include those which are (1) specifically defined or (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs and Clauses in the document.

1.5 Interpretation. In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an", but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

ARTICLE 2: Owner.

2.1 **Definition.** The Owner is Oklahoma City Community College. The term "Owner" means the Owner or the Owner's authorized representative.

2.2 **Owner's Right to Stop Work.** If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or persistently fails to carry out Work in accordance with the Contract Documents, the Owner, by written order, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.

2.3 **Owner's Right to Carry Out the Work.** If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may after such seven-day period give the Contractor a second written notice to correct such deficiencies within a second seven-day period. If the Contractor within such second seven-day period after receipt of such second notice fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Consultant's additional services and expenses made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such payments, the Contractor shall pay the difference to the Owner.

2.4 **Owner's Right to Reject Work.** The Owner shall have the authority to reject Work that does not conform to the Contract Documents.

2.5 **Owner's Right to Approve Payment Applications.** The Owner shall have the right to review, evaluate and approve or reject Applications for Payment and Certificates for Payment.

ARTICLE 3: Contractor.

3.1 **Definition.** The Contractor is the person or entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

3.2 Review of Contract Documents and Field Conditions by Contractor.

3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and shall at once report to the Consultant or Owner any errors, inconsistencies or omissions discovered. The Contractor shall not be liable to the Owner or Consultant for damage resulting from errors, inconsistencies or omissions in the Contract Documents unless the Contractor recognized such error, inconsistency or omission and knowingly failed to report it to the Consultant. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Consultant, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the attributable costs for correction.

3.2.2 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Consultant at once.

3.3 Supervision and Construction Procedures.

3.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters.

3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Contractor.

3.3.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Consultant in the Consultant's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

3.3.4 The Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work.

3.4 Labor and Materials.

3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

3.5 **Warranty.** The Contractor warrants to the Owner and Consultant that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Consultant, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.6 Taxes.

3.6.1 **Bid Pricing to Reflect OCCC's Tax Exempt Status.** Bid pricing shall be exclusive of taxes. OCCC is exempt from taxes, including State Sales Tax, Property (Ad Valorem) Tax, and Federal Excise Tax. The applicable sales tax exemption authority for public contracting is under the Oklahoma Tax Code, title 68, subsection 1356.10 of the Oklahoma Statutes and the project is sales tax exempt.

3.7 Permits, Fees and Notices.

3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for permits, fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of

the Contract and which are legally required when Bids are received. Building permits from local municipalities are not required for Work on OCCC owned lands except where the Work requires connection to utilities owned by the local municipality.

3.7.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work.

3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Consultant and Owner in writing, and necessary changes shall be accomplished by appropriate Change Order.

3.7.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Consultant and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs.

3.8 Allowances.

3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection.

3.8.2 Unless otherwise provided in the Contract Documents:

a. materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work.

b. allowances shall cover the cost to the Contractor of materials and equipment delivered at the site, tax exempt, and less applicable trade discounts.

c. Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances.

d. Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order.

3.9 **Superintendent.** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The Contractor shall submit the name and experience qualifications of the proposed superintendents to the Owner for approval. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

3.10 Contractor's Construction Schedule.

3.10.1 Prior to the Work Order or Notice to Proceed being issued, the Contractor shall prepare and submit for the Owner's and Consultant's information a "90 Day Construction Schedule" which shall be used to monitor the progress of the Work during the first ninety (90) calendar days of the Contract. During this ninety-day period, the Contractor shall prepare and submit the "Construction Schedule" for the entire project, including the "90-day Project Schedule", which shall be used to monitor the remainder of the Work. The overall duration of the "Construction Schedule" shall coincide with and shall not exceed the time limits specified in the Contract Documents. During construction, if the progress of the Work does not meet the "Construction Schedule" the Contractor shall revise and resubmit the schedule for the delayed activities within 21 days of any delayed activity. Resubmitted schedules shall indicate the revised times for each activity and shall not exceed the time limits specified in the Contract Documents and any approved Change Orders. Failure to resubmit the delayed activity or maintain a current "Construction Schedule" shall be considered a breach of the Contract.

3.10.2 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Consultant.

3.10.3 Failure of the Contractor to construct the Work in accordance with the "90-Day Construction Schedule" or the "Construction Schedule" shall be considered a substantial breach of the Contract Documents and the Owner may terminate the Contract in accordance with Section 14.2. All "Float" time in the "Construction Schedule" shall be available to the Owner for the Owner's use.

3.10.4 The Contractor shall prepare and keep current, for the Consultant's or Owner's approval, a schedule of submittals that is coordinated with the Contractor's "Construction Schedule" and allows the Consultant reasonable time to review submittals.

3.11 Documents and Samples at the Site.

3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, Addenda, Change Orders and other Contract Documents, in good order and marked currently to record changes and selections made during construction and, in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Consultant and shall be delivered to the Consultant for submittal to the Owner upon completion of the Work.

3.11.2 Additionally, the Contractor shall maintain at the site the Drawings that have been stamped and approved by the State Fire Marshal. This approved set of Drawings is only for the use of the State Fire Marshal's office.

3.12 Shop Drawings, Product Data and Samples.

3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate, for those portions of the Work for which submittals are required, the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Consultant is subject to the limitations of Subparagraph 4.2.7.

3.12.5 The Contractor shall review, approve and submit to the Consultant Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate Contractors. Submittals made by the Contractor that are not required by the Contract Documents may be returned without action.

3.12.6 The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Consultant. Such Work shall be in accordance with approved submittals.

3.12.7 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

3.12.8 The Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Consultant's approval of Shop Drawings, Product Samples or similar submittals unless the Contractor has specifically informed the Consultant in writing of such deviation at the time of submittal and the Consultant has given written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Consultant's approval thereof.

3.12.9 The Contractor shall direct specific attention, in writing, or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Consultant on previous submittals.

3.12.10 Informational submittals upon which the Consultant is not expected to take responsive action may be so identified in the Contract Documents.

3.12.11 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Consultant shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 Use of Site. The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

3.14 Cutting and Patching.

3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor

shall not cut or otherwise alter such construction by the Owner or a separate Contractor except with written consent of the Owner and of such separate Contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate Contractor the Contractor's consent to cutting or otherwise altering the Work.

3.15 Cleaning Up.

3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project site, all waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

3.16 **Access to Work.** The Contractor shall provide the Owner and Consultant access to the Work in preparation and progress wherever located.

3.17 **Royalties and Payments.** The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of patent rights and shall hold the Owner and Consultant harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Consultant.

3.18 Indemnification.

3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Consultant, Consultant's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than the Work itself including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.

3.18.2 In claims against any person or entity indemnified under this Paragraph 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.18 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workmen's compensation acts.

ARTICLE 4: Administration of the Contract.

4.1 Owner's Representative (Consultant).

4.1.1 The Consultant is the person lawfully licensed to practice architecture or engineering or an entity lawfully practicing architecture or engineering identified as such in the Contract or a person who is employed by OCCC and designated as the Consultant, and is referred to throughout the Contract Documents as if singular in number. The term "Consultant" means the Consultant or the Consultant's authorized representative acting in the capacity as the Owner's Representative. The Consultant on a Project may be an employee of OCCC (may also be referred to as a Supervisory Official) or may be from the private sector.

4.1.2 Duties, responsibilities and limitations of authority of the Consultant as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner and Consultant. Consent shall not be unreasonably withheld.

4.1.3 In case of termination of employment of the Consultant, the Owner shall appoint a Consultant against whom the Contractor makes no reasonable objection and whose status under the Contract Documents shall be that of the former Consultant.

4.2 Consultant's Administration of the Contract.

4.2.1 The Consultant will provide administration of the Contract as described in the Contract Documents, and will be the Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the correction period described in Paragraph 12.2. The Consultant will advise and consult with the Owner. The Consultant will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with other provisions of the Contract.

4.2.2 The Consultant and sub-consultants will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Consultant will not be required to make exhaustive or continuous on-site inspections to check quality or quantity of the Work. Based on onsite observations, the Consultant will keep the Owner informed of progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work.

4.2.3 The Consultant will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraph 3.3. The Consultant will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Consultant will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2.4 **Communications Facilitating Contract Administration.** Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate through the Consultant. Communications by and with the Consultant's consultants shall be through the Consultant. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

4.2.5 Based on the Consultant's observations and evaluations of the Contractor's Applications for Payment, the Consultant will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

4.2.6 The Consultant will have authority to reject Work that does not conform to the Contract Documents. Whenever the Consultant considers it necessary or advisable for implementation of the intent of the Contract Documents, the Consultant will have authority to require additional inspection or testing of the Work in accordance with Subparagraphs 13.5.2 and 13.5.3 whether or not such Work is fabricated, installed or completed. However, neither this authority of the Consultant nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Consultant to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

4.2.7 The Consultant will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Consultant's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate Contractors, while allowing sufficient time in the Consultant's professional judgment to permit adequate review. 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 Contractor as required by the Contract Documents. The Consultant's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs 3.3, 3.5 and 3.12. The Consultant's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Consultant, of any construction means, methods, techniques, sequences or procedures. The Consultant's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

4.2.8 When modifications to the Contract or Contract Documents are being requested, the Contractor shall prepare and submit a Change Order to the Consultant. If approved by the Consultant, the "Change Order" shall be forwarded to the Owner for OCCC Board of Regents review and approval. The Work described in the approved Change Order may be started by the Contractor upon receipt of the approved "Change Order".

4.2.9 The Consultant will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

4.2.10 If the Owner and Consultant agree, the Consultant will provide one or more project representatives to assist in carrying out the Consultant's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

4.2.11 The Consultant will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the Owner or Contractor. The Consultant's response to such requests will be made with reasonable promptness and within any agreed time limits. If no agreement is made concerning the time within which interpretations required of the Consultant shall be furnished in compliance with this Paragraph 4.2, then delay shall not be

recognized on account of failure by the Consultant to furnish such interpretations until 15 days after written request is made for them.

4.2.12 Interpretations and decisions of the Consultant will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings.

4.3 **Claims and Disputes.**

4.3.1 **Definition.** A Claim is a demand or assertion by the Contractor seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be made by submitting a Change Order.

4.3.2 **Decision of Consultant.** Claims, including those alleging an error or omission by the Consultant, shall be referred initially to the Consultant for action as provided in Paragraph 4.4. A decision by the Consultant, as provided in Subparagraph 4.4.4, shall be required as a condition precedent to consideration by the Owner.

4.3.3 **Time Limits on Claims.** Claims must be made within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

4.3.4 **Continuing Contract Performance.** Pending final resolution of a Claim, including protest, except as otherwise agreed in writing or with exception to 9.6.7, Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make monthly progress payments in accordance with the Contract Documents.

4.3.5 **Waiver of Claims: Final Payment.** The making of final payment shall constitute a waiver of Claims except those arising from:

- a. liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- b. failure of the Work to comply with the requirements of the Contract Documents; or
- c. terms of special warranties required by the Contract Documents.

4.3.6 **Claims for Concealed or Unknown Conditions.** If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then written notice by the Contractor shall be given to the Consultant and Owner promptly before conditions are disturbed and in no event later than seven (7) days after first observance of the conditions. The failure by the Contractor to give such written notice of the discovered concealed or unknown condition prior to executing any additional Work shall constitute a waiver of any claim for additional compensation or time extension. Upon receipt of a written notice, the Consultant will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. Any change in the Contract Sum or Contract Time shall only be made by the execution of a Change Order. If the Consultant determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Consultant shall so notify the Owner and Contractor in writing, stating the reasons. Claims by the Contractor in opposition to such determination must be made within 21 days after the Consultant has given notice of the decision.

4.3.7 **Claims for Additional Cost.** If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Paragraph 10.3. If the Contractor believes additional cost is involved for reasons including but not limited to

- (1) a written interpretation from the Consultant,
- (2) an order by the Owner to stop the Work where the Contractor was not at fault,
- (3) a written order for a minor change in the Work issued by the Consultant,
- (4) failure of payment by the Owner,
- (5) termination of the Contract by the Owner,
- (6) Owner's suspension, or

(7) other reasonable grounds,

Claim shall be filed in accordance with the procedure established herein. Any change in the Contract Sum shall only be made by the execution of a Change Order.

4.3.8 Claims for Additional Time

a. If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include a description of the probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. Any change in the Contract Time shall only be made by the execution of a Change Order.

b. The Contract construction time was determined by the estimated construction time with additional time added for project days lost due to typical adverse weather conditions in the project vicinity. Consideration was given to the projected starting date and an anticipated schedule of work. Adverse weather conditions include abnormal precipitation, temperature and wind conditions. Claims for additional time may be made when the actual weather conditions at the project site cause delay days that exceed the days indicated below.

Month/Work days lost included in Contract Time

Oklahoma City, OK

January 8	February 8	March 5	April 5	May 3	June 3	July 1	August 1
September 1	October 2	November 3	December 4				

Total 44

c. All claims for additional days that exceed the workdays lost as indicated above shall be submitted with documentation from a recognized climatological source such as the Oklahoma Climatological Survey (www.mesonet.ou) or the National Oceanic & Atmospheric Administration (NOAA) (www.noaa.gov). Other sources must be submitted to the Consultant and Owner for approval.

d. All claims for additional time due to adverse weather conditions that exceed the days indicated on the above table shall be submitted with the next monthly payment application.

e. Weather conditions and lost workdays shall be recorded daily by the Contractor and submitted to the Consultant with the monthly payment applications.

f. Unused lost weather days, as indicated in paragraph 4.3.8.2, included in the Contract time shall be used by the Owner to offset lost time for other approved delay claims.

4.3.9 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Subparagraphs 4.3.7 or 4.3.8.

4.4 Resolution of Claims and Suits.

4.4.1 The Consultant will review Claims and take one or more of the following preliminary actions within ten days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) reject the Claim in whole or in part, stating reasons for rejection, (3) recommend approval of the Claim by the Owner or (4) suggest a compromise. The Consultant may also, but is not obligated to notify the surety, if any, of the nature and amount of the Claim.

4.4.2 If a Claim has been resolved, the Consultant will prepare or obtain appropriate documentation.

4.4.3 If a Claim has not been resolved, the Contractor shall, within ten days after the Consultant's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Consultant, (2) modify the initial Claim or (3) notify the Consultant that the initial Claim stands.

4.4.4 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented to the Owner by the Consultant or Contractor, the Owner will notify the Consultant and Contractor in writing that the Owner's decision will be made within seven days. Upon expiration of such time period, the Owner will render to the parties the Owner's written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there

appears to be a possibility of a Contractor's default, the Owner may, but is not obligated to, notify, the surety and request the surety's assistance in resolving the controversy.

ARTICLE 5: Subcontractors.

5.1 Definitions.

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 Award of Subcontracts and other Contracts for Portions of the Work.

5.2.1 The Contractor, within seven (7) days, shall furnish in writing to the Owner, through the Consultant, the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Consultant will promptly reply to the Contractor in writing stating whether or not the Owner or the Consultant, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Consultant to reply promptly shall constitute notice of no reasonable objection.

5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Consultant has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

5.2.3 If the Owner or Consultant has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Consultant has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued. However, no increase in the Contract Sum shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

5.2.4 The Contractor shall not change a Subcontractor, person or entity previously selected if the Owner or Consultant makes reasonable objection to such change.

5.3 **Sub Contractual Relations.** By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and Consultant. Each subcontract agreement shall preserve and protect the rights of the Owner and Consultant under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub- subcontractors.

5.4 Contingent Assignment of Subcontracts.

5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:

- a. assignment is effective only after termination of the Contract by the Owner for cause pursuant to Paragraph 14.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing; and
- b. assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

5.4.2 If the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted.

ARTICLE 6: Construction by Owner or by Separate Contractor(s).

6.1 **Owner's Right to Perform Construction and to Award Separate Contracts.**

6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided elsewhere in the Contract Documents.

6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner- Contractor Contract.

6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule and Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract.

6.2 Mutual Responsibility.

6.2.1 The Contractor shall afford the Owner and separate contractors' reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Consultant apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2.5.

6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Paragraph 4.3 provided the separate contractor has reciprocal obligations.

6.2.6 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Paragraph 3.14.

6.3 **Owner's Right to Clean Up.** If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Consultant determines to be just.

ARTICLE 7: Changes in the Work.

7.1 Changes.

7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Section 7 and elsewhere in the Contract Documents.

7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Consultant; a Construction Change Directive requires agreement by the Owner and Consultant and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Consultant alone.

7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order.

7.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices may be equitably adjusted by negotiation.

7.1.5 A Change Order shall be submitted by the Contractor and approved and executed by the Consultant, and Owner before any Work, including Work using unit prices, is started.

7.2 Change Orders.

7.2.1 A Change Order is a written instrument prepared by the Consultant and signed by the Owner, Contractor and Consultant, stating their agreement upon all of the following:

- a. a change in the Work;
- b. the amount of the adjustment in the Contract Sum, if any; and
- c. the extent of the adjustment in the Contract Time, if any.

7.2.2 The cost or credit to the Owner resulting from a change in the work shall be determined by the Contractor completing Change Order that requires a listing of:

- a. all materials with the cost per item;
- b. all labor with the number and cost of hours;
- c. all equipment used with an hourly cost;
- d. cost of insurance and bonds;
- e. cost of fringe benefits;
- f. overhead costs, which are limited to 15%; and
- g. profit which is limited to 10%.

7.2.3 The Contractor must include a breakdown of costs for each Subcontractor similar to the requirements in Paragraph 7.2.2.

7.2.4 In the case where direct costs are incurred by a Sub- contractor (or a Sub sub-contractor) fees for overhead and profit shall be limited to 15% and 10% respectively and an additional fee may be applied by the Contractor (and Sub-contractor in the case of a Sub sub-contractor) not to exceed 15% (includes both overhead and profit) of the increase in cost. Bond cost, insurance cost, social security taxes (FICA), workmen's compensation, employee fringe benefits and other taxes may be added by the contractors.

7.3 Construction Change Directives.

7.3.1 A Construction Change Directive is a written order prepared by the Consultant and signed by the Owner and Consultant, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- a. mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- b. unit prices stated in the Contract Documents or subsequently agreed upon;
- c. cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- d. as provided in Subparagraph 7.3.6.

7.3.4 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Consultant of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

7.3.5 A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in the Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Consultant on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowable for overhead and profit. In such case, and also under Clause 7.3.3.3, the Contractor shall keep and present, in such form as the Consultant may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 7.3.6 shall be limited to the following:

- a. costs of labor, including social security and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- b. costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- c. rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- d. costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- e. additional costs of supervision and field office personnel directly attributable to the change.

7.3.7 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Consultant. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured based on net increase, if any, with respect to that change.

7.3.8 Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Consultant will make an interim determination for purposes of monthly certification for payment for those costs. That determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a claim in accordance with Article 4.

7.3.9 When the Owner and Contractor agree with the determination made by the Consultant concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

7.4 Minor Changes in the Work. The Consultant will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 8: Time.

8.1 Definitions.

8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments by Change Order, allotted in the Contract Documents for Substantial Completion of the Work.

8.1.2 The date of commencement of the Work is the date established in the Notice to Proceed/WORK ORDER. The date shall not be postponed by the failure of acts of the Contractor or of persons or entities for whom the Contractor is responsible.

8.1.3 The date of Substantial Completion is the date certified by the Consultant and approved by the Owner in accordance with Paragraph 9.8.

8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

8.2 Progress and Completion.

8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Contract, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the date of commencement as established by the WORK ORDER issued by the Owner.

8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

8.3 Delays and Extensions for Time.

8.3.1 If the Contractor is delayed at any time in progress of the Work by an act or neglect of the Owner or Consultant, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending hearing results, or by other causes which the Consultant determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Consultant and Owner may determine.

8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Paragraph 4.3.

8.3.3 An extension of the Contract Time is the sole and exclusive remedy available to the Contractor, in the event of delays described in Paragraph 8.3. In no event, and under no circumstances, shall the Contract Sum be increased, nor shall the Contractor claim, recover or receive payment for any delay to the Project, whether or not such delayed event is in the critical path of the construction schedule.

ARTICLE 9: Payments and Completion.

9.1 **Contract Sum.** The Contract Sum is stated in the Contract and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. The Contract Sum shall only be changed by a Change Order.

9.2 **Schedule of Values.** Before the first Application for Payment is submitted, the Contractor shall submit to the Consultant and Owner a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Consultant and Owner may require. Each value indicated on the Schedule of Values shall be the exact amount of each subcontract or portion of the Work it represents. This schedule, unless objected to by the Consultant or Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment.

9.3 Applications for Payment (Contract's Invoice).

9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Consultant an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized and supported by such data substantiating the Contractor's right to payment as the Owner or Consultant may require, such as copies of requisitions from Subcontractors and material suppliers.

a. Up to five percent (5%) of all partial payments made shall be withheld as retainage.

b. All payment applications must be on the Owner's form, "Contractor's Invoice".

Contractor's Invoice.

c. Such applications shall not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or other reason.

9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location properly bonded or insured as a warehouse for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. All stored materials shall be protected from weather conditions by properly secured methods. The Owner shall not pay for stored materials that are not properly protected.

9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

9.4 Certificates for Payment.

9.4.1 The Consultant will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Consultant determines is properly due, or notify the Contractor and Owner in writing of the Consultant's reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1. The Owner shall have the right to review and approve the Certificates for Payment.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Consultant to the Owner, based on the Consultant's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents.

9.5 Decisions to Withhold Certification.

9.5.1 The Consultant or Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Consultant's opinion the representations to the Owner required by Subparagraph 9.4.2 cannot be made. If the Consultant is unable to certify payment in the amount of the Application, the Consultant will notify the Contractor and Owner as provided in Subparagraph 9.4.1. If the Contractor and Consultant cannot agree on a revised amount, the Consultant will promptly issue a Certificate for Payment for the amount for which the Consultant is able to make such representations to the Owner. The Consultant may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Consultant's opinion to protect the Owner from loss because of:

- a. defective Work not remedied;
- b. third party claims filed or reasonable evidence indicating probable filing of such claims;
- c. failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- d. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- e. damage to the Owner or another Contractor;
- f. reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- g. persistent failure to carry out the Work in accordance with the Contract Documents.

9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

9.6 Progress Payments.

9.6.1 After the Consultant has issued a Certificate for Payment, the Owner shall review for approval and make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Consultant.

9.6.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

9.6.3 The Consultant will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Consultant and Owner on account of portions of the Work done by such Subcontractor.

9.6.4 Neither the Owner nor Consultant shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

9.6.5 Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6.2, 9.6.3 and

9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

9.6.7 Progress payments shall be discontinued after the Contract Time, including approved Change Orders, has been exceeded. No additional progress payments will be made until Substantial Completion of the Work.

9.7 Failure of Payment.

9.7.1 If the Consultant does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty days after the date of receipt from the Consultant, the Contractor may be entitled to interest on the certified amount.

9.7.2 Interest shall be paid to the Contractor at the prevailing state rate on the final payment if the payment is delayed more than thirty (30) days after the Contract is completed, accepted, and all required materials, certificates and other required documentation have been provided to the Owner.

9.8 Substantial Completion.

9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Consultant a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include all items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Consultant will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Consultant's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract Documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Consultant. The Contractor shall then submit a request for another inspection by the Consultant to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Owner will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

9.8.3 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Consultant, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

9.9 Partial Occupancy or Use.

9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is authorized by the Owner. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, Retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Consultant as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Consultant.

9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Consultant shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.10 Final Completion and Final Payment.

9.10.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Consultant will promptly make such inspection and, when the Consultant finds the Work acceptable under the Contract Documents and the Contract fully performed, the Consultant will promptly issue a final Certificate for Payment stating that to the best of the Consultant's knowledge, information and belief, and on the basis of the Consultant's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and

payable. The Consultant's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Consultant an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied.

9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Consultant so confirms, the Owner shall, upon application by the Contractor and certification by the Consultant, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Consultant prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims. The making of final payment shall constitute a waiver of claims by the Owner as provided in Subparagraph 4.3.5.

9.10.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. Such waivers shall be in addition to the waiver described in Subparagraph 4.3.5.

9.10.5 When the Contract Time has been exceeded, including approved Change Orders, and claims for additional compensation are submitted by Consultants for extended services and approved by the Owner, the Owner shall deduct the amount of the claims from the final payment to the Contractor.

ARTICLE 10: Protection of Persons and Property.

10.1 Safety Precautions and Programs.

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

10.1.2 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and Consultant in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

10.1.3 The Contractor shall not be required (pursuant to Article 7) to perform any Work without consent relating to asbestos or polychlorinated biphenyl (PCB).

10.2 Safety of Persons and Property.

10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- a. employees on the Work and other persons who may be affected thereby;
- b. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- c. other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Consultant or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.

10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Consultant.

10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

10.3 Emergencies.

10.3.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Section 7.

ARTICLE 11: Insurance and Bonds.

11.1 Contractor's Liability Insurance.

11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the State of Oklahoma such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- a. claims under workmen's compensation;
- b. claims involving contractual liability
- c. liability insurance
- d. builder's risk insurance

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverage, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

11.1.3 Certificates of Insurance acceptable to the Owner shall be filed with the Owner with the executed Contract. These Certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner.

11.2 Performance Bond, Payment Bond and Defect Bond.

11.2.1 The Contractor is required to have three bonds for public construction contracts exceeding one hundred thousand dollars (\$100,000.00) or for construction management trade contracts or subcontracts exceeding fifty thousand dollars (\$50,000.00):

- a. Performance Bond for 100% of the value of the Contract to insure completion of the Work.
- b. Defect Bond for 100% of the value of the Contract to provide correction of defects in the construction and equipment for one year after acceptance of the Work; and
- c. Payment Bond for 100% of the Contract to assure that the Owner is protected from the action of Subcontractors, suppliers and employees for unpaid debts of the Contractor.

11.2.2 All bonds shall be on the forms prescribed and issued by the Owner. All bond submittals shall contain all terms and conditions of the bonds or applicable to the bonds.

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

11.2.4 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor or the Owner shall promptly furnish a copy of the bonds or of letters of credit or shall permit a copy to be made.

ARTICLE 12: Uncovering and Correction of Work.

12.1 Uncovering of Work.

12.1.1 If a portion of the Work is covered contrary to the Consultant's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Consultant, be uncovered for the Consultant's observation and be replaced at the Contractor's expense without change in the Contract Time.

12.1.2 If a portion of the Work has been covered which the Consultant has not specifically requested to observe prior to its being covered, the Consultant may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract Documents, the Contractor shall pay such costs unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

12.2 Correction of Work.

12.2.1 The Contractor shall promptly correct Work rejected by the Consultant or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Consultant's services and expenses made necessary thereby.

12.2.2 If, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established herein, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2 shall survive acceptance of the Work under the Contract and termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

12.2.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.3. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Consultant, the Owner may remove it and store the salvable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten days after written notice, the Owner may upon ten additional days written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Consultant's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate Contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

12.2.6 Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations that the Contractor might have under the Contract Documents. Establishment of the time period of one year as described in Subparagraph 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

12.3 Acceptance of Non-conforming Work.

12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

ARTICLE 13: Miscellaneous Provisions.

13.1 Governing Law.

13.1.1 The Contract shall be governed by the laws of the State of Oklahoma without reference to its conflict of law provisions and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws.

13.1.2 The parties submit to the exclusive jurisdiction of the District Courts of Oklahoma for Oklahoma County in any action or proceeding arising out of or relating to this Contract, with venue solely in Oklahoma City, Oklahoma.

13.2 Successors and Assigns.

13.2.1 The Contractor respectively binds itself, its partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract as a whole without written consent of the Owner. If the Contractor attempts to make such an assignment without such consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract.

13.3 Written Notice.

13.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by certified mail, return receipt requested, to the last business address known to the party giving notice.

13.4 Rights and Remedies.

13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

13.4.2 No action or failure to act by the Owner, Consultant or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

13.5 Tests and Inspections.

13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents shall be made at appropriate times as specified. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with the independent testing laboratory under separate contract with the Owner. The Contractor shall give the Consultant timely notice of when and where tests and inspections are to be made so the Consultant may observe such procedures. The Owner shall bear costs of tests, inspections or approvals.

13.5.2 If the Consultant or Owner determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 13.5.1, the Consultant will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Consultant of when and where tests and inspections are to be made so the Consultant may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 13.5.3.

13.5.3 If such procedures for testing, inspection or approval under Subparagraphs 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Contractor shall bear all costs made necessary by such failure including those of repeated procedures and compensation for the Consultant's services and expenses.

13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Consultant.

13.5.5 If the Consultant is to observe tests, inspections or approvals required by the Contract Documents, the Consultant will do so promptly and, where practicable, at the normal place of testing.

13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.6 Interest.

13.6.1 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as specified in current law.

ARTICLE 14: Termination or Suspension of the Contract.

14.1 Termination by the Contractor.

14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor, for any of the following reasons:

- a. issuance of an order of a court or other public authority having jurisdiction;
- b. an act of government, such as a declaration of national emergency, making material unavailable; or
- c. If repeated suspensions, delays or interruptions by the Owner as described in Paragraph 14.3 constitute, in the aggregate, more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

14.1.2 If one of the above reasons exists, the Contractor may, upon seven additional day's written notice to the Owner and Consultant, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

14.1.3 If the Work is stopped for a period of 60 days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days written notice to the Owner and the Consultant, terminate the Contract and recover from the Owner as provided in Subparagraph 14.1.2.

14.2 Termination by the Owner for Cause.

14.2.1 The Owner may terminate the Contract if the Contractor:

- a. persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- b. fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- c. persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
- d. repeatedly fails to comply with the terms and conditions of the Contract and Contract Documents; or
- e. otherwise is in substantial breach of a provision of the Contract Documents.

14.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- a. take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- b. accept assignment of subcontracts pursuant to Paragraph 5.4; and
- c. finish the Work by whatever reasonable method the Owner may deem expedient.

14.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Consultant's services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Consultant, upon application, and this obligation for payment shall survive termination of the Contract.

14.3 Suspension by the Owner for Convenience.

14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.2 An adjustment shall be made for increases in the cost of performance of the Contract, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:

- a. that performance is, was or would have been so suspended, delayed or interrupted by another cause which the Contractor is responsible; or
- b. that an equitable adjustment is made or denied under another provision of this Contract.

14.3.3 Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

14.4 Termination by the Owner for Convenience.

14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

- a. cease operations as directed by the Owner in the notice;
- b. take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- c. except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, costs incurred by reason of such termination, reasonable overhead expenses related to contract termination and reasonable profit on the Work not executed.

ARTICLE 15: Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12101). As a public entity, OCCC may only contract with other entities that comply with the ADA. Contractors, by signing the bid documents and entering into a contract with OCCC, signify that they are aware of and comply with the requirements of the ADA. Failure to comply with the ADA may require cancellation of a contract.

END OF GENERAL CONDITIONS



Sample Standard Agreement Form

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion.

AGREEMENT made as of the _____ day of _____, 20____.

BETWEEN THE OWNER:

Oklahoma City Community College
7777 S. May Ave.
Oklahoma City, OK 73159

PROJECT: Pothole and Concrete Repairs

Bid #2-SFB-22-025

AND THE CONTRACTOR:

(Company Name)

(City, State ZIP)

(Address)

(Email)

(Telephone Number)

In consideration of the mutual covenants and obligations contained herein, Owner and Contractor agree as set forth herein.

ARTICLE 1: The Contract Documents.

1.1 The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications and Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

ARTICLE 2: The Work of this Contract.

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

ARTICLE 3: Date of Commencement and Substantial Completion.

3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

3.2 The Contract Time shall be measured from the date of Notice to Proceed/Work Order.

3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than [Days in Words] () calendar days from the date of commencement, or as follows: None, subject to adjustments of this Contract Time as provided in the Contract Documents.

ARTICLE 4: Contract Sum.

4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be [Insert Amount in Words] Dollars (), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner.

None

4.3 Options. The following options shall remain available for 30 days after the contract date. After the expiration date, the cost of the option may be negotiated by the Owner and Contractor.

None

4.4 Unit prices, if any, are as follows:

None

ARTICLE 5: Payments.

5.1 Progress Payments.

5.1.1 Based upon Applications for Payment submitted to the Consultant by the Contractor and Certificates for Payment issued by the Consultant, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.1.3 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month or as follows:

—

5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Consultant may require. This schedule, unless objected to by the Consultant, shall be used as a basis for reviewing the Contractor's Application for Payment.

5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

a. Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedules of values, less retainage of five percent (5%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Subparagraph 7.3.8 of General Conditions of the Contract for Construction ("General Conditions");

b. Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of five percent (5%).

c. Subtract the aggregate of previous payments made by the Owner; and

d. Subtract amounts, if any, for which the Consultant has withheld or nullified a Certificate for Payment as provided in Subparagraph 9.5 of the General Conditions.

5.1.7 The progress payment amount determined in accordance with Subparagraph 5.1.6 shall be further modified under the following circumstances:

a. Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Consultant and Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and (state other requirements if any).

b. Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

5.1.8 Reduction or limitation of retainage, if any, shall be as follows: Refer to General Conditions, Subparagraph 9.3.1.a.

5.2 Final Payment.

5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

a. the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Subparagraph 12.2.2 of the General Conditions, and to satisfy other requirements, if any, which extend beyond final payment; and

b. a final Certificate for Payment has been issued by the Consultant and accepted by the Owner.

5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Consultant's final Certificate for Payment.

ARTICLE 6: Termination or Suspension.

6.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

6.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

ARTICLE 7: Miscellaneous Provisions.

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Document.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the legal state rate.

7.3 The Owner is Oklahoma City Community College; contact Chris Snow, Executive Director of Facilities Management.

7.4 The Owner's Representative (Consultant): [Insert Company Name and POC Name]

7.5 The Contractor's Representative is: [Insert Name].

7.6 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

7.7 Audits and Records Clause: As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any contract with Oklahoma City Community College, the Contractor agrees any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution of the resultant contract. The contractor is required to retain all records relative to this contract for the duration of the contract term and for a

period of three years following completion and/or termination of the contract. If an audit, litigation, or other actions involving such records are started before the end of the three-year period, the records are required to be maintained for three years from the date that all issues arising out of the action are resolved or until the end of the three year retention period, whichever is later.

7.8 Oklahoma Taxpayer and Citizen Protection Act of 2007. The Contractor certifies that it and all proposed subcontractors and suppliers, whether known or unknown at the time this contract is executed or awarded, will comply with the provisions of the Oklahoma Taxpayer and Citizen Protection Act of 2007 and participate in the Status Verification System. The Status Verification System is defined in the Oklahoma Statutes, Title 25, section 1312.

7.9 State of Oklahoma Governor's Executive Order 2012-01. Per the State of Oklahoma Governor's Executive Order 201201, filed February 6, 2012 and effective July 1, 2012, the use of any tobacco product shall be prohibited on any and all properties owned, leased or contracted for use by the State of Oklahoma, including but not limited to all buildings, land and vehicles owned, leased or contracted for use by agencies or instrumentalities of the State of Oklahoma.

ARTICLE 8: Enumeration of Contract Documents.

8.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

8.1.1 The Agreement is this executed edition of the Standard Agreement Form between Owner and Contractor.

8.1.2 The General Conditions are the current edition of the General Conditions of the Contract for Construction, as incorporated in the Project Manual.

8.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated [Insert Project Manual Date] and are as follows:

<u>Document</u>	<u>Date</u>
-----------------	-------------

8.1.4 The Specifications are those contained in the Project Manual dated [Insert Specifications Date] as in Subparagraph 8.1.3, and are as follows:

<u>Number</u>	<u>Title</u>	<u>Date</u>
---------------	--------------	-------------

8.1.5 The Drawings are as follows, and are dated [Insert Drawings Date] unless a different date is shown below:

<u>Number</u>	<u>Title</u>	<u>Date</u>
---------------	--------------	-------------

8.1.6 The Addenda, if any, are as follows:

<u>Number</u>	<u>Date</u>	<u>Pages</u>
---------------	-------------	--------------

8.1.7 Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

8.1.8 Other documents, if any, forming part of the Contract Documents are as follows:

Purchase Order

Notice to Proceed/Work Order [Enter Additional or DELETE]

This agreement is entered into as of the day and year first written above and is executed in at least four original copies, of which one is to be delivered to the Contractor, one to the Owner's Representative for use in the administration of the Contract, and the remainder to the Owner.

OWNER:

(Owner Signature)

(Date Signed)

(Title)

CONTRACTOR:

Non-Collusion Statement

The Authorized Representative for the Contractor, of lawful age, solemnly swears or affirms, under penalty of perjury, that (s)he is the duly authorized agent of the Company indicated herein under the contract which is attached to this statement, for the purpose of certifying the facts pertaining to the giving of things of value to government personnel in order to procure said Contract.

(S)He is fully aware of the facts and circumstances surrounding the making of the Contract to which this statement is attached and has been personally and directly involved in the proceedings leading to the procurement of said Contract: and

Neither the Company nor anyone subject to the Company's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the Contract to which this statement is attached.

(Authorized Representative Signature)

(Date Signed)

(Authorized Representative Printed Name)

(Authorized Representative Printed Title)

(EIN/TIN number)

Exhibits/Attachments list:



Oklahoma City Community College ■ Purchasing Department ■ John Massey Center ■ 7777 South May Avenue ■ Oklahoma City, OK 73159

POTHOLE CONCRETE REPAIRS -Project #2-RFP-22-025

Project Name and Number

PAYMENT BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable. This document may not be altered or modified.

OWNER (Obligee):

OKLAHOMA CITY COMMUNITY COLLEGE
PURCHASING DEPARTMENT 405-682-7556
7777 South May Avenue
OKLAHOMA CITY, OK 73159
michael.c.sisco@occc.edu

73159

PROJECT:

#2-RFP-22-025

(Project Number)

OCCC POT HOLE AND CONCRETE REPAIRS

(Project Name)

7777 South May Avenue, Oklahoma City, OK

(Address/Location)

PRINCIPAL (Contractor):

(Company Name)

(Address)

(City, State, Zip)

(Email address)

SURETY:

(Company Name)

(Address)

(City, State, Zip)

(Email address)

STANDARD AGREEMENT:

(Dated)

(Amount)

BOND DATE:

(Not earlier than date of Standard Agreement)

BOND AMOUNT (whole numbers only):

\$ _____
(Million) (Thousand) (Hundred) (cent)

(Bond Number)

DATED this ____ day of ___, 20 ____

PRINCIPAL:

1. _____
(Authorized Representative Signature)

2. _____
(Authorized Representative Signature)

3. _____
(Authorized Representative Signature)

(Authorized Representative Printed Name)

(Authorized Representative Printed Name)

(Authorized Representative Printed Name)

(Authorized Representative Printed Title)

(Authorized Representative Printed Title)

(Authorized Representative Printed Title)

SURETY:

(Surety Company Name)

(Attorney-in-Fact Signature)

(Attorney-in-Fact Printed Name)

(Surety Telephone No.)
Seal)

ATTEST:

(Notary Printed Name)

(Notary Signature)

(Notary

(Attach Power of Attorney)

FOR INFORMATIONAL PURPOSES ONLY

AGENT/BROKER:

(Company Name)

(Address)

(City, State, Zip)

(Email Address)

OWNER REPRESENTATIVE (Consultant or Other Party):

(Company Name)

(Address)

(City, State, Zip)

(Email Address)

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

2 With respect to the Owner, this obligation shall be null and void if the Contractor:

2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

3 With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4 The Surety shall have no obligation to Claimants under this Bond until:

4.1. Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

4.2. Claimants who do not have a direct contract with the Contractor:

4.2.1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and

4.2.2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and

4.2.3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5 If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6 When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

6.2 Pay or arrange for payment of any undisputed amounts.

7 The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

8 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

9 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

11 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

13 DEFINITIONS

14.1. Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

14.2. Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

14.3. Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract.



OKLAHOMA CITY
COMMUNITY COLLEGE

Oklahoma City Community College ■ Purchasing Department ■ John Massey Center ■ 7777 South May Avenue ■ Oklahoma City, OK 73159

POTHOLE AND CONCRETE REPAIRS - Project #2-RFP-22-025

PERFORMANCE BOND

Project Name and Number

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable. This document may not be altered or modified.

OWNER (Obligee):

OKLAHOMA CITY COMMUNITY COLLEGE
PURCHASING DEPARTMENT 405-682-7556
7777 South May Avenue
OKLAHOMA CITY, OK 73159
michael.c.sisco@occc.edu

73159

PROJECT:

#2-RFP-22-025

(Project Number)

OCCC POTHOLE AND CONCRETE REPAIRS

(Project Name)

7777 South May Avenue, Oklahoma City, OK

(Address/Location)

PRINCIPAL (Contractor):

(Company Name)

(Address)

(City, State, Zip)

(Email address)

SURETY:

(Company Name)

(Address)

(City, State, Zip)

(Email address)

STANDARD AGREEMENT:

(Dated)

(Amount)

BOND DATE:

(Not earlier than date of Standard Agreement)

BOND AMOUNT (whole numbers only):

\$ _____, _____, _____, _____
(Million) (Thousand) (Hundred) (cent)

(Bond Number)

DATED this _____ day of _____, 20____

PRINCIPAL:

1. _____
(Authorized Representative Signature)

2. _____
(Authorized Representative Signature)

3. _____
(Authorized Representative Signature)

(Authorized Representative Printed Name)

(Authorized Representative Printed Name)

(Authorized Representative Printed Name)

(Authorized Representative Printed Title)

(Authorized Representative Printed Title)

(Authorized Representative Printed Title)

SURETY:

ATTEST:

(Surety Company Name)

(Notary Printed Name)

(Attorney-in-Fact Signature)

(Surety Seal)

(Notary Signature)

(Attorney-in-Fact Printed Name)

(Surety Telephone No.)
Seal)

(Notary

(Attach Power of Attorney)

FOR INFORMATIONAL PURPOSES ONLY

AGENT/BROKER:

Other Party):

OWNER REPRESENTATIVE (Consultant or

(Company Name)

(Company Name)

(Address)

(Address)

(City, State, Zip)

(City, State, Zip)

(Email Address)

(Email Address)

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3. The Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than ten (10) days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor's Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than seven (7) days after the Contractor and the Surety have received notices as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the

contract with the Owner.

4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions.

4.1 Arrange for a Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3 Obtain proposals or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

4.4.1 After investigation, determine the amount for which it may be liable to the Owner, and as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

4.4.2 Deny liability in whole or in part and notify the Owner citing reasons therefor.

5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fourteen (14) days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

8. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

9. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provisions in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

10. DEFINITIONS

10.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in Settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

10.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

10.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or

otherwise to comply with the terms of the Construction Contract.

10.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract.



Oklahoma City Community College ■ Purchasing Department ■ John Massey Center ■ 7777 South May Avenue ■ Oklahoma City, OK 73159

Statutory Defect Bond

POTHOLE AND CONCRETE REPAIRS - Project #2-RFP-22-025

Project Name and Number

61 O.S. §113 (B)(3)

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable. This document may not be altered or modified.

KNOW ALL MEN BY THESE PRESENTS:

That _____, as Principal and

a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound unto the State of Oklahoma in the penal sum of

_____ Dollars
(\$_____)

in lawful money of the United States of America, said sum being equal to One Hundred Percent (100%) of the Contract

price, for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, executors, administrators, trustees, successors, and assigns, jointly and severally, firmly by these presents:

The condition of this obligation is such that

WHEREAS, said Principal entered into a written contract with OCCC, dated _____, for

Project # _____
Number _____

all in compliance with the plans and specification, therefore
made a part of said contract

and on file in the Purchasing Department at Oklahoma City Community College, 7777 South May Avenue, Oklahoma City, OK 73159

NOW, THEREFORE, if said Principal shall pay or cause to be paid to Oklahoma City Community College all damage, loss, and expense which may result by reason of defective materials and/or workmanship in connection with said work, occurring within a period of one (1) year from and after the acceptance of said project by Oklahoma City Community College; then this obligation shall be null and void, otherwise to be and remain in full force and effect.

It is expressly agreed and understood by the parties hereto that no changes or alterations in said Contract and no deviation from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers, and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact, duly authorized so to do, the day and year set forth below.

Dated this _____ day of _____, 20____

PRINCIPAL:

(Authorized Representative Signature)

BY:

(Authorized Representative Printed Name)

ATTEST:

SURETY:

(Notarial Seal & Signature)

(Attorney-in-Fact Signature)

BY: _____
(Authorized Representative Printed Name)



OKLAHOMA CITY
COMMUNITY COLLEGE

Oklahoma City Community College ■ Purchasing Department ■ John Massey Center ■ 7777 South May Avenue ■ Oklahoma City,
OK 73159

**Irrevocable Standby Letter of
Credit**

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion.

NUMBER _____, ISSUED in _____, Oklahoma on the _____ day of
_____ in the year 20_____.

BENEFICIARY (Owner):

OKLAHOMA CITY COMMUNITY COLLEGE
PURCHASING DEPARTMENT, 405-682-7556
7777 South May Avenue
Oklahoma City, OK 73159
michael.c.sisco@occc.edu

PROJECT:

(Project Number)

(Project Name)

(Address/Location)

APPLICANT (Bidder, Contractor, Constuction Manager, Design-Builder):

(Company Name)	(City, State, ZIP)	
(Address)	(Email)	(Telephone Number)
ISSUING BANK		

(Company Name)	(City, State, ZIP)	

(Address)		
_____	(Email)	(Telephone Number)

DATE AND PLACE OF EXPIRATION

- ☐ Pursuant to 61 O.S., Section 113, this Letter of Credit (of "X" appears in checkbox) shall remain in effect for a period of one (1) year after acceptance of the project, to protect the Beneficiary against deceptive workmanship and materials.

(Time)	(Date)	(Place)
(Time)	(Date)	(Place)
(Time)	(Date)	(Place)
(Time)	(Date)	(Place)

Issuing bank hereby establishes an irrevocable standby letter of credit at the request of the Applicant in favor of the Owner, and authorizes same to draw on us by sight draft, up to the aggregate amount of
_____ US Dollars, (_____).

We further agree that:

1. This Letter of Credit shall be automatically extended without amendment for additional one-year periods from and after the above- referenced date of expiry, unless Issuing Bank has notified the Beneficiary, in writing, not less than 60 days before such date that Issuing Bank elects not to renew this Letter of Credit. The notice of Issuing Bank's election not to renew shall be sent to Beneficiary by registered mail to the above address, ATTN: Vice President for Administrative Services, Oklahoma City Community College

2. Upon receipt of Issuing Bank's notice not to renew, the Beneficiary may elect either to obtain cash collateral by drawing on a sight draft on the Issuing Bank for an amount not to exceed the unused balance of this Letter of Credit, or to let the Letter of Credit expire.

3. *(The clause selected with an "X" shall be the valid 3 clause)*

☐ The purpose of this Letter of Credit is to fill the requirement of 61 O.S. Section 107. Drafts drawn by the Beneficiary under this Letter of Credit shall be accompanied by a written statement purportedly signed by the Vice President for Administrative Services certifying that "The Successful Bidder has failed to execute the contract or failed to provide the required bonds, or irrevocable letters of credit and insurance to the awarding public agency within the period of time, not to exceed sixty (60) days, specified in the bid notice by the awarding public agency." Except that drafts drawn in response to Issuing Bank's notice not to extend this Letter of Credit will not be accompanied by such statement from the Vice President for Administrative Services.

☐ The purpose of this Letter of Credit is to fill the requirement of 61 O.S. Section 1 and 61 O.S. Section 113. Drafts drawn by the Beneficiary under this Letter of Credit shall be accompanied by an original copy of the Letter of Credit and a written statement purportedly signed by the Vice President for Administrative Services certifying to one or more of the following:

- a. "Contractor has failed to perform in accordance with the terms and conditions of Project Number _____ by and between Beneficiary and Contractor"; and/or,
- b. "Contractor has failed to pay all indebtedness incurred for the contractor's subcontractors and all suppliers of labor, material, rental of machinery or equipment, and or repair of and or parts for equipment the contract requires the contractor to furnish in accordance with the terms and conditions of Project Number _____ by and between Beneficiary and Contractor"; and/or
- c. "Contractor has performed defective workmanship and/or supplied defective materials in violation of the terms and conditions of Project Number _____ by and between Beneficiary and Contractor."

Except that drafts drawn in response to Issuing Bank's notice not to extend this Letter of Credit will not be accompanied by such statement from the Vice President for Administrative Services.

4. Issuing Bank hereby represents and affirms that the execution and tendering of this Letter of Credit has been duly authorized and will not constitute a violation of any applicable law, regulation, charter; or corporate restriction of Issuing Bank. Issuing Bank further represents and warrants that it is a financial institution insured by the Federal Deposit Insurance Corporation.

5. Unless automatically extended in accordance with paragraph 1 above, this Letter of Credit expires at 5:00 p.m. on the stated expiration date.

6. Draft(s) drawn and negotiated under this Letter of Credit shall state that it is "DRAWN UNDER ISSUING BANK LETTER OF CREDIT NUMBER _____ DATED _____, 20____.

7. Except as otherwise expressly stated herein, this Letter of Credit shall be governed by and construed in accordance with the laws of the State of Oklahoma and is subject to the Uniform Customs and Practices for Documentary Credits, International Chamber of Commerce Brochure No. 500 (UCP) in effect on the date of issuance of this Letter of Credit. In the event of any conflict between Oklahoma law and the UCP, Oklahoma law shall prevail. Venue for any action necessary to interpret or enforce this Letter of Credit shall lie in Oklahoma County, Oklahoma.

8. Reference to any contract is for information purposes only and is not part of this Letter of Credit.

We hereby engage with you that any draft drawn upon and in compliance with the terms of this credit will be duly honored on presentation at our office in, on or before 5:00 p.m. on the stated expiration date or any extended date as hereinabove provided.

ISSUING BANK:

<i>(Authorized Representative Signature)</i>	<i>(Date Signed)</i>	<i>(Authorized Representative Signature)</i>	<i>(Date Signed)</i>
<i>(Authorized Representative Printed Name)</i>		<i>(Authorized Representative Printed Name)</i>	
<i>(Authorized Representative Printed Title)</i>		<i>(Authorized Representative Printed Title)</i>	
<i>(Authorized Representative Signature)</i>	<i>(Date Signed)</i>	<i>(Authorized Representative Signature)</i>	<i>(Date Signed)</i>
<i>(Authorized Representative Printed Name)</i>		<i>(Authorized Representative Printed Name)</i>	
<i>(Authorized Representative Printed Title)</i>		<i>(Authorized Representative Printed Title)</i>	



Oklahoma City Community College ■ Purchasing Department ■ John Massey Center ■ 7777 South May Avenue ■ Oklahoma City, OK 73159

CERTIFICATE OF COMPLIANCE

IMPORTANT: THIS MUST BE READ, SIGNED AND RETURNED WITH BID DOCUMENTS

Certificate of Compliance with Executive Order 11246 as amended for Contract in Excess of \$10,000.

In entering into any resulting contracts over \$10,000, the contractor agrees to comply with the Equal Employment Opportunity requirements stipulated in Executive Order 11246 as amended by Executive Order 11375. These specific requirements state:

I. "Equal Opportunity Clause"

During the performance of this/these contract(s) the contractor agrees as follows:

- A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- B. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- D. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- F. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and order of the Secretary of Labor, or pursuant

thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

- G. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. The contractor will include the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

II. Certification on Non-Segregated Facilities

By the submission of this bid and/or acceptance of purchase orders during the above period, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any locations under his control where segregated facilities are maintained. He further agrees that breach of this certification is a violation of the equal opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms, and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. He further agrees that (except where he has obtained identical certifications from proposed contractors for specific time periods) he will obtain identical certification from proposed subcontractors prior to award of subcontracts exceeding \$10,000 which are not tax exempt from the provision of the equal opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods).

III. Disabled Veteran and Vietnam Era Veteran Affirmative Action Program Requirements

In entering into any contract that exceeds \$10,000, the bidder agrees to comply with the Disabled Veteran and Vietnam Era Veteran Affirmative Action Program Requirements as stipulated in Public Law 93-508 and all amendments thereto. Failure to comply with the requirements of Public Law 93-508, Title 41, CFR60-250 and Title 41, CFR60-741 and all amendments thereto shall be deemed a material breach of this agreement and subject this contract to cancellation and rescission at the option of Oklahoma City Community College.

Certification of Compliance

If awarded this Contract _____ agrees to comply with the provisions of Clauses I, II, and III above.

Signature

Date

Printed Name

Title

STATE OF _____)

COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 20_____, by _____

Notary Public (or Clerk or Judge) Signature _____

My Commission Number _____

My Commission Expires _____

(Seal)



OKLAHOMA CITY
COMMUNITY COLLEGE

Oklahoma City Community College ■ Purchasing Department ■ John Massey Center ■ 7777 South May Avenue ■ Oklahoma City,
OK 73159

NO BID RESPONSE FORM

Project # 2-RFP-22-025

Please be advised that our company does not wish to submit a proposal in response to the attached referenced Request for Proposal for the following reasons:

_____ Too busy at this time

_____ Not engaged in this type of work

_____ Project too large/small

_____ Cannot meet mandatory specifications (Please specify below)

_____ Other (Please specify)

Company Name

Date

Signature

Title

Printed Name

Address

Phone Number

Email

Please return to:

Mr. Craig Sisco, Director of Purchasing
Oklahoma City Community College
Purchasing Office, JMC Room 140
Oklahoma City, Oklahoma 73159
michael.c.sisco@occc.edu

EXHIBITS


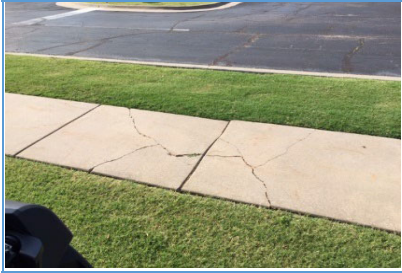

Exhibit A – Pothole and Concrete Repair Project

Exhibit B – Pavement Sealant

Exhibit C – Pavement Sealer

FY 22 Pothole and Concrete Project

Updated 1/4/22

#	Location	Concrete or Asphalt Repair	Size in feet	GPS Coordinates Latitude	GPS Coordinates Longitude	Picture	Notes
1	Sidewalk next to parking lot and TTC pedestrian entrance	Concrete	13x4	35.386054	-97.567554		
2	Sidewalk next to parking lot and field leading to CPD parking lot	Concrete	15x4	35.386340	-97.566919		
3	Sidewalk next to parking lot and field leading to CPD parking lot	Concrete	15x4	35.386340	-97.566919		Close to picture #2

4	On Loop Road near highway and Grounds road	Asphalt	10x7	35.386617	-97.573165		
5	G Lot near laydown area for roofers	Asphalt	13x10	35.385854	-97.569932		
6	G Lot near laydown area for roofers	Asphalt	5x5	35.385739	-97.569932		Includes line striping in quote
7	D lot near road to kitchen loading dock	Asphalt	2x2, 2x2	35.386397	-97.572418		2 separate repairs for area in picture

8	Drain flume near library and leading from Lot B to main drain flume	Concrete	11x3	35.389374	-97.567922		
9	Sidewalk by TTC entrance that has a trash can on top of it	Concrete	15x6	35.386067	-97.567502		
10	Drain Flume by CPD and Loop Road	Concrete	10x3	35.386798	-97.566535		New break in drain flume

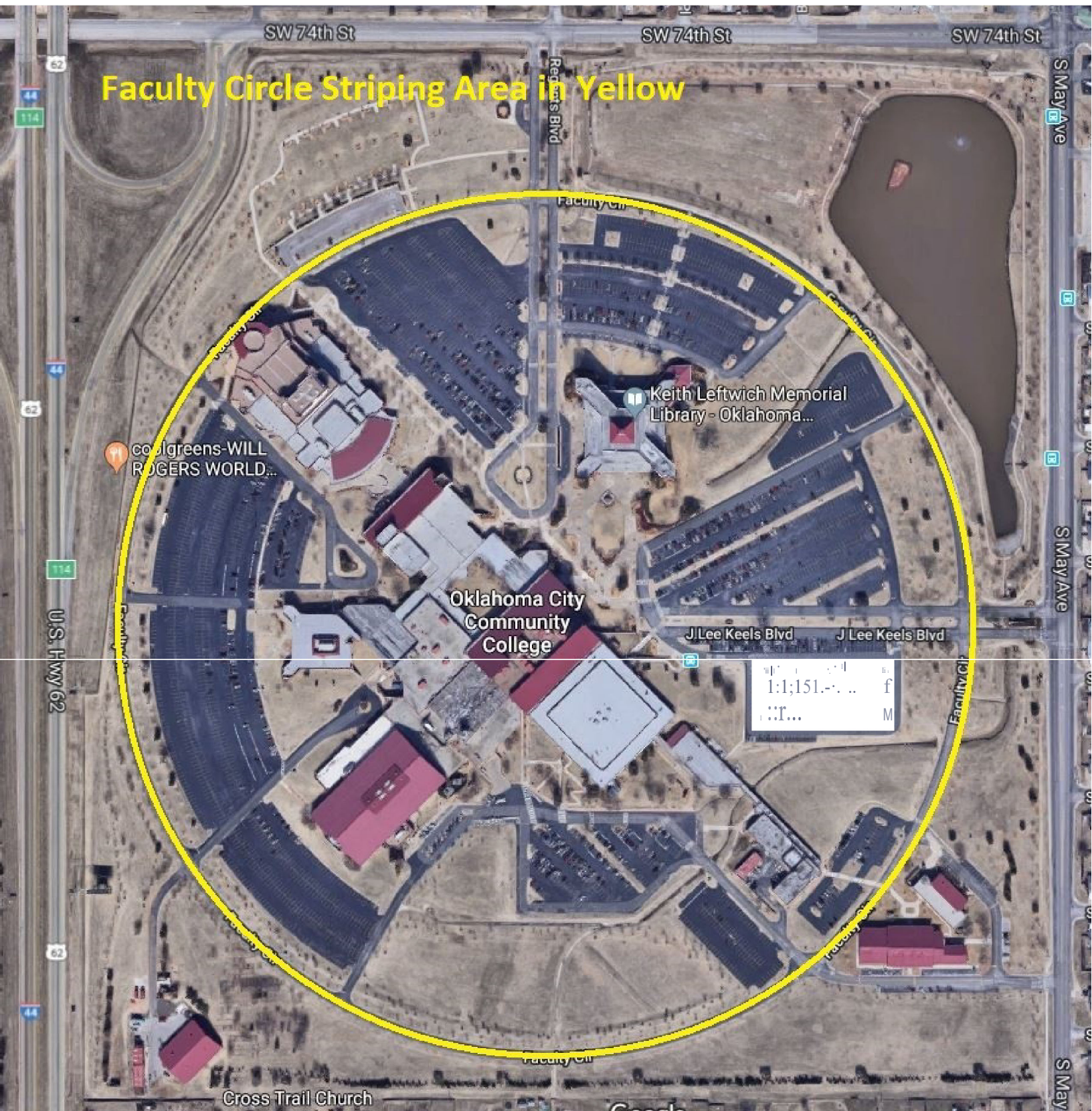
11	Sidewalk crack at intersection of faculty circle and Lot A entrance	Concrete	2x6	35.389031	-97.566720		
12	Lot C	Asphalt	2x2	35.389651	-97.570300		
13	Lot C near VPAC loading dock	Asphalt	4x2	35.389686	-97.571405		



Location of asphalt and concrete repairs by picture number

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17

Faculty Circle Striping Area in Yellow



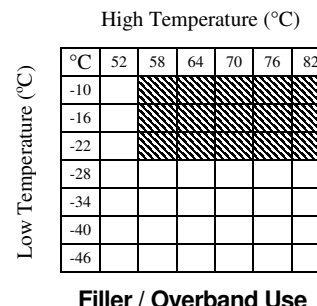
6165 W. Detroit • Chandler AZ 85226
 +1 (602) 276-0406 • +1 (800) 528-8242 • FAX +1 (480) 961-0513
 www.crafco.com

READ BEFORE USING THIS PRODUCT

GENERAL CrafcO Parking Lot Sealant Type 2 is a hot-applied asphalt based product used to fill cracks in both asphalt and Portland cement concrete pavements in moderate to very hot climates. Parking Lot Sealant Type 2 is supplied in solid form which when melted and properly applied forms a high stiffness, adhesive and flexible compound that resists cracking at winter temperatures and is highly resistant to flow or pick-up at extreme summer temperatures. Parking Lot Sealant Type 2 is used for highway, street, airfield and parking lot pavements in warm to hot climates and is applied to pavement cracks using either pressure feed melter applicators or pour pots. At application temperature it is a free flowing, self-leveling product. Parking Lot Sealant Type 2 is specifically formulated to be a stiff, flow resistant, yet flexible product for use in areas with pedestrian and slow moving vehicle traffic, in hotter climates, where high resistance to pick-up or tracking is required. Parking Lot Sealant Type 2 has been providing excellent performance in these uses for over 30 years. VOC = 0 g/l.

USAGE GUIDELINES Parking Lot Sealant Type 2 is applicable for Filler / Overband use in moderate to very hot climates with low and high pavement temperatures identified in the charts. Pavement temperatures for the project location are determined at 98% reliability using FHWA LTPPBind V 3.1, and sealant or filler use is determined following CrafcO Product Selection Procedures.

 Applicable Pavement Temperatures



SPECIFICATION CONFORMANCE The CrafcO recommended specification for Parking Lot Sealant Type 2 when heated to safe heating temperature in accordance with ASTM D5167 is:

Test	CrafcO Recommended Specification
Cone Penetration (ASTM D5329)	35 max.
Flow, 140 °F (60 °C), 5h (ASTM D5329)	3.0mm max.
Resilience (ASTM D5329)	30% min.
Softening Point (ASTM D36)	210 °F (99 °C) min.
Ductility, 77 °F (25 °C) (ASTM D113)	50 cm min.
Flexibility, 1/8" (3.2 mm) specimen, 180° bend, 5 sec., 1/2" (12 mm) mandrel (ASTM D3111 modified)	Pass
Asphalt Compatibility (ASTM D5329)	Pass at 0°F (-18°C)
Minimum Application Temperature	Pass
Maximum Heating Temperature	380 °F (193 °C)
	400 °F (204 °C)

INSTALLATION The unit weight of CrafcO Parking Lot Sealant is 10.8 lbs. per gallon (1.29 kg/L) at 60F (15.5C). Prior to use, the user must read and follow Installation Instructions for Hot-Applied RoadSaver, PolyFlex, Parking Lot and Asphalt Rubber Products to verify proper product selection, heating methods, pavement preparation procedures, application geometry, usage precautions and safety procedures. These instructions are provided with each pallet of sealant.

PACKAGING Product is supplied in either cardboard boxes, or in meltable, boxless PLEXI-melt packaging. Both package types are labeled in accordance with OSHA, GHS, and specification requirements; are sold by net weight; are interlock stacked on 48 x 40 in. (122 x 102 cm) 4-way pallets; can be stored outside; and are covered with a weather resistant pallet cover and 2 layers of UV protected stretch wrap.

- o **BOX** packaging consists of cardboard boxes containing approximately 30 lb. (13.6 kg) of product with 75 boxes per pallet, weighing approximately 2250 lb. (1020 kg). Boxes contain a quick melting release film for easy removal and are taped closed, without any staples.
- o **PLEXI-melt** packaging consists of 30 lb. (13.6 kg) blocks of product with 70 packages per pallet, weighing 2100 lb. (952 kg). To use, the pallet wrap is removed, and individual blocks are placed in the melter. There are no cardboard boxes or other cardboard components to open, empty, handle, or dispose of. PLEXI-melt packaging quickly melts into the product without affecting specification conformance.

WARRANTY CRAFCO, Inc. warrants that CRAFCO products meet applicable ASTM, AASHTO, Federal or State specifications at time of shipment. Techniques used for the preparation of the cracks and joints prior to sealing or filling are beyond our control as are the use and application of the products; therefore, CrafcO shall not be responsible for improperly applied or misused products. Remedies against CrafcO, Inc., as agreed to by CrafcO, are limited to replacing nonconforming product or refund (full or partial) of purchase price from CrafcO, Inc. All claims for breach of this warranty must be made within three (3) months of the date of use or twelve (12) months from the date of delivery by CrafcO, Inc. whichever is earlier. There shall be no other warranties expressed or implied. **For optimum performance, follow CrafcO recommendations for product installation.**



6165 W Detroit St. • Chandler AZ 85226
 +1 (602) 276-0406 • +1 (800) 528-8242 • FAX +1 (480) 961-0513
 www.crafco.com

PRODUCT DATA SHEET

ACTION PAVE® RT PRO

PAVEMENT SEALER

PART NO. 11913P

March 2019

READ BEFORE USING THIS PRODUCT

GENERAL Description

ACTION PAVE® RT PRO is a professional-grade, refined coal tar emulsion (water based) concentrate sealer for jobs that demand outstanding performance. ACTION PAVE® RT PRO has a higher degree of toughness and water repellency compared to standard grade emulsion sealer. ACTION PAVE® RT PRO is a premium grade of sealer with advantages of polymer addition and specialty chemicals. "Hot Blending" of catalyzed polymer with the refined tar in ACTION PAVE® RT PRO greatly improves its durability and overall longevity. Polymers have been pre-blended so no additional polymer additives are required for performance. Superior water repellency is achieved with the use of specialty chemicals that enhance the water resistance of the cured coating. ACTION PAVE® RT PRO has outstanding resistance to gasoline, oil, chemicals and de-icing salts. The combination of state-of-the-art technology in manufacturing and raw material selection translates into the following outstanding properties Compared to standard grade sealcoats, ACTION PAVE® RT PRO will last longer, dry faster, have greater fuel resistance and flexibility. ACTION PAVE® RT PRO is available in a variety of forms including concentrate, ready mix, sand mix & sand ready mix. ACTION PAVE® RT PRO should be selected by contractors or property owners who want improved properties in the sealer. VOC ≤ 50 g/L

Outstanding Properties

- Outstanding Durability – ACTION PAVE® RT PRO is known for its performance and consistency, properties demanded by professionals.
- Industry Leading Longevity – A professional-grade sealer that was designed, tested and proven to outlast any competing sealer in its class.
- Superior Flexibility – Ability to bridge minor surface (non-working) cracks in the pavement to eliminate water penetration and extend the life of asphalt surfaces.
- Beautifies While It Protects – Dries to an appealing dark charcoal color that enhances the value of the property. Snow removal becomes easier and traffic markings last longer.

SPECIFICATION CONFORMANCE Crafco's ACTION PAVE® RT Pro meets all requirements of Federal Specification R-P-355e and ASTM Specification D5727, "Standard Specification for Emulsified Refined Coal Tar (Mineral Colloid Type), and exceeds requirements of ASTM D 3320, "Standard Specification for Emulsified Coal-tar Pitch (Mineral Colloid Type). ACTION PAVE® RT PRO can be used as the base material for meeting requirements of ASTM D4866, D6945 and D6946.

Test

Uniformity

Wet Film Continuity
 Resistance to Freezing
 Density, 25C (77F)
 Residue by Evaporation
 Water Content
 Resistance to Volatilization
 Solubility of Residue in CS₂
 Ash Content of Residue
 Drying time, firm set
 Resistance to Heat
 Resistance to Kerosene
 Resistance to Water
 Flexibility
 Impact Resistance

ASTM D5727 and

Fed R-P-355e Spec. Limits

No Separation, coagulation, or settlement that cannot be overcome by moderate stirring
 Uniform homogeneous consistency
 Return to homogeneous when stirred
 1.2 g/ml (10 lb/gal) minimum
 47% minimum
 53% maximum
 10% maximum
 20% minimum
 30-40%
 8 h maximum
 No blistering, sagging, slipping
 No adhesion loss, penetration, or film softening
 No adhesion loss, blistering, or re-emulsification
 No flaking, cracking, or adhesion loss
 No chipping, flaking, cracking, or adhesion loss more than 6.4mm (1/4inch) beyond the periphery of the impact

Recommended Uses

ACTION PAVE® RT Pro is recommended for all asphalt pavements: home driveways, commercial parking lots, apartment complexes, restaurants, schools, gas stations, truck terminals, airfields/taxiways/airport shoulders, and many more.

Mix Design Recommendations

ACTION PAVE® is supplied in concentrated form that is field mixed with water and sand prior to installation. Polymer additives may also be used to improve durability. Recommended application consists of using 2 coats in low and moderate traffic areas, and using 3 coats in heavy traffic areas. Recommended mixture ranges and application rates are as follows:

USE AREA APPLICATION RATE	COAT	ACTION PAVE® RT (Gallons)	WATER ⁽¹⁾ (Gallons)	SAND ⁽²⁾ (Pounds)	POLYMER ⁽³⁾ (Gallons)	(Gallons/ Square yard)
LOW TRAFFIC - home driveways, Parking lots, walkways, bike paths	1 st	100	30-40	200-300	0-2	0.15-0.20
	2 nd	100	25-40	0-300	0-2	0.10-0.15

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MODERATE TRAFFIC - airfields, Highway shoulders, gas stations	1 st	100	30-50	300-500	0-3	0.15-0.20
	2 nd	100	30-50	0-500	0-3	0.10-0.15
HEAVY TRAFFIC - Airfield taxiways, malls, Commercial parking lots, service plazas	1 st	100	30-60	400-600	0-4	0.15-0.20
	2 nd	100	30-60	400-600	0-4	0.15-0.20
	3 rd	100	30-40	0-500	0-3	0.10-0.15

NOTES:

1. Water shall be clean and potable
2. Sand shall be clean, angular quartz or slag sand meeting AFS 50-70 gradation, or equivalent
3. Polymers have been pre-blended so no additional polymer additives are required for performance. However, if additional polymer is desired it shall be Macro-Flex, Max-Dri, Advantage 4 or equivalent

Important Weather Limitations

- Surface and air temperature should be a minimum of 50° F (10° C) and rising.
- Do not apply on rainy, foggy, or extremely humid days, or when rain is in the forecast within 24 hours.
- If the pavement temperature is over 100° (38°C) dampen the pavement with a fine mist of water to facilitate even spreading. Do not allow water to puddle on the surface

Application Tools

- Use conventional tools: Brush, rubber squeegee or spray rig.
- Clean up with Water. Do not discard washings in the bodies of water or down sewer drains.
- Dried sealer on tools - Wire brush, scrape and peel.

INSTALLATION: Prior to use, user must read and follow Installation Instructions for ACTION PAVE® RT PRO to verify product selection, pavement preparation procedures, mixing, application rates, usage precautions and safety procedures. General guidelines are as follows: Preparatory Work — The asphalt surface must be structurally sound, surface cured, and free from all loose or foreign matter prior to the application of ACTION PAVE® RT PRO. ACTION PAVE® RT PRO can be applied by spray, rubber-bladed squeegee, brush, or mechanical equipment specifically designed for this purpose. Due to the heavy bodied nature of the slurry-mixed ACTION PAVE® RT PRO, application by means of specialized equipment is recommended. This equipment can be of two types, high volume positive displacement airless spray or mechanical squeegee. Both types must be capable of keeping material thoroughly mixed and homogenous throughout the application process. All equipment used must be capable of supplying a sufficient quantity of material for uniform application over the entire width of the application mechanism to provide a uniformly coated surface.

Curing Time

Cure time will vary according to temperature and humidity at the time of application. Insufficiently cured films wear prematurely. Lower temperatures, high humidity and lack of direct sunlight will prolong the cure time. Higher temperatures, lower humidity and direct sunlight accelerate the cure process. If a second coat is to be applied, allow the first coat to dry sufficiently to withstand light vehicular and pedestrian traffic without damaging or scuffing the coating. After the application of the last coat, allow the coating to cure at least 20-24 hours under good drying conditions prior to opening to traffic.

Special Instructions

Apply only on unsealed asphalt or surfaces previously sealed with LP, Asphalt Emulsion or Refined Tar based sealers. Do not apply over surfaces sealed with gilsonite and other solvent based sealers. New asphalt pavements must be allowed to cure at least 90 days in hot weather. Perform a water break free test to confirm that the surface oils have dissipated. Spreading water on the pavement, and if the water does not bead, pavement is ready for seal-coating. Not recommended for steeply inclined surfaces, as they may become slippery when wet.

Cautions

KEEP FROM FREEZING / KEEP OUT OF REACH OF CHILDREN

Contains REFINED COAL TAR. May cause skin irritation. Wear gloves and protective clothing. In case of contact, flush skin or eyes immediately with fresh water. If the product gets in the mouth or eyes see a physician immediately. Consult the Safety Data Sheet for details.

Packaging and Availability

55-gallon drums & 275-gallon plastic totes, and bulk sold by the gallon.

WARRANTY ACTION PAVE® RT PRO is warranted by the manufacturer to meet specification requirements at time of shipment. Techniques used for pavement preparation prior to sealer application are beyond manufacturer control as are use and application of sealer; therefore, the manufacturer shall not be responsible for improperly applied or misused sealer. Remedies against the manufacturer are limited to replacing nonconforming product or refund (full or partial) of purchase price. All claims for breach of this warranty must be made within three (3) months of delivery date. There shall be no other warranties expressed or implied. **For optimum performance, follow recommendations for sealer installation.**