

NOTICE
RFP #1516-008
Spray Park for Little River Park
(Not to Exceed \$850,000.00)

The City Moore Parks and Recreation Department will be accepting proposals for a **“Pirate Themed”** design/fabrication/installation of a water spray park. The Spray Park will be located in Little River Park, a 52-acre park in Moore. It is the intention of the City of Moore to provide a complete **single pass through** spray park system, including shade structures, benches, concrete surface, play features, plumbing (from the city supply line, through the park and flowing to the sanitary sewer), electric, timing system and earthwork necessary to install all features. The contractor shall provide all necessary design, materials, incidentals, methods and labor necessary to furnish a complete play area ready for use. All materials shall be new and free from defects.

Proposals will be received until 2:00pm, central standard time, April 5, 2016, in the Purchasing Division, 301 N Broadway, Moore, Oklahoma 73160.

There will be a **mandatory** Pre-Proposal Meeting held at 2:00 p.m., Thursday, February 25, 2016, Moore City Hall, City Council Chambers, 301 North Broadway, Moore, Oklahoma 73160.

Late Bids will not be accepted under any circumstances. Any bid received after the scheduled time for closing will be returned to the proposing firm unopened. Sole responsibility rests with the proposing firm to see that their proposal is received on time.

Four (4) bound copies and one (1) PDF copy on CD or thumb drive, addressed to the Office of the City Clerk, Purchasing Division will be submitted, and that copy must be sealed and clearly marked with the name of the bidding vendor and identified as follows:

“RFP #1516-008”
“SPRAY PARK FOR LITTLE RIVER PARK”

The City of Moore reserves the right to reject any and all bids, in part or in whole and to award a contract to the most responsive and responsible firm(s) as deemed in the best interest of the City; further, the right is reserved to waive any formalities or informalities contained in said bid(s).

Copies of the Bid may be obtained from the Purchasing Agent located at 301 N. Broadway, Moore, Oklahoma 73160, phone number (405)793-5022, 8:00am to 5:00pm, local time, Monday through Friday.

Questions regarding the Bid may be submitted to cdbg@cityofmoore.com. Questions will be accepted until 5:00pm on February 19, 2016 and will be posted online on February 24, 2016.

The City of Moore/Moore Public Works Authority is an equal opportunity employer.

Carol Folsom
Purchasing Agent
405-793-5022

The City of Moore

Moore, Oklahoma



RFP #1516-008

Spray Park for Little River Park
(Not to Exceed \$850,000.00)



City of Moore
Office of City Clerk, Purchasing Division
301 N. Broadway Avenue, Suite 142
Moore, Oklahoma 73160



SOLICITATION OVERVIEW

The City of Moore is soliciting proposals for:

TITLE: Spray Park for Little River Park
RFP Number: 1516-008
Due Date: 2:00 p.m., Tuesday April 5, 2016
Location: City of Moore, Purchasing Division
301 N. Broadway Ave. Suite 142
Moore, OK 73160

Mandatory Pre-Proposal Meeting*:

Date: February 25, 2016
Time: 2:00 p.m. (CST)
Location: City Council Chambers
Moore City Hall
301 N Broadway Ave.
Moore, OK 73160

****Attendance of the Pre-Proposal meeting is mandatory. Not attending the meeting will result in a non-responsive proposal.***

Submit written questions to: cdbg-dr@cityofmoore.com

Questions may be submitted through 5:00 p.m., February 19, 2016.

- No verbal questions will be accepted.
- Questions of a substantial nature will be addressed in an addendum, posted on the City's Purchasing Web page for all interested parties.

I. Overview

A. INVITATION

The City Moore Parks and Recreation Department will be accepting proposals for a **“Pirate Themed”** design/fabrication/installation of a water spray park. The Spray Park will be located in Little River Park, a 52-acre park in Moore. It is the intention of the City of Moore to provide a complete **single pass through** spray park system, including shade structures, benches, concrete surface, play features, plumbing (from the city supply line, through the park and flowing to the sanitary sewer), electric, timing system and earthwork necessary to install all features. The contractor shall provide all necessary design, materials, incidentals, methods and labor necessary to furnish a complete play area ready for use. All materials shall be new and free from defects.

B. PROJECT FUNDING

Firms should note that all construction activities will be funded through Community Development Block Grant Disaster Recovery (“CDBG-DR”) grants. Accordingly, the construction contract will include specific federal grant requirements for completion and payment.

C. PROJECT SCHEDULE

Work is to be completed by March 25, 2017-provided site conditions meet those specified as appropriate for installation. Note that the project site is in an undeveloped park and work will be scheduled around other park improvements under construction. Work times and days may have to be scheduled to accommodate park use.

D. LABOR REQUIREMENTS

The Contractor’s labor wages should meet or exceed Davis / Bacon prevailing wages and shall be based on: General Wage Decision OK 150029. (Attachments included are: U.S. Department of Housing and Urban Development Form 4010 and OK 150029). Labor rates shall be in conformance with the above standards on any project that incorporates direct federal funding to a City of Moore project. Contractors will be required to submit weekly certified payrolls documenting these payroll payments.

E. PROPOSAL DEADLINE

Proposers shall submit one (1) original in digital format, and four (4) separate hard copies with one marked as “Original”. The proposal must be clearly marked as **RFP #1516-008 Spray Park for Little River Park** and delivered to:

**City of Moore Purchasing Department
301 N. Broadway Ave. Suite 142
Moore, OK 73160**

No later than 2:00 PM on Tuesday, April 5, 2016. Proposals received after the submittal deadline shall be considered void and unacceptable and shall be returned unopened to the respondent.

Carol Folsom, Purchasing Agent, 405-793-5023

Questions can be submitted until 5:00pm February 19, 2016 at cdbg@cityofmoore.com

The City of Moore is an equal opportunity employer.

II. Scope of Services

The City of Moore will prepare a clear and level area for the construction. Please refer to the attached aerial for the play area where equipment is to be installed. Spray park equipment shall be placed for best use of the area based on safety, accessibility and play value.

1. Spray equipment shall be designed to accommodate all ages - from toddlers to teenagers.
2. A minimum of 10 shade structures shall be included in the spray park design. Structure sizes may vary depending on design. Shade structures should include installation, concrete base, all steel posts, tops, benches, and tables. Tables are to be UrbanScape Portage – PODN31C Forest Green. There must be at least 4 ADA Tables with 8' top on a 6' seat/base.
3. A minimum of 3 park benches shall be included in the splash pad design to be placed around the splash pad area. Contractor will get with the City of Moore on specific style of the bench.
4. Codes and Standards: All work shall be furnished, constructed and installed in conformance with the applicable latest edition of BOCA and/or the following: Any applicable Federal, State, or City of Moore codes, standards and ordinances that affect the design and installation of the park, including the Americans with Disabilities Act Accessibilities Guidelines. Spray parks that have high play value while incorporating safety and low maintenance will be given preference.
5. Any necessary City, State or Federal permits are to be obtained by contractor. **Contractor shall be responsible for all underground utility locations at the job site using both the CALL OKIE location service and through meeting with Parks and Recreation staff to locate each party's specific electrical and irrigation lines, in particular. Any damaged underground utility supply or service lines (including any valve boxes, manholes, and all in-ground service access covers), valves, meters, or any**

other utilities shall be repaired by the contractor or have the repair paid for by the contractor at no cost to the City of Moore.

6. The Contractor shall provide all items necessary to completely construct the improvements described. Appurtenance and/or accessories not herein mentioned but necessary to furnish a complete unit, ready for use upon delivery shall be included. The contractor shall make a field inspection of project site and determine the extent, cost, and methods necessary to properly construct the project. Installation will need to be coordinated with the City to minimize impact on other users and other park facilities. All operational and maintenance instructions, timing and use options shall be demonstrated and shown operational by the successful bidder and or manufacturer at no extra cost to the City. This will have to be done prior to final acceptance by the City Moore.
7. Site Access and Care: The contractor shall be given such access to the site as necessary to complete the project. Contractor shall protect existing features to stay during construction, and will be responsible for repairing or replacing any damage caused by construction. Contractor shall repair or replace any damage at his sole expense.
8. Budget for this project shall not exceed a total of \$850,000.00

III. Submittal Requirements

Designs shall be submitted with four (4) printed sets of scale drawings of the site, project and construction details and written descriptions of the components. Any other renderings or graphic packages that bidder feels are necessary beyond these basics will be accepted but not required. Also include factory warranties and product liability information on all components. Please submit 3 contacts where similar equipment has been used. If available, submit locations within the OKC metropolitan area that have already installed similar equipment.

Because of the wide range of play equipment available, vendors are encouraged to submit more than one proposal. Each proposal shall be delivered in separate envelopes and contain all of the requested information. All proposals will be evaluated based on the company's experience with this type of project, availability of product and time required to complete the requested work. Proposals should include references from other similar projects.

All standard manufacturer's or dealers warranties shall be supplied in writing covering replacement of all defective parts and workmanship assurances. All materials shall be new, unused and free of defects and imperfections

CONTENTS OF PROPOSAL

The selection committee will have limited time to review the submittals. Brevity and clarity in explaining key concepts and responding to the information required are encouraged. Proposers shall submit four (4) paper copies and one (1) .pdf copy of their completed proposal. All proposals must be limited to the following prescribed information and be submitted in an 8 ½" x 11" format

Costs for developing a response to the RFP, interviews, and contract negotiations are entirely the obligation of the proposer and shall not be charged in any manner to the City.

Exhibits to be included in submittal:

- **Exhibit C** Non-Collusion Affidavit
- **Exhibit D** Certification Regarding Lobbying
- **Exhibit E** Certification Regarding Debarment, Suspension, and Other Responsibility Matters
- **Exhibit F** MOB/WOB/Section 3 Business (if Applicable)
- **Exhibit G** Form 4400
- **Exhibit H** Conflict of Interest Certification

IV. Evaluation and Selection

A. SCREENING

Submissions will be screened by a multi-disciplinary staff evaluation committee to reach consensus on the most qualified vendor.

B. SELECTION AND AWARD PROCESS

At the conclusion of the evaluation, the committee will independently record their scores on the evaluation sheet and forward those to the Purchasing Department for tabulation.

Based on the result of the scoring a recommendation will be made to the full City Council for their review and consent. Upon successful completion of preliminary negotiations with the selected firm, a notice of award will be issued and contract preparation commenced. Unsuccessful firms will be notified by mail.

Contractor with the successful proposal will be required to enter a **construction contract** with the City of Moore and shall be required to provide a **Performance Bond, Statutory Bond and Maintenance Bond as well as proof of insurance and Workers Compensation Insurance.**

V. Miscellaneous

All materials submitted by any proposer in response to the RFP will become the property of the City and will be returned only at the option of the City.

This RFP is a solicitation and not an offer to contract. The City reserves the right to issue clarifications and other directives concerning this RFP, to require clarification or further information with respect to any proposal received, and to determine the final scope and terms of any contract for services, and whether to enter any contract. The provisions herein are solely for the fiscal responsibility of the City and confer no rights, duties or entitlements to any proposer. A written agreement for services will be required between the City and successful proposer.

VI. Estimated Timetable for Proposals

The City of Moore reserves the right to reject any and all proposals. Also, the City of Moore reserves the right to work with the selected vendor to make minor alterations to their designs. The vendor with the successful proposal will be required to contract with the City and execute all necessary warranties on the equipment to be purchased.

Firms submitting a response to the RFP will be asked at a minimum, to state their understanding and experience relating to the project and offer their methodology for achieving the objective and producing the required deliverables for each task. The evaluation committee will rank the prospective proposers and recommend the Moore City Council enter into contract negotiations with the first ranked team. If contract negotiations fail, the City will proceed to enter into negotiations with the teams in ascending order of rank as the City deems necessary.

It is the City's expectation that this RFP and selection process result in the selection of a consultant and affiliated team to be retained in a professional capacity for the development and execution of the anticipated professional services described herein.

The following is a detailed schedule of events for the RFP process, which is subject to modification by the City:

- **February 9, 2016:** Advertise RFP
- **February 16, 2016:** Advertise RFP
- **February 19, 2016:** Questions due to the City

- **February 24, 2016:** Responses to submitted questions posted online
- **February 25, 2016:** Mandatory Pre-Proposal Meeting at 2:00pm
- **April 5, 2016:** Proposals due to the City
- **April 6-8, 2016:** Selection Committee evaluate and shortlist candidates
- **April 11-20, 2016:** Notify vendor of Committee's selection/Contract Negotiation
- **May 2, 2016:** City Council meeting
- **May 3, 2016:** Contract execution / notice to proceed

LIST OF EXHIBITS

- Exhibit A Site Map
- Exhibit B Davis Bacon Prevailing Wage/General Wage Decision OK 150029 & HUD Form 4010
- Exhibit C Non-Collusion Affidavit
- Exhibit D Certification Regarding Lobbying
- Exhibit E Certification Regarding Debarment, Suspension, and Other Responsibility Matters
- Exhibit F MOB/WOB/Section 3 Business
- Exhibit G Form 4400 A – Uniform Cost/Price Analysis
Form 4400 B – Hourly Rates
- Exhibit H Conflict of Interest Certification
- Exhibit I Standard Federal Requirements: Language for Construction Bidding
Standard for Occupational Exposure to Asbestos in Construction (29 CFR 1926.1101)

RFP RETURN SHEET

RFP #1516-008

**"SPLASH PAD EQUIPMENT FOR LITTLE RIVER PARK,
(Not to Exceed \$850,000.00)**

TOTAL COST FOR EQUIPMENT _____

TOTAL COST FOR DELIVERY (If Any) _____

TOTAL COST OF PROJECT: _____

REPRESENTATIVE TO BE PRESENT FOR INSTALLATION YES / NO

REFERENCES OF PLAYGROUNDS INCLUDED YES / NO

PICTURES OF EQUIPMENT ATTACHED (Circle One) YES / NO

PICTURES OF DESIGN PATTERN ATTACHED (Circle One) YES / NO

ESTIMATED TIME OF DELIVERY AFTER AWARD OF BID _____

WARRANTY INFORMATION ATTACHED (Circle One) YES / NO

TIME OF WARRANTY (One Year, Two Years, etc.) _____

BID BOND (Circle One) YES / NO

EXHIBIT C: NON-COLLUSION AFFIDAVIT ATTACHED (Circle One) YES / NO

EXHIBIT D: BYRD AMMENDMENT CERTIFICATION YES / NO

EXHIBIT E: DEBARMENT

EXHIBIT F: MOB/WOB SECTION 3 BUSINESS (IF APPLICABLE) YES / NO

EXHIBIT G: UNIFORM COST ANALYSIS YES / NO

EXHIBIT H: CONFLICT OF INTEREST YES / NO

VENDOR INFORMATION

Vendor's Name: _____

Vendor's Address: _____

Street/PO Box

City/State/Zip Code

Contact Person: _____

Name

Title

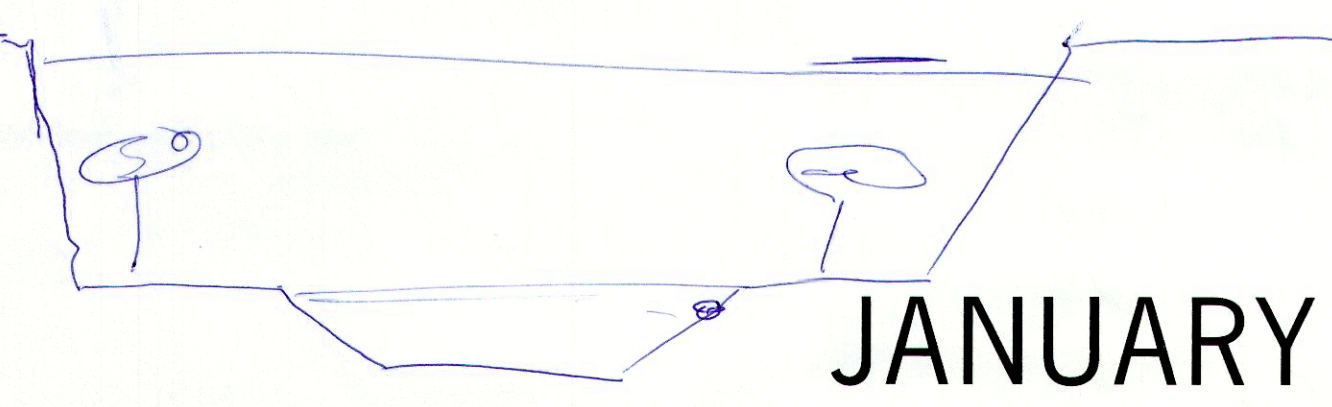
Phone Number: (____) _____ Fax Number: (____) _____



* ALL LOCATIONS / LAYOUTS FOR FUTURE IMPROVEMENTS SHOWN IN RENDERING ARE APPROXIMATE.

LITTLE RIVER PARK

LONG-RANGE MASTER PLAN



JANUARY 2015



General Decision Number: OK150029 06/12/2015 OK29

Superseded General Decision Number: OK20140029

State: Oklahoma

Construction Type: Heavy

Counties: Canadian, Cleveland, Grady, Lincoln and McClain
Counties in Oklahoma.

HEAVY CONSTRUCTION PROJECTS (including sewer/water line construction; heavy construction projects on treatment plants and industrial sites) (excludes heavy dredging and water well drilling)

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/02/2015
1	06/12/2015

* ENGI0627-015 06/01/2015

	Rates	Fringes
POWER EQUIPMENT OPERATOR:		
Group 1.....	\$ 28.05	11.83
Group 2.....	\$ 26.35	11.83
Group 3.....	\$ 25.80	11.83
Group 4.....	\$ 25.05	11.83
Group 5.....	\$ 24.55	11.83
Group 6.....	\$ 24.10	11.83
Group10.....	\$ 21.10	11.83

POWER EQUIPMENT OPERATOR

GROUP 1: All Crane Type Equipment 200 ton and larger and including 400 ton capacity cranes. All Tower Cranes.

GROUP 2: All Crane Type Equipment 100 ton capacity and larger cranes, and less than 200 ton capacity.

GROUP 3: All Crane Type Equipment 50 ton capacity and larger cranes, and less than 100 ton capacity. Crane Equipment (as rated by mfg.) 3 cu. yd. and over Guy derrick Whirley Power Driven Hole Digger (with 30' and longer mast).

GROUP 4: CRANES with Boom Incl. Jib less than 100 ft and less

than 3 cu. Yd.; Overhead Monorail Crane
 GROUP 5: BULLDOZER
 GROUP 6: ROLLER (ASPHALT AND DIRT)
 GROUP 10: OILER

 IRON0048-005 06/01/2013

	Rates	Fringes
IRONWORKER (Structural, Reinforcing, and Ornamental).....	\$ 23.10	12.88

 SUOK2012-007 05/18/2012

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 12.49	1.23
ELECTRICIAN.....	\$ 22.00	4.76
FORM WORKER.....	\$ 11.77	0.00
LABORER: Common or General.....	\$ 11.81	1.09
LABORER: Pipelayer.....	\$ 11.13	0.00
OPERATOR: Backhoe/Excavator.....	\$ 18.17	6.28
OPERATOR: Drill.....	\$ 17.15	0.78
OPERATOR: Grader/Blade.....	\$ 17.76	3.87
OPERATOR: Loader (Front End)....	\$ 13.51	0.00
OPERATOR: Mechanic.....	\$ 19.61	9.39
OPERATOR: Scraper.....	\$ 16.00	1.55
OPERATOR: Trackhoe.....	\$ 17.50	2.78
TRUCK DRIVER: Dump Truck.....	\$ 16.50	0.74

 WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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 Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

 The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the

cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current

negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION◆

Exhibit C

NON-COLLUSION AFFIDAVIT OF VENDOR

The following affidavit **MUST** accompany your response to this proposal.

COUNTY OF _____) SS.
STATE OF _____)

AFFIDAVIT

I, _____, declare under oath, under penalty of perjury, That I am lawfully qualified and acting officer and/or agent of _____
(Firm's Name)

and that:

1. That the affiant has not been party to any collusion among proponents in restraint of freedom of competition by agreement to propose at a fixed price or to refrain from making a proposal; or with any official of the state or political subdivision of the State, including The City of Moore, as to quantity, quality, or price in the matter of the attached proposal, or any other terms of said prospective contract; or in any discussions between proponents and any official of the state, including the City of Moore, concerning the exchange of money or other thing of value for special consideration in the letting of a contract and,
2. _____, has not pled guilty to or been convicted of a
(Firm's Name)
felony charge for fraud, bribery, or corruption involving sale of real or personal property to any state or any political subdivision of a state.
2. That no person, firm, corporation subsidiary, parent, predecessor or other entity affiliated with or related to _____ has been convicted of a
(Firm's Name)
felony charge for fraud, bribery, or corruption relating to sale of real or personal property to any state or political subdivision of a state.

(Officer or Agent)

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

(SEAL)

My Commission Expires

(Notary Public)

Exhibit D: Byrd Amendment Certification

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

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

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

Signature	
Printed Name	
Position	
Date	

Exhibit E: Certification Regarding Debarment, Suspension, and Other Responsibility Matters

In accordance with 2 CFR Part 2424 and 24 CFR Parts 5, 6, et al (US Department of Housing and Urban Development: Implementation of OMB Guidance on Debarment and Suspension; Final Rule) the Respondent certifies, to the best of his or her knowledge and belief, that:

- (1) No employee of the Respondent who will materially participate in the Respondent's delivery of labor or work product under this RFP is currently suspended or debarred under the applicable laws or regulations in effect on the date of certification;
- (2) No sub-contractor, partner or other party who will materially participate in the Respondent's delivery of labor or work product under this RFP is currently suspended or debarred under the applicable laws or regulations in effect on the date of certification.
- (3) The undersigned Respondent shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Signature	
Printed Name	
Position	
Date	

Exhibit F:

Instructions: If the Respondent is a Minority Owned Business (MOB) or Women Owned Business (WOB) or qualifies as a Section 3 business, the Respondent completes Form F.1. If the Respondent intends to utilize a MOB/WOB or Section 3 business in the performance of the proposed contract, the respondent completes Form F.2

F.1: CERTIFICATION AS A MINORITY OWNED, WOMEN OWNED OR SECTION 3 BUSINESS

I, _____ certify that _____ is a Minority Owned, Women Owned or Section 3 Business.

Business Registered Name	
Business Registered Address 1	
Business Registered Address 2	
State of Registration	
Certificate or Registration Number	
Certifying Agency	

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. The City reserves the right to withdraw or terminate the proposed contract should the representation of fact be false.

Signature	
Printed Name	
Position	
Date	

F.2: STATEMENT OF INTENT OF MOB/WOB/SECTION 3 UTILIZATION

I, _____ certify that _____ will utilize Minority Owned Business (MOB) or Women Owned Business (WOB) as subcontractor(s), vendor(s), supplier(s), or professional service(s). The estimated **dollar value** of the amount that we plan to pay the MOB or WOB subcontractor(s), vendor(s), supplier(s), or professional service(s) is \$ _____

Description of Work	MOB Amount	WOB Amount	Section 3 Amount	Name of MOB/WOB/Section 3

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. The City reserves the right to withdraw or terminate the proposed contract should the representation of fact be false

Signature	
Printed Name	
Position	
Date	

EXHIBIT G

Form 4400 - A: Uniform Cost/Price Analysis

Complete Form 4400 for the RFP by defining each Benchmark or Deliverable where a payment is expected, the Target Date for Delivery, the amount of Payment, and the Percent of the Total Bid

Benchmark or Deliverable	Target Date	Amount	Percent of Total Bid
TOTAL BID			

Exhibit H: Conflict of Interest Certification

In accordance with 24 CFR 85.36(b)(3) the Bidder certifies that no member, officer, or employee of the City or its designees or agents, no member of the governing body of the City of Moore in which the program is situated, and no other public official of the City who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, has any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the program assisted under the Agreement. The Bidder shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest pursuant to the purposes of Section 24 CFR part 85.36 (3).

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

Bidder Name	
Signature	
Printed Name	
Position	
Date	



Federal Contract Provision

Audits & Inspections

All contractors records with respect to any matters covered by this agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the contractors within 30 days after receipt by the contractors. Failure of the contractors to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The contractors hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning contractors' audits and OMB Circular A-133.

SANCTIONS AND PANELITIES

A. Lobbying

31 U.S.C. 1352, 49 CFR Part 19, 49 CFR Part 20 (over \$100,000)

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 160, et seq.] – Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, “New Restrictions on Lobbying.” Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the City of Moore Department of Capital Planning and Resiliency.

B. Religious Activities

The contractors agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

C. Assignability

The contractors shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the contractors from the Grantee under this contract may be assigned to a bank,

trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

D. Hatch Act

The contractor agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

E. Liability and Property Damage Insurance

The contractor assumes all risks incident to or in connection with its purpose to be conducted herein under and shall indemnify, defend and save the City of Moore harmless from damage or injuries of whatever nature or kind to persons or property arising directly or indirectly out of the Contractor's operations and arising from acts or omissions of its employees and shall indemnify, defend, save harmless the City of Moore from any penalties for violation of any law, ordinance or regulation affecting or having application to said operation or resulting from the carelessness, negligence or improper conduct of Contractor or any of its agents or employees.

In this connection, the Contractor shall carry Workmen's Compensation in accordance with State laws and Employer's Liability Insurance in the following amount:

1. Property Damage Liability - Limits shall be carried in the amount of not less than twenty-five thousand dollars (\$25,000) to any one person for any number of claims for damage to or destruction of property, including but not limited to consequential damages, arising out of a single accident or occurrence.
2. All Other Liability - In the amount not less than one hundred thousand dollars (\$100,000) for claims including accidental death, personal injury, and all other claims to any one person out of a single accident or occurrence.
3. Dollars (\$1,000,000) for any number of claims arising out of a single occurrence or accident.

The insurance policies shall be issued by a company approved by the City of Moore. The City of Moore shall be furnished with a certificate of insurance, which shall provide that such insurance shall not be changed or canceled, without ten days prior written notice to the City of Moore.

Certificates of Insurance shall be delivered to the City of Moore prior to the commencement of the agreement. THE POLICY SHALL LIST THE CITY OF MOORE AS CO-INSURED OR ADDITIONAL INSURED.

F. Bonding Requirements

Bid Bond

Bidders will include with the return bid form, the non-collusion affidavit that has been properly executed, and a bid bond, bank check or irrevocable letter of credit for 5% of the bid if bid is over \$50,000.

BONDS

No surety will be accepted who is now in default or delinquent on any bond or who is interested in any litigation against the City. All bonds shall be executed by surety companies licensed to do business in the State of Oklahoma and acceptable to the Council. Each bond shall be executed by the Contractor and the Surety.

Upon award of bid, bonds shall be submitted to the City of Moore.

1. Maintenance Bond:

A good and sufficient Maintenance Bond shall be required in an amount equal to one hundred (100) percent of the total amount of the contract, guaranteeing such improvements against defective workmanship and/or materials for a period of one (1) year from and after the time of completion and acceptance by the City of said improvements.

2. Performance Bond:

A good and sufficient Performance Bond shall be required in an amount equal to one hundred (100) percent of the total contract amount guaranteeing execution and completion of the work in accordance with the specifications.

3. Statutory Bond:

A good and sufficient Statutory Bond shall be required in an amount equal to one hundred (100) percent of the total contact amount guaranteeing payment in full for all materials and labor used in the construction of the work.

G. Breaches and Dispute Resolution

49 CFR Part 18

1. **Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City of Moore Department of Capital Planning and Resiliency's Administrator or designee. This decision shall be final and conclusive unless within [ten (10)] calendar days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to Administrator or designee. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of Administrator or designee shall be binding upon the Contractor and the Contractor shall abide by the decision.
2. **Performance During Dispute** - Unless otherwise directed by the City of Moore Department of Capital Planning and Resiliency, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
3. **Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
4. **Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City of Moore Department of Capital Planning and Resiliency and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration in the City of Moore Department of Capital Planning and Resiliency if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City of Moore Department of Capital Planning and Resiliency is located.
5. **Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City of Moore Department of Capital Planning and Resiliency, (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

TERMINATION AND DEBARMENT

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

31 U.S.C. 3801 et seq., 49 CFR Part 31 18 U.S.C. 1001, 49 U.S.C. 5307

- A. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq . and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- B. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal Assurances originally awarded by HUD, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- C. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal Assurances provided by HUD. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

49 CFR Part 29, Executive Order 12549 (over \$25,000)

Instructions for Certification

By Signing and submitting this bid, the prospective lower tier participant is providing the signed certification set out below:

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the City of Moore Department of Capital Planning and Resiliency may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to the City of Moore Department of Capital Planning and Resiliency if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "Contractor," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact the City of Moore Department of Capital Planning and Resiliency for Assurances in obtaining a copy of those regulations.
4. The prospective lower tier participant agrees by submitting this bid that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the City of Moore Department of Capital Planning and Resiliency.
5. The prospective lower tier participant further agrees by submitting this bid that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.
7. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the City of Moore Department of Capital Planning and Resiliency may pursue available remedies including suspension and/or debarment.

“Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction”

- A. The prospective lower tier participant certifies, by submission of this bid, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- B. When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this bid.

EQUAL OPPORTUNITIES

Executive Order 11246 September 24, 1965 as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations 41 CFR chapter 60

The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the Contractor agrees to comply with any implementing requirements HUD may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements HUD may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements HUD may issue.

A. Civil Rights

29 U.S.C. § 623, 42 U.S.C. § 2000, 42 U.S.C. § 6102, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332, 29 CFR Part 1630, 41 CFR Parts 60 et seq.

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements HUD may issue.

The contractors agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised

by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

The contractors agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

(2) Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the contractors shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The contractors, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

(3) Section 504

The contractors agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The Grantee shall provide the contractors with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

(4) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal Assurances provided by HUD, modified only if necessary to identify the affected parties.

AFFIRMATIVE ACTION

A. Approved Plan

The contractors agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966. The Grantee shall provide Affirmative Action guidelines to the contractors to assist in the formulation of such program.

B. Women and Minority Owned Businesses

The contractors will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to

participate in the performance of this contract. As used in this contract, the terms “small business” means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and “minority and women’s business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The contractors may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

C. Notifications

The contractors will send to each labor union or representative of workers with which it 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 worker’s representative of the contractors commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. Subcontract Provisions

The contractors will include the provisions of Paragraphs X.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own contractors or subcontractors.

COPELAND “ANTI-KICKBACK”

40 U.S.C. § 276c (1999), 29 C.F.R. § 3 (1999), 29 C.F.R. § 5 (1999)

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract, specifically Davis Bacon Act.

DAVIS-BACON ACT

40 U.S.C. & 167; 27a-276a-5 (1998), 29 CFR § 5 (1999)

A. Minimum wages

- i. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project) will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the **Copeland** Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the

particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- ii. (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates in the wage determination; and
 - (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing

work in the classification under this contract from the first day on which work is performed in the classification.

- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:
 - (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator,

or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

B. Withholding – the City of Moore Department of Capital Planning and Resiliency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the [insert name of grantee] may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

C. Payrolls and basic records

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and

certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the City of Moore Department of Capital Planning and Resiliency for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such

action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

D. Apprentices and trainees

- (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior

approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** – The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** – The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** – A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** – All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards – Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility – (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

CONTRACT WORK HOURS AND SAFETY STANDARDS

40 U.S.C. §§ 327 -333 (1999), 29 C.F.R. § 5 (1999), 29 C.F.R. § 1926 (1998)

- A. **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- C. **Withholding for unpaid wages and liquidated damages** - the City of Moore Department of Capital Planning and Resiliency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- D. **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.
- E. **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any

laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

F. Contract Work Hours and Safety Standards Act

- (i) The Contractor agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. section 333, and applicable DOL regulations, " Safety and Health Regulations for Construction " 29 C.F.R. Part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.
- (ii) Subcontracts - The Contractor also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials, which will become an integral part of the construction, is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

REPORTS AND RECORDS

49 U.S.C. 5325, 18 CFR 18.36 (i), 49 CFR 633.17

The Contractor agrees to maintain all books, records, accounts, and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the City of Moore Department of Capital Planning and Resiliency, the HUD Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11). The contractors shall furnish and cause each of its own contractors or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

Federal Changes

49 CFR Part 18

Contractor shall at all times comply with all applicable HUD regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form HUD MA (6) dated October, 1999) between the City of Moore Department of Capital Planning and Resiliency and HUD, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

DISCOVERY, COPYRIGHTS, AND DATA RIGHTS

24 CFR Subtitle A. 85.34 Copyrights

The City of Moore Department of Capital Planning and Resiliency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

1. The copyright in any work developed under the contract: and
2. Any rights of copyright to which a Contractor, Sub-contractor or a Contractor purchases ownership with grant support.

ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325, 18 CFR 18.36 (i), 49 CFR 633.17

The Contractor agrees to **maintain all books, records, accounts and reports** required under this contract for a period of not less than **three years** after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the City of Moore Department of Capital Planning and Resiliency, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

CLEAN AIR ACT-CLEAN WATER ACT-ENERGY POLICY AND CONSERVATION ACT

A. Clean Air

42 U.S.C. 7401 et seq., 40 CFR 15.61, 49 CFR Part 18 (over \$100,000)

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal Assurances provided by HUD.

B. Clean Water

33 U.S.C. 1251 (over \$100,000)

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the City of Moore Department of Capital Planning and Resiliency and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notifications the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with HUD.

ENERGY CONSERVATION, RECYCLED PRODUCTS, AND SEISMIC SAFETY

A. Energy Conservation

42 U.S.C. 6321 et. Seq., 49 CFR Part 18

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

B. Recycled Products

42 U.S.C. 6962, 40 CFR Part 247, Executive Order 12873 (More than \$10,000)

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.