

Newcastle Board of Education Special Meeting  
November 29, 2022 5:30 PM  
Administration Office Board Room  
101 N Main St  
Newcastle, Oklahoma 73065

Attendance Taken at 5:30 PM. Mr. Darrin Abel: Present, Ms. Valory Dalton: Present, Mr. Jeff Dingee: Absent, Ms. Tiffany Elczyn: Present, Mr. John Maker: Present.

1. Call to Order and Roll Call of Members.
2. Discussion and possible action regarding the Government Capital Corporation Agreement for the Coryell Roofing Lease Purchase Agreement

Motion to approve the Government Capital Corporation Agreement for the Cornell Roofin Leasae Purchase Agreements as attached passed with a motion by Mr. Darrin Abel and a second by Ms. Valory Dalton.

Mr. Jeff Dingee: Absent, Mr. Darrin Abel: Yea, Ms. Tiffany Elczyn: Yea, Ms. Valory Dalton: Yea, Mr. John Maker: Yea

Yea: 4, Nay: 0, Absent: 1

3. Discussion and possible action regarding the E-Rate Contract and Lease Agreement

Motion to approve the E-Rate Contract and Lease Agreement as presented passed with a motion by Ms. Tiffany Elczyn and a second by Mr. Darrin Abel.

Mr. Jeff Dingee: Absent, Mr. Darrin Abel: Yea, Ms. Tiffany Elczyn: Yea, Ms. Valory Dalton: Yea, Mr. John Maker: Yea

Yea: 4, Nay: 0, Absent: 1

4. Discussion and possible action regarding Encumbrance #24 McClain-Garvin County Youth & Family Center-Frontline Family Solutions

Motion to approve McClain-Gavin County Youth Family Frontline Center-Frontline Family Solutions Encumbrance #24 passed with a motion by Ms. Tiffany Elczyn and a second by Ms. Valory Dalton.

Mr. Jeff Dingee: Absent, Mr. Darrin Abel: Yea, Ms. Tiffany Elczyn: Yea, Ms. Valory Dalton: Yea, Mr. John Maker: Yea

Yea: 4, Nay: 0, Absent: 1

5. Discussion and possible action regarding the attached proposed Surveys totaling \$55,800; See breakdown below

- High School: \$20,500
- Middle School: \$13,200
- Middle School Athletics: \$2,500
- Elementary School: \$12,000
- Early Childhood Center: \$7,600

Motion to approve proposed Surveys totaling \$55,800.00 passed with a motion by Mr. Darrin Abel and a second by Ms. Tiffany Elczyn.

Mr. Jeff Dingee: Absent, Mr. Darrin Abel: Yea, Ms. Tiffany Elczyn: Yea, Ms. Valory Dalton: Yea, Mr. John Maker: Yea

Yea: 4, Nay: 0, Absent: 1

6. Discussion and possible action regarding the attached proposed Geotechnical Reports totaling \$20,350. See Breakdown below:

- High School: \$9,950
- Middle School: \$7,750
- Elementary School: \$2,650

Motion to approve Geotechnical Reports totaling \$20,350 as attached passed with a motion by Ms. Tiffany Elczyn and a second by Ms. Valory Dalton.

Mr. Jeff Dingee: Absent, Mr. Darrin Abel: Yea, Ms. Tiffany Elczyn: Yea, Ms. Valory Dalton: Yea, Mr. John Maker: Yea

Yea: 4, Nay: 0, Absent: 1

7. Proposed executive session to discuss Superintendent Evaluation and the renewal of Dr. Melonie Hau, Superintendent Contract, as pursuant to 25 O.S. Section 307 (B)(1)

8. Vote to convene or not to convene in executive session

Motion to convene in executive session at 5:46pm passed with a motion by Ms. Valory Dalton and a second by Mr. Darrin Abel.

Mr. Jeff Dingee: Absent, Mr. Darrin Abel: Yea, Ms. Tiffany Elczyn: Yea, Ms. Valory Dalton: Yea, Mr. John Maker: Yea

Yea: 4, Nay: 0, Absent: 1

9. Return to Open Session

Returned to Open Session at 6:51pm. Dr. Melonie Hau, Darrin Abel, Tiffany Elczyn, Vallory Dalton, and John Maker were in executive session and no votes were taken.

10. Discussion and possible action regarding the Superintendent's Evaluation

No action taken.

11. Discussion and possible action on the renewal of Dr. Melonie Hau, Superintendent Contract

No action taken.

12. Adjournment.

Mr. John Maker adjourned meeting at 6:51pm.

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President

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Vice President

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Clerk

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Deputy Clerk

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Member

THIS OKLAHOMA LEASE-PURCHASE AGREEMENT **No.10125** (hereafter referred to as "Agreement") dated as of **September 13, 2022**, by and between **Coryell Roofing and Construction Inc.**, a Texas corporation (herein referred to as "Lessor"), and **Independent School District I-001 of McClain County (Newcastle Public Schools)**, a political subdivision or agency of the State of Oklahoma (hereinafter referred to as "Lessee").

WITNESSETH: In consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto agree as follows:

**1. Term and Payments.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the property described in Exhibit A hereto (hereinafter, with all replacement parts, substitutions, proceeds, increases, additions, accessions, repairs and accessories incorporated therein or affixed thereto, referred to as the "Property") for the amounts to be paid in the sums (the "Lease Payments") and on the dates (the "Lease Payment Dates") set forth in Exhibit B hereto. Except as specifically provided herein, the obligation of the Lessee to make the Lease Payments called for in Exhibit B hereto shall be absolute and unconditional in all events and shall not be subject to any set-off, defense, counterclaim or recoupment for any reason. This Agreement will become effective upon the execution hereof by Lessee and Lessor and upon approval of the Agreement by the Board of the Lessee. The term of this Agreement will extend for the Lessee's 2022-2023, 2023-24, 2024-25, 2025-26, 2026-27, 2027-28, 2028-29, 2029-30, 2030-31, and 2031-32 fiscal years only if mutually ratified by Lessee and Lessor for each of those fiscal years. In accordance with 62 O. S. Section 430.1, continuation of this Agreement past the current 2022-23 fiscal year is dependent upon mutual ratification by Lessee and Lessor. All rights afforded under title 62 O. S. Section 430.1 of Oklahoma law are incorporated in this agreement by reference. The Lessee agrees the Board of Lessee will take action to ratify or not ratify this Agreement for the next ensuing fiscal year at its regular July meeting and to notify Lessor as to whether the Agreement is ratified or not ratified for the next ensuing fiscal year. The Lessor hereby ratifies the continuation of the Agreement through the fiscal year ending June 30, 2032. The Lessor and Lessee agree that under no circumstances will the Agreement be extended beyond the fiscal year ending June 30, 2032. Lessee will evidence its acceptance of the Property by executing and delivering to Lessor a Certificate of Acceptance (hereinafter so called) in the form provided by Lessor.

The interest rate and payments under this Agreement may be adjusted by the Lessor, or its Assigns, on the fifth (5<sup>th</sup>) annual payment date (each, an "Adjustment Date"). Notice of any rate adjustment shall be given in writing to the Lessee on or before the 30<sup>th</sup> day prior to such rate adjustment (the "Determination Date"). The interest rate shall be adjusted to the five-year treasury rate on the Determination Date, plus 49 basis points. "Treasury Rate" shall mean, as of the Determination Date, the ask yield of the United States Treasury obligations (as compiled by and published in the most recently published issue of the Wall Street Journal). Upon any rate adjustment, the future installments of principal and interest payable under this Agreement shall be adjusted. Any such adjustment shall be set forth in a new amortization schedule which the Lessor, or its Assignee, shall prepare using the same format as used to produce the original amortization schedule. Once the amortization schedule is prepared, the Lessor or its Assignee shall attach it to the Agreement and shall deliver a copy of same to the Lessee.

**2. Non-Appropriation and Right of Termination.** The obligations of Lessee to make Lease Payments (called for in Exhibit B) and to make any other payments to Lessor (or to any other person) pursuant to this Agreement are subject to appropriation by the Lessee of funds that are lawfully available to be applied for such purpose. If Lessee fails to make such an appropriation prior to a fiscal period of Lessee, for the Lease Payments scheduled in such fiscal period, Lessor may terminate this Agreement. Lessee may terminate this Agreement by providing written notice of such termination to Lessor following its regular July Board meeting. Upon any such termination of this Agreement, all of Lessee's rights, title and interest in and its obligation under this Agreement and to the Property shall terminate effective on the last day of the last fiscal period of Lessee for which such an appropriation was made. If Lessee ratifies and renews this Agreement for a subsequent fiscal year, Lessee agrees to encumber the required funds to make the Lease Payments due hereunder at the first meeting of Lessee's Board in July of the then current fiscal year by approving an appropriate purchase order for this Agreement.

**3. Taxes.** Lessee shall keep the Property free and clear of all levies, liens and encumbrances except those created under this Agreement. Lessee shall pay, when due, all charges and taxes (local, state and federal) which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Property, excluding, however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes for which Lessee is responsible or liable under this Agreement, Lessee shall promptly reimburse Lessor therefor.

**4. Lessee's Covenants and Representations.** Lessee covenants and represents as follows:

(a) Lessee represents, and will provide an opinion of its counsel to the effect that, it has full power and authority to enter into this Agreement which has been duly authorized, executed, and delivered by Lessee and is a valid and binding obligation of Lessee enforceable in accordance with its terms, and all requirements for execution, delivery and performance of this Agreement have been, or will be, complied with in a timely manner;

(b) All Payments hereunder have been, and will be, duly authorized and paid when due out of funds then on hand and legally available for such purposes; Lessee will, to the extent permitted by State law and other terms and conditions of this Agreement, include in its budget for each successive fiscal period during the term of this Agreement a sufficient amount to permit Lessee to discharge all of its obligations hereunder, and Lessee has budgeted and available for the current fiscal period sufficient funds to comply with its obligations hereunder;

(c) There are no pending or threatened lawsuits or administrative or other proceedings contesting the authority for, authorization of performance of, or expenditure of funds pursuant to, this Agreement;

(d) Information supplied and statements made by Lessee in any financial statement or current budget prior to or contemporaneously with the Agreement are true and correct;

(e) Lessee has an immediate need for, and expects to make immediate use of, substantially all the Property, which need is not temporary or expected to diminish in the foreseeable future; specifically Lessee will not give priority or parity in the appropriation of funds for the acquisition or use of any additional property for purposes or functions similar to those of the Property.

(f) There are no circumstances presently affecting the Lessee that could reasonably be expected to alter its foreseeable need for the Property or adversely affect its ability or willingness to budget funds for the payment of sums due hereunder;

and

(g) Lessee's right to terminate this Agreement as specified in Sections 1 and 2 hereof was not an independently bargained for consideration, but was included solely for the purpose of complying with the requirements of the laws of the State in which Lessee is located.

(h) No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which Lessee has been a party at any time during the past ten (10) years has been terminated by Lessee as a result of insufficient funds being appropriated in any Fiscal Year. No event has occurred which would constitute an event of default under any debt, revenue bond or obligation which Lessee has issued during the past ten (10) years.

(i) Lessee will pay the Lease Payment Due by check, wire transfer, or ACH only.

**5. Use and Licenses.** Lessee shall pay and discharge all operating expenses and shall cause the Property to be operated by competent persons only. Lessee shall use the Property only for its proper purposes and will not install, use, operate or maintain the Property improperly, carelessly, or in violation of any applicable law, ordinance, rule or regulation of any governmental authority, or in a manner contrary to the nature of the Property or the use contemplated by its manufacturer. Lessee shall keep the property at the location stated on the Certificate of Acceptance executed by Lessee upon delivery of the Property until Lessor, in writing, permits its removal, and the Property shall be used solely in the conduct of the Lessee's operations. Lessee shall obtain, at its expense, all registrations, permits and licenses, if any, required by law for the installation and operation of the Property. If applicable, any license plates used on the Property shall be issued in the name of the Lessee. If a certificate of title is issuable with respect to the Property, it shall be delivered to the Lessor showing the interest of the Lessor.

**6. No Maintenance by Lessor's Assigns.** Lessor's assigns shall not be obligated to make any repairs or replacements and at its own expense, Lessee shall service, repair, and maintain the Property in as good condition, repair, appearance and working order as when delivered to Lessee hereunder, ordinary wear and tear from proper use alone excepted, and shall replace any and all parts thereof which may from time to time become worn out, lost, stolen, destroyed, or damaged beyond repair or rendered unfit for intended use, for any reason whatsoever, all of which replacements shall be free and clear of all liens, encumbrances and claims of others and shall become part of the Property and subject to this Agreement. Lessor's assigns may, at its option, discharge such costs, expenses and insurance premiums necessary for the repair, maintenance and preservation of the Property, and all sums so expended shall be due from Lessee in addition to rental payments hereunder.

**7. Alterations.**

(a) Lessee may, at its own expense, install or place in or on, or attach or affix to, the Property such equipment or accessories as may be necessary or convenient to use the Property for its intended purposes provided that such equipment or accessories do not impair the value or utility of the Property. All such equipment and accessories shall be removed by Lessee upon termination of this Agreement, provided that any resulting damage shall be repaired at Lessee's expense. Any such equipment or accessories not removed shall become the property of Lessor.

(b) Without the written consent of Lessor, Lessee shall not make any other alterations, modifications or improvements to the Property except as required or permitted hereunder. Any other alterations, modifications or improvements to the Property shall immediately become part of the Property, subject to the provisions hereof. Without the prior written consent of Lessor, Lessee shall not affix or attach any of the Property to any real property. The Property shall remain personal property regardless of whether it becomes affixed or attached to real property or permanently rests upon any real property or any improvement thereon.

**8. Liens.** Lessee shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, security interest, pledge, lien, charge, encumbrance or claim on or with respect to the Property, title thereto or any interest therein, except the respective rights of Lessor and Lessee hereunder.

**9. Damage to or Destruction of Property.** Lessee shall bear the entire risk of loss, damage, theft or destruction of the Property from any and every cause whatsoever, and no loss, damage, destruction or other event shall release Lessee from the obligation to pay the full amount of the rental payments or from any other obligation under this Agreement. In the event of damage to any item of the Property, Lessee will immediately place the same in good repair, with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any item of Property is lost, stolen, destroyed or damaged beyond repair, Lessee, at the option of Lessee, will either (a) replace the same with like property in good repair or (b) on the next Lease Payment Date, pay Lessor (i) all amounts then owed by Lessee to Lessor under this Agreement, including the Lease Payment due on such date, and (ii) an amount equal to the applicable Option to Purchase Value set forth in Exhibit B.

**10. Insurance.** Lessee shall either be self-insured with regard to the Property or shall purchase and maintain insurance with regard to the Property. Lessee shall indicate on each Certificate of Acceptance executed in relation to this Agreement its election to be self-insured or company insured with regard to the Property listed on that Certificate of Acceptance. Whether Lessee is self-insured or company insured, Lessee shall, for the term of this Agreement, at its own expense, provide comprehensive liability insurance with respect to the Property, insuring against such risks, and such amounts as are customary for lessees of property of a character similar to the Property. In addition, Lessee shall, for the term of this Agreement, at its own expense, provide casualty insurance with respect to the Property, insuring against customary risks, coverage at all times not less than the amount of the unpaid principal portion of the Lease Payments required to be made pursuant to Section 1 as of the last preceding Payment Date specified in Exhibit B on which a Lease Payment was made. If insurance policies are provided with respect to the Property, all insurance policies shall be with insurers authorized to do business in the State where the Property is located and shall name both Lessor and Lessee as insureds as their respective interest may appear. Insurance proceeds from casualty losses shall be payable solely to the Lessor, subject to the provisions of Section 9. Lessee shall, upon request, deliver to Lessor evidence of the required coverages together with premium receipts, and each insurer shall agree to give Lessor written notice of non-payment of any premium due and ten (10) days notice prior to cancellation or alteration of any such policy. Lessee shall also carry and require any other person or entity working on, in or about the Property to carry workmen's compensation insurance covering employees on, in or about the Property.

**11. No Warranty By Subsequent Assigns.** EXCEPT FOR REPRESENTATIONS, WARRANTIES, AND SERVICE AGREEMENTS RELATING TO THE PROPERTY MADE OR ENTERED INTO BY THE MANUFACTURERS OR SUPPLIERS OF THE PROPERTY, IF ANY, ALL OF WHICH ARE HEREBY ASSIGNED TO THE LESSEE, NO SUBSEQUENT ASSIGNEE OF LESSOR WILL MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND LESSOR'S ASSIGNS ASSUMES NO OBLIGATION WITH RESPECT TO THE TITLE, MERCHANTABILITY, CONDITION, QUALITY OR FITNESS OF THE PROPERTY DESCRIBED IN EXHIBIT A FOR ANY PARTICULAR PURPOSE OR THE CONFORMITY OF THE PROPERTY TO SPECIFICATION OR PURCHASE ORDER. All such risks shall be borne by the Lessee without in any way excusing it from its obligations under this Agreement, and any subsequent assignee of Lessor shall not be liable for any damages on account of such risks. All claims or actions on any warranty so assigned shall be made or prosecuted by the Lessee, at its sole expense, upon prior written notice to any assignee of Lessor. Lessor's assigns may, but shall have no obligation whatsoever to participate in a claim on any warranty. Any recovery under such a warranty shall be made payable to Lessee and Lessor's assigns jointly.

**12. Purchase Option/Prepayment.** Upon payment of the purchase price, plus interest as provided on Exhibit B, the Property shall belong to the Lessee and the Lessor shall execute and deliver a Quit Claim Bill of Sale to the Lessee conveying the Property "as is", but free and clear of any lien, encumbrance, or security interest created or permitted and not discharged by Lessor. The Lessee shall have an option to purchase the Property in whole but not in part, upon sixty (60) days written notice to Lessor by payment of the then applicable purchase price, plus interest, according to the attached Exhibit B. However, should Lessee have no purchase option or right to prepay the Lease according to the Option to Purchase column of the attached Exhibit B, any attempt to do so shall constitute an Event of Default. The purchase price shall convert to a nominal interest rate that shall not exceed 4.924%. Unless agreed to by Lessor, partial prepayment of Principal according to Exhibit B shall not be allowed. Any such Principal prepayment shall reduce the end of the Exhibit B term.

**13. Default and Lessor's Remedies.**

**(a)** The occurrence of one or more of the following events shall constitute an Event of Default, whether occurring voluntarily or involuntarily, by operation of law or pursuant to any order of any court or governmental agency:

(1) Lessee fails to make any payment hereunder when due or within ten (10) days thereafter;

(2) Lessee fails to comply with any other covenant, condition or agreement of Lessee hereunder for a period of the ten (10) days after notice thereof;

(3) Any representation or warranty made by Lessee hereunder shall be untrue in any material respect as of the date made;

(4) Lessee makes, permits or suffers any unauthorized assignment, transfer or other disposition of this Agreement or any interest herein, or any part of the Property or any interest therein; or

(5) Lessee becomes insolvent; or admits in writing its inability to pay its debts as they mature; or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or, in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium, or any proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding is instituted by or against Lessee and, if instituted against Lessee, is consented to or acquiesced in by Lessee or is not dismissed within sixty (60) days.

**(b)** Upon the occurrence of any Event of Default specified herein, Lessor may, at its sole discretion, exercise any or all of the following remedies:

(1) Enforce this Agreement by appropriate action to collect amounts due or to become due hereunder, by acceleration or otherwise, or to cause Lessee to perform its other obligations hereunder in which event Lessee shall be liable for all costs and expenses incurred by Lessor;

(2) Take possession of the Property, without demand or notice and without court order or any process of law, and remove and relet the same for Lessee's account, in which event Lessee waives any and all damages resulting therefrom and shall be liable for all costs and expenses incurred by Lessor in connection therewith and the difference, if any, between the amounts to be paid pursuant to Section 1 hereof and the amounts received and to be received by Lessor in connection with any such reletting;

(3) Terminate this Agreement and repossess the Property, in which event Lessee shall be liable for any amounts payable hereunder through the date of such termination and all costs and expenses incurred by Lessor in connection therewith;

(4) Sell the Property or any portion thereof for Lessor's account at public or private sale, for cash or credit, without demand on notice to Lessee of Lessor's intention to do so, or relet the Property for a term and a rental which may be equal to, greater than or less than the rental and term provided herein. If the proceeds from any such sale or rental payments received under a new agreement made for the periods prior to the expiration of this Agreement are less than the sum of **(i)** the costs of such repossession, sale, relocation, storage, reconditioning, reletting and reinstallation (including but not limited to reasonable attorneys' fees), **(ii)** the unpaid principal balance derived from Exhibit B as of the last preceding Lease Payment Date specified in Exhibit B, and **(iii)** any past due amounts hereunder (plus interest on such unpaid principal balance at the rate specified in Section 19 hereof, prorated to the date of such sale), all of which shall be paid to Lessor, Lessor shall retain all such proceeds and Lessee shall remain liable for any deficiency; or

(5) Pursue and exercise any other remedy available at law or in equity, in which event Lessee shall be liable for any and all costs and expenses incurred by Lessor in connection therewith. "Costs and expenses," as that term is used in this Section, shall mean, to the extent allowed by law: **(i)** reasonable attorneys' fees if this Agreement is referred for collection to an attorney not a salaried employee of Lessor or the holder of this Agreement; **(ii)** court costs and disbursements including such costs in the event of any action necessary to secure possession of the Property; and **(iii)** actual and reasonable out-of-pocket expenses incurred in connection with any repossession or foreclosure, including costs of storing, reconditioning and reselling the Property, subject to the standards of good faith and commercial reasonableness set by the applicable Uniform Commercial Code.

(6) Under no circumstances shall Lessee be liable under this subsection (b) for any amount in excess of the sum appropriated pursuant to Section 1 hereof for the previous and current fiscal years, less all amounts previously due and paid during such previous and current fiscal years from amounts so appropriated.

**14. Termination.** Unless Lessee has properly exercised its option to purchase pursuant to Section 12 hereof, Lessee shall, upon any earlier termination hereof pursuant to the terms of this Agreement, surrender the Property to Lessor unencumbered and in at least as good condition and repair as when delivered to Lessee, ordinary wear and tear resulting from proper use alone excepted.

**15. Assignment.** Without Lessor's prior written consent, Lessee will not either **(i)** assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Agreement or the Property or any interest in this Agreement or the Property; or **(ii)** sublet or lend the Property or permit it to be used by anyone other than Lessee or Lessee's employees. Lessor may assign its rights, title and interest in and to this Agreement, the Property and any other documents executed with respect to this Agreement and/or grant or assign a security interest in this Agreement and the Property, in whole or in part. Any such assignees shall have all of the rights of Lessor under this Agreement. Subject to the foregoing, this Agreement inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. No assignment or reassignment of any of Lessor's rights, title or interest in this Agreement or the Property shall be effective with regard to Lessee unless and until Lessee shall have received a copy of the document by which the assignment or reassignment is made, disclosing the name and address of such assignee. No further action will be required by Lessor or by Lessee to evidence the assignment. During the term of this Agreement, Lessee shall keep a complete and accurate record of all such assignments in form necessary to comply with the United States Internal Revenue Code of 1986, Section 149 (a), and the regulations, proposed or existing, from time to time promulgated thereunder.

**16. Personal Property.** The Property is and shall at all times be and remain personal property.

**17. Title.** Lessor or its assignee will retain title to the Property during the lease term. Title to the Property will pass to Lessee upon (and only upon) Lessee's exercise of the purchase option provided in Section 12 hereof and the complete payment and performance by Lessee of all of Lessee's obligations under this Agreement, and in such case Lessor agrees to execute such instruments and do such things as Lessee reasonably requests in order to effectuate the passage of title to Lessee. In the event of a non-appropriation or Event of Default by Lessee, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of legal title to the Equipment to Lessor and Lessee will peaceably surrender possession of the Equipment to Lessor.

**18. Lessor's Right to Perform for Lessee.** If Lessee fails to make any payment or perform or comply with any of its covenants or obligations hereunder, Lessor may, but shall not be required to, make such payment or perform or comply with such covenants and obligations on behalf of Lessee, and the amount of any such payment and the expenses (including but not limited to reasonable attorneys' fees) incurred by Lessor in performing or complying with such covenants and obligations, as the case may be, together with interest thereon at the highest lawful rate, shall be payable by Lessee upon demand.

**19. Interest on Default.** If Lessee fails to pay any Lease Payment specified in Section 1 hereof within ten (10) days after the due date thereof, Lessee shall pay to Lessor interest on such delinquent payment from the due date until paid at the highest lawful rate.

**20. Notices.** Any notices to be given or to be served upon any party hereto in connection with this Agreement must be in writing and may be given by certified or registered mail, and shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail, and if given otherwise shall be deemed to have been given when delivered to and received by the party to whom it is addressed. Such notice shall be given to the parties at their respective addresses designated on the signature page of this Agreement or at such other address as either party may hereafter designate.

**21. Tax Exemption.** Lessee acknowledges and agrees that the Lease Payments have been calculated by Lessor assuming that the interest portion of each Lease Payment is exempt from Federal Income Taxation. Lessee represents, warrants and covenants that it will do or refrain from doing all things necessary or appropriate to insure that the interest portion of the Lease Payments is exempt from Federal Income Taxation, including, but not limited to, executing and filing all information statements required by Section 149(e) of the Internal Revenue Code of 1986, as amended, and timely paying, to the extent of available funds, amounts required to be rebated to the United States pursuant to Section 148(f) of the Internal Revenue Code of 1986, as amended.

**22. Continuing Disclosure.** Specifically and without limitation, Lessee agrees to provide audited financial statements, prepared by a certified public accountant not later than nine (9) months after and as of the end of each fiscal year. Periodic financial statements shall include a combined balance sheet as of the end of each such period, and a combined statement of revenues, expenditures and changes in fund balances, from the beginning of the then fiscal year to the end of such period. These reports must be certified as correct by one of Lessee's authorized agents. If Lessee has subsidiaries, the financial statements required will be provided on a consolidated and consolidation basis.

**23. Miscellaneous.**

**(a)** Lessee shall, whenever requested, advise Lessor of the exact location and condition of the Property and shall give the Lessor immediate notice of any attachment or other judicial process affecting the Property. Lessor may, for the purpose of inspection, at any reasonable time during regular business hours enter upon any job, building or place where the Property and the books and records of the Lessee with respect thereto are located.

**(b)** Lessee agrees to equitably adjust the payments payable under this Agreement if there is a determination for any reason that the interest payable pursuant to this Agreement (as incorporated within the schedule of payments) is not excludable from income in accordance with the Internal Revenue Code of 1986, as amended, such as to make Lessor and its assigns whole.

**(c)** Time is of the essence. No covenant or obligations hereunder to be performed by Lessee may be waived except by the written consent of Lessor, and a waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation as to any other occasion and shall not preclude Lessor from invoking such remedy at any later time prior to Lessee's cure of the condition giving rise to such remedy. Lessor's rights hereunder are cumulative and not alternative.

**(d)** This Agreement shall be construed in accordance with, and governed by, the laws of the State in which the Property is located.

**(e)** This Agreement constitutes the entire agreement between the parties and shall not be modified, waived, discharged, terminated, amended, altered or changed in any respect except by a written document signed by both Lessor and Lessee.

**(f)** Any term or provision of this Agreement found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without, to the extent reasonably possible, invalidating the remainder of this Agreement.

**(g)** The Lessor hereunder shall have the right at any time or times, by notice to Lessee, to designate or appoint any person or entity to act as agent or trustee for Lessor for any purposes hereunder.

**(h)** All transportation charges shall be borne by Lessee. Lessee will immediately notify Lessor of any change occurring in or to the Property, of a change in Lessee's address, or in any fact or circumstance warranted or represented by Lessee to Lessor, or if any Event of Default occurs.

**(i)** Use of the neutral gender herein is for purposes of convenience only and shall be deemed to mean and include the masculine or feminine gender whenever and wherever appropriate.

**(j)** The captions set forth herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

**(k)** Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, where permitted by this Agreement.

[Signature Page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_ in 2022.

THIS OBLIGATION IS A PRESENT OBLIGATION OF THE LESSEE TO MAKE PAYMENTS AS DESCRIBED ON EXHIBIT B WITHOUT REGARD INCLUDING, BUT NOT LIMITED TO, FEDERAL, STATE AND OTHER GRANTS, GIFTS, ETC.

**Lessor:** Coryell Roofing and Construction Inc.

\_\_\_\_\_  
Authorized Signature  
14220 S. Meridian  
Oklahoma City, OK 73173

Witness Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

**Lessee:** Independent School District I-001 of McClain County  
(Newcastle Public Schools)

\_\_\_\_\_  
Dr. Melonie Hau, Superintendent  
101 North Main Street  
Newcastle, OK 73065

Witness Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

**EXHIBIT A**  
**DESCRIPTION OF PROPERTY**

OKLAHOMA LEASE-PURCHASE AGREEMENT **No. 10125** (THE "AGREEMENT")  
BY AND BETWEEN

**Lessor,** Coryell Roofing and Construction Inc. and  
**Lessee,** Independent School District I-001 of McClain County (Newcastle Public Schools)  
Dated as of September 13, 2022

**DESCRIPTION**

---

**ROOF REPLACEMENT**

Duro-Last Layover Roof System  
Roof Area SF: 32,364  
Existing Deck Type: Metal

---

**PROPERTY LOCATIONS:**

101 North Main Street  
Newcastle, OK 73065

## EXHIBIT B

### >> SCHEDULE OF PAYMENTS & OPTION TO PURCHASE PRICE <<

OKLAHOMA LEASE-PURCHASE AGREEMENT No.10125 (THE "AGREEMENT")

BY AND BETWEEN

**Lessor:** Coryell Roofing and Construction Inc. and **Lessee:** Independent School District I-001 of McClain County  
(Newcastle Public Schools)

Schedule dated as of November 15, 2022

PMT NO.	PMT DATE MO. DAY YR	TOTAL PAYMENT	INTEREST PAID	PRINCIPAL PAID	OPTION TO PURCHASE after pmt on this line
1	5/12/2023	\$348,060.30	\$64,011.11	\$284,049.19	\$2,541,412.88
2	5/12/2024	\$348,060.30	\$116,327.38	\$231,732.92	\$2,305,174.75
3	5/12/2025	\$348,060.30	\$105,612.99	\$242,447.31	\$2,058,542.14
4	5/12/2026	\$348,060.30	\$94,403.21	\$253,657.09	\$1,801,057.69
5	5/12/2027	\$348,060.30	\$82,675.13	\$265,385.17	\$1,532,243.93
6	5/12/2028	\$348,060.30	\$70,404.79	\$277,655.51	\$1,251,602.36
7	5/12/2029	\$348,060.30	\$57,567.13	\$290,493.17	\$958,612.56
8	5/12/2030	\$348,060.30	\$44,135.90	\$303,924.40	\$652,731.21
9	5/12/2031	\$348,060.30	\$30,083.66	\$317,976.64	\$333,391.08
10	5/12/2032	\$348,060.30	\$15,381.70	\$332,678.60	\$1.00
Grand Totals		\$3,480,603.00	\$680,603.00	\$2,800,000.00	

**Rate: 4.624%**

Accepted By Lessee: \_\_\_\_\_  
Dr. Melonie Hau, Superintendent

# INCUMBENCY, INSURANCE, AND ESSENTIAL USE CERTIFICATES

OKLAHOMA LEASE-PURCHASE AGREEMENT No. 10125 (THE "AGREEMENT")

BY AND BETWEEN

Lessor, Coryell Roofing and Construction Inc. and Lessee, Independent School District I-001 of McClain County (Newcastle Public Schools)

Dated as of September 13, 2022

I, Tiffany Elczyn, do hereby certify that I am the duly elected or appointed and acting Board Clerk (Keeper of the Records), of Independent School District I-001 of McClain County (Newcastle Public Schools), a political subdivision or agency duly organized and existing under the laws of the State of Oklahoma that I have custody of the records of such entity, and that, as of the date hereof, the individual(s) named below are the duly elected or appointed officer(s) of such entity holding the office(s) set forth opposite their respective name(s). I further certify that (i) the signature(s) set opposite their respective name(s) and title(s) are their true and authentic signature(s), and (ii) such officers have the authority on behalf of such entity to enter into that certain Oklahoma Lease-Purchase Agreement dated as of, September 13, 2022 between such entity and Coryell Roofing and Construction Inc.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Dr. Melonie Hau	Superintendent	_____

IN WITNESS WHEREOF, I have duly executed this certificate hereto this \_\_\_\_ day of \_\_\_\_\_, 2022.

By Lessee:

\_\_\_\_\_  
Tiffany Elczyn, Board Clerk

Lessee certifies that property and liability insurance, if applicable, have been secured in accordance with the Agreement and such coverage will be maintained in full force for the term of the Agreement. "Lessor or its Assigns" should be designated as loss payee until Lessee is notified, in writing, to substitute a new loss payee.

**The following information is provided about insurance. (PLEASE FILL IN THE INFORMATION BELOW)**

INSURANCE COMPANY/AGENT'S:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ POLICY NUMBER: \_\_\_\_\_

I, Dr. Melonie Hau, Superintendent, of Independent School District I-001 of McClain County (Newcastle Public Schools) ("Lessee"), hereby certify that the Equipment, to be leased to the undersigned under the certain Lease Agreement, dated as of September 13, 2022, between such entity and Coryell Roofing and Construction Inc. ("Lessor"), will be used by the undersigned Lessee for the following purpose: **(PLEASE FILL OUT PRIMARY USE BELOW)**.

**PRIMARY USE** \_\_\_\_\_

The undersigned hereby represents that the use of the Equipment is essential to its proper, efficient and economic operation.

IN WITNESS WHEREOF, I have set my hand this \_\_\_\_ day of \_\_\_\_\_, 2022.

By Lessee:

\_\_\_\_\_  
Dr. Melonie Hau, Superintendent

For Lessee: Independent School District I-001 of McClain County (Newcastle Public Schools)

# TAX AND ARBITRAGE CERTIFICATE

LEASE AGREEMENT NO. 10125 (THE "AGREEMENT")  
BY AND BETWEEN

**Lessor,** Coryell Roofing and Construction Inc. and  
**Lessee,** Independent School District I-001 of McClain County (Newcastle Public Schools)  
Dated as of September 13, 2022

This **Tax and Arbitrage Certificate** is executed on this \_\_\_\_ day of \_\_\_\_\_, 2022 by the undersigned ("Lessee") and pertains to that equipment lease or financing agreement dated September 13, 2022, as is more fully described above (the "Lease"). This Certificate is being issued pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and Treasury Regulation Section 1.141-1 through 1.141-15, 1.148-0 through 1.148-11, 1.149(d), 1.149(g)-1, 1.150-1 and 1.150-2 (the "Regulations"). Lessee hereby agrees that: (a) proceeds derived from the issuance of the Lease shall only be used to acquire property that has a governmental purpose and will not be used to acquire property that will benefit any private business activity; (b) proceeds derived from the issuance of the Lease shall never be invested in instruments yielding an interest rate return in excess of the rate of interest set forth in the Lease; (c) proceeds derived from the issuance of the Lease shall be fully and completely expended for their anticipated purpose within at least one year from the date of the Lease; (d) proceeds derived from the issuance of the Lease shall not be used to finance any acquisition other than the purchase of that property identified in the Lease along with related costs and costs of issuance; (e) the repayment of the Lease is not guaranteed directly or indirectly by the federal government; (f) Lessee shall execute a Form 8038-G and allow for such to be filed of record with the Internal Revenue Service; (g) the Lease is in registered form and that the Lessee shall maintain a record regarding the ownership of the Lease and the payment of all sums payable under the Lease; (h) the proceeds derived from the issuance of the Lease are not in excess of the sum required in order to acquire the property that is the subject of the Lease and to fund the costs associated with the issuance of the Lease; (i) Lessee does not currently contemplate the sale or disposition of the property that is the subject of the Lease prior to the expiration of the Lease's payment terms; and (j) the Lessee shall otherwise abide by all applicable rules and regulations related to the issuance of the Lease.

To the best of the knowledge and belief of the undersigned, the expectations as set forth above, are reasonable; and there are no present facts, estimates, and circumstances which would change the foregoing expectations. Lessee has not been notified of the listing, or proposed listing of it, by the Internal Revenue Service as an Issuer whose arbitrage certificates may not be relied upon.

Executed on the date first referenced above.

Lessee: Independent School District I-001 of McClain County (Newcastle Public Schools)

\_\_\_\_\_  
Dr. Melonie Hau, Superintendent  
101 North Main Street  
Newcastle, OK 73065

***[to be retyped on letterhead of lessee's counsel]***

Coryell Roofing and Construction Inc.  
Attention Documentation Department  
14220 S. Meridian  
Oklahoma City, OK 73173

RE: Oklahoma Lease-Purchase Agreement No.10125

Dear Lessor,

I have acted as Counsel to Independent School District I-001 of McClain County (Newcastle Public Schools) with respect to that certain Oklahoma Lease-Purchase Agreement No.10125, by and between Coryell Roofing and Construction Inc. as Lessor and Independent School District I-001 of McClain County (Newcastle Public Schools) as Lessee. I have reviewed the Agreement and such other documents, records and certificates of Lessee and appropriate public officials as I have deemed relevant and am of the opinion that:

1. The Lessee is a political subdivision or agency of the State of Oklahoma with the requisite power and authority to incur obligations, the interest on which is exempt from taxation by virtue of Section 103(a) of the Internal Revenue Code of 1986;
2. The execution, delivery and performance by the Lessee of the Agreement have been duly authorized by all necessary action on the part of the Lessee; and
3. The Agreement constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms.
4. The above opinions may be relied upon by the Lessee, Lessor, or its Assigns.

Sincerely,

Attorney at Law

# RESOLUTION

A RESOLUTION REGARDING AN OKLAHOMA LEASE-PURCHASE AGREEMENT FOR THE PURPOSE OF FINANCING A **"ROOF REPLACEMENT"**.

WHEREAS, the Independent School District I-001 of McClain County (Newcastle Public Schools) desires to enter into that certain Oklahoma Lease-Purchase Agreement dated as of September 13, 2022, by and between Independent School District I-001 of McClain County (Newcastle Public Schools) and Coryell Roofing and Construction Inc., for the purpose of financing a **"Roof Replacement"**. The District desires to designate the Board President or the Superintendent, as an authorized signer of the Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF INDEPENDENT SCHOOL DISTRICT I-001 OF MCCLAIN COUNTY (NEWCASTLE PUBLIC SCHOOLS):

Section 1. That the Independent School District I-001 of McClain County (Newcastle Public Schools) enters into an Oklahoma Lease-Purchase Agreement with Coryell Roofing and Construction Inc. for the purpose of financing a **"Roof Replacement"**.

Section 2. That the Independent School District I-001 of McClain County (Newcastle Public Schools) will designate the Board President or the Superintendent, as an authorized signer of the Lease Purchase Agreement Number 10125 dated as of September 13, 2022, by and between the Independent School District I-001 of McClain County (Newcastle Public Schools) and CORYELL ROOFING AND CONSTRUCTION INC. as well as any other ancillary exhibit, certificate, or documentation needed for the Agreement.

This Resolution has been PASSED upon Motion made by Board Member Darrin Abel, seconded by Board Member John Dingee by a vote of 4 Ayes to 0 Nays and is effective this September 13, 2022.

**Lessee:** Independent School District I-001 of McClain County (Newcastle Public Schools)

Witness Signature

\_\_\_\_\_  
John Maker  
Board President

\_\_\_\_\_  
Tiffany Elczyn  
Board Clerk

## ESCROW AGREEMENT

OKLAHOMA LEASE-PURCHASE AGREEMENT **No.10125** (THE "AGREEMENT")  
BY AND BETWEEN

**Lessor**, Coryell Roofing and Construction Inc. and  
**Lessee**, Independent School District I-001 of McClain County (Newcastle Public Schools)  
TAX ID #73-0983395 Dated as of September 13, 2022

THIS ESCROW AGREEMENT (the "Agreement") is made and entered into as of September 13, 2022 ("Agreement Date"), by and among Coryell Roofing and Construction Inc. ("Lessor"), Independent School District I-001 of McClain County (Newcastle Public Schools) ("Lessee") and \_\_\_\_\_ ("Agent").

### WITNESSETH:

WHEREAS, Lessor and Lessee have entered into a certain Oklahoma Lease-Purchase Agreement dated as of September 13, 2022 (the "Lease"), pursuant to which the property more particularly described therein (the "Property") will be leased to the Lessee under the terms stated in the Lease;

WHEREAS, Lessor and Lessee desire to make funding arrangements for the acquisition of the Property, and Agent agrees to serve as escrow agent for such funding and acquisition;

NOW THEREFORE, in consideration of the mutual agreements and covenant herein contained and for other valuable consideration, the parties hereby agree as follows:

1. Agent shall undertake the duties and obligations of escrow agent as set forth in this Agreement. Agent shall not be deemed to be a party to the Lease.
2. Lessor has delivered to Agent the sum of \$2,800,000.00 ("Escrow Amount") for deposit by Agent in the Independent School District I-001 of McClain County (Newcastle Public Schools) Escrow Account (the "Fund"). The Fund will be administered by Agent pursuant to the terms of this Agreement.
3. Deposits in the Fund shall be used to pay for the acquisition of the Property. The Property may be acquired as individual items or as groups of items. Agent shall make disbursements from the Fund in payment for the acquisition of each item or group of items of the Property promptly upon receipt of a properly executed Escrow Disbursement Request Form, in the form attached hereto as "Schedule 1", for that portion of the acquisition of the Property for which payment is requested. Upon full acquisition of an item or group of items of the Property, any remaining cost of such item or group of items shall be disbursed promptly by the Agent upon receipt of a properly executed Acceptance Certificate and a corresponding Escrow Disbursement Request Form in the form attached hereto as "Schedule 1", for that portion of the Property for which payment is requested. Payment by Agent shall be to the payee shown on the Escrow Disbursement Request Form.
4. Agent will invest the Fund, as specified by Lessor, in general obligations of the United States or in obligations fully insured by the United States or in certificates of deposit of a bank which is either fully insured by an agency of the federal government or fully collateralized by such federal or federally guaranteed obligations, or in no-load money market mutual funds registered with and regulated by the Securities and Exchange Commission that includes in their investment objectives the maintenance of a stable net asset value of \$1 for each share, or Money Market Mutual Funds registered under the Investment Act of 1940. Agent will retain in the Fund all earnings from investment of the Fund until termination of the Fund pursuant to Section 5 hereof. Agent will be entitled to sell or redeem any such investments as necessary to make any distributions required under this Agreement and shall not be liable for any loss resulting from such sale or redemption. In the absence of written investment direction from the Lessor, the Agent shall invest and reinvest the amounts in the Fund in Money Market Mutual Funds registered under the Investment Act of 1940.
5. Upon execution of one or more Acceptance Certificates by Issuer and payment of acquisition costs by Agent for all the Property (as confirmed in writing by the Lessor to the Escrow Agent), this Agreement and the Funds shall terminate, and Agent shall transfer to Lessor all remaining sums in the Fund. If not terminated earlier, this Agreement and the Fund shall terminate on November 30, 2023 ("Termination Date"). In this latter event, interest accrued pursuant to investment of the Fund under the terms of Section 4 hereof and all remaining principal in the Fund shall be transferred by Agent to Lessor; Exhibit "A" attached to the Contract shall thereupon be revised to delete any non-acquired portions of the Property and to substitute an amended amortization payment schedule to reflect the reduced acquisition costs.
6. Lessor and Issuer may by written agreement between themselves remove the Agent, at any time and for any reason, and appoint a successor escrow agent. Such removal shall not be effective until thirty (30) days after written notice thereof to Agent.
7. Agent may at any time and for any reason resign as escrow agent by giving written notice to Lessor and Lessee of its intention to resign and of the proposed date of resignation, which date shall be not less than thirty (30) days after giving Lessee and Lessor written notice of intent to resign, nor less than thirty (30) days after being appointed by Lessor and Lessee. Upon the effective date of any resignation, the Escrow Agent shall deliver all cash and other property in the Fund to a successor escrow agent designated by Lessor, and if no successor has been appointed, shall deliver all such cash and other property to the Lessor and all obligations of the Escrow Agent shall cease.
8. Agent shall have no obligation under the terms of this Agreement to make any disbursement except from the Fund. Agent makes no warranties or representations as to the Property or as to performance of the obligations of Lessor or Lessee under this Agreement or the Lease.
9. Agent shall be entitled to rely in good faith upon any documents signed by a party hereto and shall have no duty to investigate the veracity of such documents. Agent (i) may assume that any person giving notice pursuant to the terms hereof is authorized to do so and (ii) shall not be liable for good faith reliance thereon. Agent may consult with legal counsel in the event of any dispute or question as to the construction of any of the provisions hereof or its duties hereunder, and, to the extent it acts in good faith without gross negligence or willful misconduct, it shall be fully protected in acting in accordance with the opinion or instructions of such counsel. The Agent shall not be liable for any act done or step taken or omitted by it or any mistake of fact or law, except for its gross negligence or willful misconduct. The Lessor and Lessee jointly and severally agree to indemnify and save Agent harmless from all losses, costs, liabilities, actual damages, fees and expenses (including, but not limited to, reasonable attorney's fees and expenses) suffered or incurred by Agent arising from the performance of its obligations under this Agreement ("Acts"), except such Acts as arise from or attributable to the gross negligence or willful misconduct of Agent.
10. To the limited extent required to perfect the security interest granted by Lessee to Lessor in the cash and negotiable instrument from time to time comprising the Fund, Lessor hereby appoints the Agent as its security agent, and the Agent hereby accepts the appointment as security agent, and agrees to hold physical possession of such cash negotiable instruments on behalf of Lessor.
11. This Agreement may be amended by written agreement executed by all the parties. Lessor may assign its rights and/or obligations at any time with written notice thereof to the other parties hereto.
12. This Agreement may be executed in several counterparts, each of which shall be an original. The parties hereto agree the transactions described herein may be conducted and related documents may be stored by electronic means.
13. Agent shall be entitled to fees and expenses for its regular services as Agent as set forth in its fee letter delivered to the Lessor and Lessee. Additionally, Agent is entitled to fees for extraordinary services and reimbursement of any out of pocket and extraordinary costs and expenses, including, but not limited to, attorneys' fees. Agent shall have a first lien upon all amounts in the Fund for the purposes of paying its fees and expenses. All of the Escrow Agent's compensation, costs and expenses shall be paid by the Lessee unless agreed to by Lessor.

14. In the event of any disagreement between the undersigned or any other person, resulting in adverse claims and demands being made on the Fund, the Agent shall be entitled to refuse to comply with any demand or claim, as long as such disagreement shall continue, and in so refusing to make any delivery or other disposition of any money, papers or property involved or affected hereby, the Agent shall not be or become liable to the undersigned for its refusal to comply with such conflicting or adverse demands, and the Escrow Agent shall be entitled to refuse and refrain to act until: (a) the rights of the adverse claimants shall have been fully and finally adjudicated in a Court assuming and having jurisdiction of the parties and money, papers and property involved herein or affected hereby, or (b) all differences shall have been adjusted by agreement and the Agent shall have been notified thereof in writing, signed by all the interested parties.

15. The parties hereto agree that, for tax reporting purposes, all interest or other income, if any, attributable to the Escrowed Funds or any other amount held in escrow by the Escrow Agent pursuant to this Agreement shall be allocable to the Lessor for credit to Lessee subject to the terms of this Agreement. The Lessor and Lessee agree to provide the Escrow Agent completed Forms W-9 (or Forms W-8, in the case of non-U.S. persons) and other forms and documents that the Escrow Agent may reasonably request (collectively, "Tax Reporting Documentation") at the time of execution of this Agreement and any information reasonably requested by the Escrow Agent to comply with the USA Patriot Act of 2001, as amended from time to time. The parties hereto understand that if such Tax Reporting Documentation is not so certified to the Escrow Agent, the Escrow Agent may be required by the Internal Revenue Code, as it may be amended from time to time, to withhold a portion of any interest or other income earned on the investment of monies or other property held by the Escrow Agent pursuant to this Escrow Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

LESSOR: Coryell Roofing and Construction Inc.

BY: \_\_\_\_\_  
Authorized Signer

LESSEE: Independent School District I-001 of McClain County (Newcastle Public Schools)

BY: \_\_\_\_\_  
Dr. Melonie Hau, Superintendent

AGENT: \_\_\_\_\_

BY: \_\_\_\_\_  
Agent Rep, Agent Rep Title

**ESCROW AGREEMENT - SCHEDULE 1**

OKLAHOMA LEASE-PURCHASE AGREEMENT **No.10125** (THE "AGREEMENT")

BY AND BETWEEN

**Lessor**, Coryell Roofing and Construction Inc. and **Lessee**, Independent School District I-001 of McClain County (Newcastle Public Schools)

Dated as of September 13, 2022

**ESCROW DISBURSEMENT REQUEST FORM**

\_\_\_\_\_, acting as escrow agent (the "Agent") under the Escrow Agreement dated as of September 13, 2022 (Escrow Date), by and among the Agent, Coryell Roofing and Construction Inc. as Lessor and Independent School District I-001 of McClain County (Newcastle Public Schools) as Lessee, is hereby requested to pay to the person or corporation designated below as Payee the sum set forth below in payment of the acquisition and installation costs of the property described below. The amount shown below is due and payable under the invoice of Payee with respect to the described property and has not formed the basis of any prior request for payment.

PAYEE: (Include W-9) \_\_\_\_\_

AMOUNT: \_\_\_\_\_

DESCRIPTION OF PROPERTY: \_\_\_\_\_

INVOICE # \_\_\_\_\_ DATED: \_\_\_\_\_

Indicate Method for Payment Disbursement:

\_\_\_\_\_ Overnight Check \*\*\*      \_\_\_\_\_ Regular Mail Check      \_\_\_\_\_ Wire Funds

Mailing Address: \_\_\_\_\_ Wire Instructions: \_\_\_\_\_

\_\_\_\_\_

(\*\*\*Please note that there might be a fee charged for overnight delivery. This fee will be deducted from the Escrow Balance before disbursement is made.)

**Lessee:** Independent School District I-001 of McClain County (Newcastle Public Schools)

By: \_\_\_\_\_  
Dr. Melonie Hau, Superintendent

**Lessor:** Coryell Roofing and Construction Inc.

By: \_\_\_\_\_  
Authorized Signer

**ACCEPTANCE CERTIFICATE**

Independent School District I-001 of McClain County (Newcastle Public Schools) as Lessee under that certain Oklahoma Lease-Purchase Agreement dated as of September 13, 2022 ("Agreement Date") (the "Lease"), hereby acknowledges receipt in good condition of all the property described on the attached Vendor Invoice(s), hereby accepts such property, and hereby certifies that Lessor has fully and satisfactorily performed all covenants and conditions to be performed by it under the Lease with regard to such property, that such property is fully insured in accordance with Section 10 of the Lease and that such property constitutes all or a portion of the Property as that term as defined in the Lease.

Date of Property/Services Acceptance: \_\_\_\_\_, 2022.

By Lessee:

\_\_\_\_\_  
Dr. Melonie Hau, Superintendent

For Lessee: Independent School District I-001 of McClain County (Newcastle Public Schools)



**Information Return for Tax-Exempt Governmental Bonds**

(Rev. September 2018)

► Under Internal Revenue Code section 149(e)

► See separate instructions.

OMB No. 1545-0720

Department of the Treasury  
Internal Revenue Service

Caution: If the issue price is under \$100,000, use Form 8038-GC.

► Go to [www.irs.gov/F8038G](http://www.irs.gov/F8038G) for instructions and the latest information.

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name <b>Independent School District I-001 of McClain County (Newcastle Public Schools)</b>		2 Issuer's employer identification number (EIN) <b>73-0983395</b>	
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions) <b>Tiffany Elczyn, Board Clerk</b>		3b Telephone number of other person shown on 3a <b>405-387-2890</b>	
4 Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	5 Report number (For IRS Use Only)	
<b>101 N. Main Street</b>		3	
6 City, town, or post office, state, and ZIP code <b>Newcastle, OK 73065</b>		7 Date of issue <b>November 15, 2022</b>	
8 Name of issue <b>Oklahoma Lease Purchase Agreement No.10125</b>		9 CUSIP number <b>None</b>	
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) <b>Dr. Melonie Hau, Superintendent</b>		10b Telephone number of officer or other employee shown on 10a <b>405-387-2890</b>	

<b>Part II Type of Issue (enter the issue price).</b> See the instructions and attach schedule.			
11 Education . . . . .	11	\$2,800,000	00
12 Health and hospital . . . . .	12		
13 Transportation . . . . .	13		
14 Public safety . . . . .	14		
15 Environment (including sewage bonds) . . . . .	15		
16 Housing . . . . .	16		
17 Utilities . . . . .	17		
18 Other. Describe ►	18		
19a If bonds are TANs or RANs, check only box 19a . . . . .	► <input type="checkbox"/>		
b If bonds are BANs, check only box 19b . . . . .	► <input type="checkbox"/>		
20 If bonds are in the form of a lease or installment sale, check box . . . . .	► <input checked="" type="checkbox"/>		

<b>Part III Description of Bonds.</b> Complete for the entire issue for which this form is being filed.					
	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	05/12/2032	\$ 2,800,000.00	\$ N/A	5.762 years	4.624 %

<b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>					
22	Proceeds used for accrued interest . . . . .	22	N/A		
23	Issue price of entire issue (enter amount from line 21, column (b)) . . . . .	23	\$2,800,000	00	
24	Proceeds used for bond issuance costs (including underwriters' discount) . . . . .	24	N/A		
25	Proceeds used for credit enhancement . . . . .	25	N/A		
26	Proceeds allocated to reasonably required reserve or replacement fund . . . . .	26	N/A		
27	Proceeds used to refund prior tax-exempt bonds. Complete Part V . . . . .	27	N/A		
28	Proceeds used to refund prior taxable bonds. Complete Part V . . . . .	28	N/A		
29	Total (add lines 24 through 28) . . . . .	29	N/A		
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) . . . . .	30	\$2,800,000	00	

<b>Part V Description of Refunded Bonds.</b> Complete this part only for refunding bonds.		
31	Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded . . . . .	N/A years
32	Enter the remaining weighted average maturity of the taxable bonds to be refunded . . . . .	N/A years
33	Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY) . . . . .	N/A
34	Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)	

**Part VI Miscellaneous**

<b>35</b>	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .	<b>35</b>	
<b>36a</b>	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions . . . . .	<b>36a</b>	
<b>b</b>	Enter the final maturity date of the GIC ▶ (MM/DD/YYYY) _____		
<b>c</b>	Enter the name of the GIC provider ▶ _____		
<b>37</b>	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .	<b>37</b>	
<b>38a</b>	If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:		
<b>b</b>	Enter the date of the master pool bond ▶ (MM/DD/YYYY) _____		
<b>c</b>	Enter the EIN of the issuer of the master pool bond ▶ _____		
<b>d</b>	Enter the name of the issuer of the master pool bond ▶ _____		
<b>39</b>	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . . <input type="checkbox"/>		
<b>40</b>	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . . <input type="checkbox"/>		
<b>41a</b>	If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:		
<b>b</b>	Name of hedge provider ▶ _____		
<b>c</b>	Type of hedge ▶ _____		
<b>d</b>	Term of hedge ▶ _____		
<b>42</b>	If the issuer has superintegrated the hedge, check box . . . . . <input type="checkbox"/>		
<b>43</b>	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . . <input type="checkbox"/>		
<b>44</b>	If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . . <input type="checkbox"/>		
<b>45a</b>	If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____		
<b>b</b>	Enter the date the official intent was adopted ▶ (MM/DD/YYYY) _____		

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	▶ _____ Signature of issuer's authorized representative	_____ Date	▶ <b>Dr. Melonie Hau, Superintendent</b> Type or print name and title	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Firm's name ▶	Firm's EIN ▶		PTIN
	Firm's address ▶	Phone no.		



**PROFESSIONAL E-RATE  
MANAGEMENT SERVICES  
PROPOSAL**

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**Newcastle Public Schools**

101 N. Main St.  
Newcastle, OK 73065

# PROPOSAL - NEWCASTLE PUBLIC SCHOOLS E-RATE MANAGEMENT SERVICES

Dr. Melonie Hau  
November 17, 2022  
101 N. Main St.  
Newcastle, OK 73065

Dear Dr. Hau,

Kellogg & Sovereign Consulting is pleased to present the following E-Rate Management Services Proposal to Newcastle Public Schools. At Kellogg & Sovereign, we have the experience, tools, and team to maximize funding opportunities for both the District and Newcastle Community.

We seek to: Maximize funding opportunities for advanced telecommunications and information services - Positively affect entire communities by delivering affordable access to information and health services - Provide access to educational opportunities for students across the nation regardless of their school size or location.

Our experienced professionals draw on their backgrounds in accounting, technology, networking, education, healthcare, administration, and business to provide exceptional service and exceed our client's expectations.

## HOW WE HELP

- Work closely with NPS to develop strategies that maximize E-Rate discounts in order to meet District technology and educational goals.
- Provide guidance and advisement of known E-Rate program rules, procedures, and filing requirements that may impact the successful filing and review of E-Rate applications.
- Provide a proactive, turnkey partnership with NPS to adhere to strict timelines for processing applications for both USAC and applicant's board approval.
- Assistance with the review and identification of eligible products and services based on the most recent eligible services list and guidance available from USAC.

## WHAT'S INCLUDED

- K&S - E-Rate Management Services Agreement (MSA)
- K&S Scope of Work
- Fee Schedule: C1, C2 and OUSF
- Letter of Authorization (LOA)

From the program's beginning in 1997, Kellogg and Sovereign has worked tirelessly with schools & libraries across the country to manage and successfully receive funding from the E-Rate program (Schools & Libraries Universal Service Discount Mechanism). Kellogg & Sovereign has been a nationally recognized leader in the industry for more than 25 years. We help in all aspects of the E-Rate program – from preparing your Request for Proposal (RFP), filing for reimbursement, document retention and everything in between. We are extremely confident that we can help Troup ISD proactively maximize their E-Rate dollars and we look forward to collaborating with you and your Team.

Please review the material included and let me know when you are available to jump on a call with myself and other members of the K&S Team. We will answer any questions that you have and walk through what next steps will look like if we move forward. I look forward to speaking with you soon.

Sincerely,



Jason Coggins - Director of Markets and Growth  
Kellogg & Sovereign® Consulting  
jcoggins@kelloggllc.com  
(405) 561.0221



## Master Services Agreement Professional E-Rate & OUSF Management Services

Kellogg & Sovereign® Consulting (“K&S”) agrees to provide E-Rate & OUSF Management services to assist **Newcastle Independent School District 1, Newcastle, Oklahoma** (“Applicant”) with the Universal Service Discount Mechanism for Schools & Libraries (“E-Rate Program”) filing and compliance and the Oklahoma Universal Services Fund (“OUSF”) program compliance and documentation.

The following services are included in the standard fee and are detailed in the attached and incorporated *Scope of Professional E-Rate & OUSF Management Services*:

### **OUSF:**

Compliance & Documentation\*

### **Pre-Funding Services:**

CIPA Compliance Review

Entity Verification & Changes

Discount Calculation

Form 470 Preparation, Review and Submission

Competitive Bidding – RFP Management, Secure e-bidding, vendor mgt, online bids and evaluation

Form 471 Preparation, Review and Submission

### **Post Funding Services:**

Form 486 Preparation, Review and Submission

Form 472 Preparation, Review and Submission

SPIN Changes and Service Substitutions

Invoice Extensions

Form 500 Preparation, Review and Submission

Program Compliance

Document Retention

USAC & FCC Appeals

### **Support Services & Tools**

On-Line Chat

Phone Support

Monthly Conference Calls

USAC E-Rate portal

K&S Client portal

Document portal

Workshops and Webinars

Online RFP Questionnaire

Secure e-Bidding Site

[www.erate470.com](http://www.erate470.com)

[www.kelloggllc.com](http://www.kelloggllc.com)

Social media notices

*\*OUSF compliance and documentation included only if selected on fee schedule*

Services offered outside of the standard fee and priced separately include reconciliation of service provider discounts (SPI-Form 474), assistance with on-site audits, special compliance reviews, Payment Quality Assessment (PQA) reviews, selective review information requests (SRIR), competitive bidding reviews, cost effectiveness reviews and other reviews as requested by the Universal Service Administrative Company (USAC).

K&S is not a law firm and is not licensed to practice law. Any and all matters which require a legal opinion or review by a legal professional must be contracted out to the appropriate outside legal counsel.

## Term

Term of this agreement shall be effective from date of execution of this agreement through **June 30, 2023** with up to four (2) subsequent twelve-month renewals subject to annual mutual ratification in writing by both parties. Execution of the annual fee schedule shall be considered mutual ratification.

## Fees

Fees shall be mutually agreed upon annually. K&S shall provide Applicant with a *Professional E-Rate & OUSF Management Services Fee Schedule* that shall be incorporated into this Master Services Agreement upon execution of both parties.

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## **Applicant (School or Library) Responsibilities**

### **USAC E-RATE PRODUCTIVITY CENTER “EPC”**

Applicant responsibilities regarding the online E-Rate Productivity Center (“EPC”) are as follows:

Applicants must provide Kellogg & Sovereign Consulting (CRN 16024809) and their designated K&S consultant users with full rights access for all forms except FCC Form 498 on their online E-Rate Productivity Center (“EPC”) located on the USAC web site. *K&S cannot provide any E-Rate filing services on behalf of the Applicant until access is granted.*

The applicant must designate an authorized school or library business official as the general contact and account administrator and maintain their online access including passwords to ensure there is always an authorized school or library business official with full rights able to access the Applicant’s EPC. If the account administrator for the applicant changes, it is the Applicant’s responsibility to notify USAC and assign a new account administrator.

For Applicants who will be utilizing the reimbursement (BEAR - FCC Form 472) method to receive E-Rate discounts, the Applicant must complete an FCC Form 498 online and must notify USAC of any changes in order to keep the Form 498 information current.

The Applicant is fully responsible for timely certifying FCC forms submitted by K&S on behalf of the Applicant on the Applicant’s E-Rate Productivity Center.

### **OUSF AFFIDAVITS OR DOCUMENT REQUESTS**

The applicant’s responsibilities for OUSF affidavits and document requests are as follows:

- Carefully review Affidavit and return the signature page(s) within 5 business days (unless another deadline is specified)
- Provide a current network diagram including circuit information
- Respond to all data requests except for data requests that need clarification from the service provider or federal documentation. The Beneficiary is responsible for any additional data requested by the Public Utility Division (PUD)
- Forward all PUD Determinations and correspondence to [ks-ousf@kelloggllc.com](mailto:ks-ousf@kelloggllc.com).
- Participate in conference calls with PUD staff in order to resolve questions regarding OUSF applications and funding

### **TIMELY RESPONSE TO DOCUMENT REQUESTS:**

It will be K&S’s responsibility to list a due date on each request for documentation. Moreover, K&S will send all documentation requests to the applicant’s designated contact person via e-mail or text message. The applicant must provide a valid email address and cell phone number for K&S notifications. It will be the applicant’s responsibility to return the requested documentation by the due date shown. To cover the extra costs of staff overtime, multiple sending of requests, and undue hardship, K&S reserves the right to provide advance notification, and if necessary, charge a late response fee for any request that is received after the deadline stated on the request. At the discretion of K&S, the late response fee may be waived if the applicant requests an extension prior to the due date. Once a late response fee is incurred, K&S will send applicant an invoice immediately which will be due and payable upon receipt. If the late response fee invoice is not paid within 45 days, the contract may be terminated by K&S.

*Example 1: K&S sends a request for copies of bills to applicant in September. The due date listed on the request is October 15 along with notification that a late response will result in late fees of \$100 per day. Your documentation is not received by K&S until October 21. K&S would charge a late response fee of \$500.00 (5 days late x \$100/day).*

*Example 2: Same facts as above, but applicant sends an email notice to K&S on October 14 explaining that their accounts payable clerk is out on maternity leave, but documents can be provided to K&S by October 31. Applicant's documentation arrives in K&S's office on October 30. No late response fee would be charged.*

## **SERVICE PROVIDER DISBURSEMENTS – DISCOUNT (SPI FORM 474) METHOD ONLY**

If an applicant chooses to receive E-Rate discounts by the discount method (Service Provider Invoice – SPI Form 474) instead of the reimbursement method (Billed Entity Applicant Reimbursement Form 472), the applicant must reconcile service provider discounts. According to USAC, it is the beneficiary school or library's responsibility to review all service provider bills and E-Rate discounts provided to the beneficiary through the service provider discount method (Form 474 – Service Provider Invoice). Therefore, it is the responsibility of the school or library to review service provider bills and credits received to ensure the following: (1) the services were used solely for educational purposes; (2) the service provider only requested discounts for eligible goods and services; (3) the service provider allocated the costs of any contract that included both eligible and ineligible components in the related request for discount; (4) the service provider deducted from the pre-discount cost of services the value of all price reductions, promotional offers, and "free" products or services; and (5) the applicant retained all documents related to the service provider's request for discounts on behalf of the beneficiary.

Neither K&S nor its employees or agents are responsible for the actions of service providers related to the applicant's E-Rate funding. This includes all documentation provided by service providers including bids submitted, vendor supporting documentation, proposals, and contracts. Additionally, if the applicant selects the discount method for receiving E-Rate funding, the service provider is solely responsible for proper calculation, review, and application of E-Rate credits to the applicant's bills. *Reconciliation of service provider discounts related to the discount (SPI-Form 474) method is NOT included with K&S's standard fee and may be contracted separately.*

## **PROGRAM COMPLIANCE**

### **Children's Internet Protection Act (CIPA)**

Applicants must comply with all E-Rate program rules including state and local procurement requirements. Additionally, the applicant must be in compliance with the Children's Internet Protection Act<sup>1</sup> and provide K&S with an annual certificate of compliance along with documentation that the filter was installed and working during the funding year. Applicants are responsible for retaining documentation to support their compliance with CIPA including board agenda and minutes when CIPA is discussed.

### **Procurement Procedures**

K&S will provide guidance regarding compliance with competitive bidding E-Rate rules, procedures and guidelines. Applicants are responsible for complying with their own state, local, and federal procurement guidelines. This includes, but is not limited to, proper format of Requests for Proposal if different than K&S's standard format, required vendor forms, publishing of RFPs, bid evaluation process, board approval, contract negotiation, and legal review and approval of contracts.

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<sup>1</sup> <https://www.usac.org/sl/applicants/step05/cipa.aspx>

## **DOCUMENT RETENTION (TEN YEARS)**

All documents prepared or handled by K&S will be copied, scanned and archived. However, K&S cannot be responsible for retention of documents not in K&S's possession.

As stated in the *E-Rate Modernization Order*<sup>2</sup>, the Applicant will be responsible for retaining documentation for a period of **TEN YEARS** after the latter of the last day of the applicable funding year, or the last day of delivery of services for that funding year.

The *Schools and Libraries Fifth Report and Order*<sup>3</sup> requires retention of the following documentation:

*Pre-bidding Process.* The school/library will retain signed copies of all written agreements with E-Rate consultants. Documentation in this area is also retained by K&S.

*Bidding Process.* All documents used during the competitive bidding process will be retained. Documents such as: Request(s) for Proposal (RFP(s)) including evidence of the publication date; documents describing the bid evaluation criteria and weighting, as well as the bid evaluation worksheets; all written correspondence between the school/library and prospective bidders regarding the products and service sought; all bids submitted, winning and losing; and documents related to the selection of service provider(s). Documentation in this area is also retained by K&S.

*Contracts.* The school/library will retain executed contracts, signed and dated by both parties. This includes all amendments and addendums to the contracts, as well as other agreements relating to E-Rate between the school/library and the service provider(s), such as up-front payment arrangements. Documentation in this area is also retained by K&S.

*Application Process.* The school/library will retain all documents relied upon to submit the Form 471, including National School Lunch Program eligibility documentation supporting the discount percentage sought; documents to support the necessary resources certification pursuant to section 54.505 of the Commission's rules, including budgets; and documents used to prepare the Item 21 description of services attachment. Documentation in this area is also retained by K&S.

*Purchase and Delivery of Services.* The school/library will retain all documents related to the purchase and delivery of E-Rate eligible services and equipment. This includes purchase requisitions, purchase orders, packing slips, delivery and installation records showing where equipment was delivered and installed or where services were provided.

*Invoicing.* The school/library will retain all invoices. Related documents include records proving payment of the invoice, such as accounts payable records, service provider statement, beneficiary check, bank statement or ACH transaction record. The school/library will also retain copies of service provider checks payable to the school/library related to Form 472 (BEAR) filings, if applicable.

*Assets and Inventory.* The school/library will retain asset and inventory records of equipment purchased and components of supported internal connections services sufficient to verify the location of such equipment. The school/library will also retain detailed records documenting any transfer of equipment within three years after purchase and the reasons for such a transfer.

*Forms and Rule Compliance.* All program forms, attachments and documents submitted to USAC will be retained. The school/library will have procedures to require retention of all official notification letters from USAC, as applicable: FCC Form 470 certification pages (if not certified electronically), FCC Form 471 and certification pages (if not certified electronically), FCC Form 471 Item 21 attachments, FCC Form 479, FCC Form 486, FCC Form 500, FCC Form 472. The school/library will also retain any documents submitted to USAC during program integrity assurance (PIA) review, Selective Review and Invoicing Review, or for SPIN change or other requests. In addition, the school/library will retain documentation to provide compliance with other program rules, such as records relevant to show compliance with the Children's Internet Protection Act (CIPA). Documentation in this area is also retained by K&S.

## **Termination**

Either party may, upon written notice to the other party, terminate this contract in whole or in part for convenience. All fees incurred prior to receipt of the termination notice will be due and payable immediately upon termination. Contingency fees for E-Rate Category 2 services will be due and payable to K&S according to the terms of the original agreement. K&S will be released from responsibility for the filing of E-Rate applications and any related follow up work or USAC reviews immediately

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<sup>2</sup>*Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, E-Rate Modernization Order, FCC 14-99A1 Released on 7/23/2014. [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2014/db0723/FCC-14-99A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0723/FCC-14-99A1.pdf) [last accessed July 31, 2014]

<sup>3</sup>*Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, FCC 04-190 Released on 8/13/04. [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-04-190A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-190A1.pdf)

upon receipt of the termination notice. All terminations must be delivered in writing via certified mail to the addresses and parties listed herein.

## **Liability**

K&S will make every reasonable effort to avoid any errors or omissions in the services or advice that K&S provides to K&S's clients. However, the rules, regulations, and guidelines for both the Oklahoma Universal Services Program (OUSF) and the universal service discount mechanism for schools and libraries (E-Rate) are voluminous, ambiguous, and constantly changing. K&S's liability for any errors or omissions will be limited to a full refund of the fees paid to K&S and will not include liability for any consequential or related damages. Any claim for damages will expire within two years of when the final billing is mailed to the Applicant. K&S's liability is strictly limited to the Applicant and the Applicant's specific organization. Any recommendations or actions provided to the Applicant may not be used or relied upon by any other parties or related entities. Disputes with the Universal Service Administrative Company ("USAC") or the Oklahoma Corporation Commission ("OCC") regarding the interpretation of the rules will not constitute an error or omission if the Applicant has been advised of the difference in opinion.

## **Disclaimer**

**Due to uncertainties inherent in the funding processes for both E-Rate and OUSF, Kellogg & Sovereign® Consulting does not warrant or guarantee any E-Rate funding or OUSF support payments will be received as a result of this contractual agreement.**

## **Miscellaneous**

### **Independent Contractor.**

The Applicant and K&S agree that K&S is an independent contractor. Nothing in this Agreement shall be construed to create any employment relationship between the Applicant and K&S. K&S shall be solely responsible for reporting and payment of any income, self-employment, social security, occupational, or any other state, federal, or local taxes owed as a result of any money received under this Agreement. K&S understands and agrees that it has no authority to and may not represent or otherwise hold itself out as an employee or agent of the Applicant and shall not enter into any agreement, contract, or obligation of any kind on behalf of the Applicant. The parties agree that the *Letter of Agency* is hereby incorporated into this agreement. Finally, K&S will not have or exercise the authority to supervise or direct the activities of any employee/agent of Applicant.

### **Standard of Work.**

K&S represents and warrants that it will perform the services under this agreement in a good workmanlike and professional manner and with a level of care, skill, knowledge, and judgment required or reasonably expected of entities performing similar services. Applicant will not exercise any control or direction over the methods by which K&S performs such services.

### **Entire Agreement.**

This Agreement constitutes the complete and entire understanding between the parties as to its subject matter, and this Agreement may not be amended except in writing executed by both parties.

### **Dispute Resolution.**

Any disputes arising out of this Agreement shall be resolved informally, where possible, through conference with the Applicant's designee. With respect to any dispute that cannot be promptly resolved through informal conference, K&S shall present such dispute to the Applicant in writing pursuant to the Applicant's Board Policy prior to seeking appropriate legal action.

### **Confidential Information.**

Applicant acknowledges that pursuant to this Agreement, its agents or employees will obtain and gain knowledge of certain information and trade secrets which are confidential and proprietary to K&S, including without limitation, information, trade secrets, ideas, concepts, inventions, designs, developments, procedures, data, know-how, etc. All such information shall remain the exclusive property of K&S and may be disclosed to the extent required by the laws of Oklahoma.

**Assignment and Successors.**

The covenants, agreements, terms and conditions contained in this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties to this Agreement, provided that Applicant may not assign any of its rights, privileges, or duties hereunder without the prior written consent of K&S.

**Partial Invalidity.**

The provisions of this Agreement are severable, and if any part of it is found to be invalid, void or unenforceable, the remaining paragraphs shall remain fully valid and enforceable.

We believe this *Agreement to Provide Professional E-Rate & OUSF Management Services*, as well as the incorporated *Scope of Professional E-Rate & OUSF Management Services, Letter of Agency, and Fee Schedule* accurately set forth the mutual understanding of the parties. If you find the arrangements acceptable, please acknowledge your agreement to the understanding by signing and returning us the executed copy.

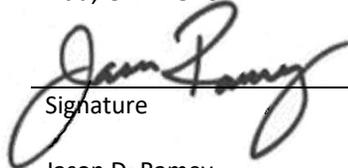
IN WITNESS WHEREOF, the parties have executed this Agreement on the dates shown below.

FOR:  
**Newcastle Independent School District 1**  
101 N Main Street  
Newcastle, OK 73065

FOR:  
**Kellogg & Sovereign® Consulting**  
1400 Hoppe Blvd, Suite D  
Ada, OK 74820

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature



\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Jason D. Ramey  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
CEO  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
November 16, 2022  
Date



## SCOPE OF PROFESSIONAL E-RATE & OUSF MANAGEMENT SERVICES

*The following services will be provided by Kellogg & Sovereign® Consulting (“K&S”) in conjunction with the Master Services Agreement for Professional E-Rate & OUSF Management Services (“MSA”), its related Letter of Agency, and Fee Schedule. Unless specifically set forth herein or amended in writing, this Scope of Professional E-Rate & OUSF Management Services shall be a comprehensive list of available services provided under this agreement.*

### OUSF COMPLIANCE SERVICES

**Oklahoma Corporation Commission - Oklahoma Universal Service Fund Beneficiary Affidavit.** Preparation and submission of Affidavit requests for funding support from the Oklahoma Corporation Commission. Gather and assimilate supporting documentation from applicant, service provider and other sources as necessary to timely submit OUSF Beneficiary (Oklahoma school or library) affidavit requests in compliance with State of Oklahoma statutes and Oklahoma Corporation program rules and requirements. Provide guidance to Applicant with regard to OCC program rules related to determination of OUSF funding support, funding compliance, and application requirements.

**Program Compliance and Documentation.** Compile information requested by the Oklahoma Corporation Commission (“OCC”) for support payments provided by the OUSF Beneficiary’s participation in Special Universal Services support from the Oklahoma Universal Services Fund. Track and respond to data request(s) that relates directly to the Affidavit or federal documents. Notify school or library of rule changes and compliance issues that may affect OUSF payments.

### PRE-FUNDING SERVICES

**Entity Verification and Changes.** Verify that applicant’s entities are properly registered with the Universal Service Administrative Company Schools and Libraries Division (“SLD”) and the Federal Communications Commission (“FCC”). Submit to USAC and verify changes in entity names, addresses, and other entity changes as necessary.

**Competitive Bidding, Forms 470 Preparation and Submission.** Provide questionnaire to applicant for use in preparing applicant-driven Requests for Proposals (“RFPs”) in compliance with E-Rate program requirements. Provide secure e-bidding web site for posting of RFP, management of service provider inquiries and applicant responses, receipt of service provider proposals, and online bid evaluation. Review applicant-prepared RFPs for compliance. Review bids, collect and review supporting documentation. Assist service providers with inquiries. Advise applicant with regards to compliance with E-Rate program rules and regulations for proper conduct of a fair and open competitive bidding process.

The applicant is responsible for compliance with their own federal, state, and local procurement rules and procedures.
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**Discount Calculation.** Gather and assimilate documentation from applicant and consortium members, if applicable, to determine discount per E-Rate program rules. Advise applicant with regards to E-Rate program rules for the proper calculation of discounts.

**Funding Tracking and Analysis.** Assist applicant with maximizing discounts received for E-Rate eligible products and services under the program rules. Track Category 2 budgets and funding for each year of the rolling five-year funding cycle. Provide applicant with guidance regarding budget allotment and project planning.

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**Forms 479 and Letters of Agency for Consortium Filings.** Manage the distribution and receipt of both letters of agency (“LOA”) and properly completed Forms 479 from participating consortium members in compliance with E-Rate program requirements.

**Forms 471 Preparation and Submission.** Provide applicant with online access to bids received, online bid evaluation, and other forms as needed to ensure compliance with E-Rate program rules and requirements. Track applicant responses, gather and assimilate supporting documentation from applicant, service provider and other sources as necessary to timely submit applications in compliance with E-Rate program rules and requirements. K&S will file separate applications for category one services (broadband services to schools and libraries) and category two services (Internal Broadband Connections, Managed Internal Broadband Services and Basic Maintenance).

**Program Integrity Assurance (PIA).** Represent applicant throughout the application review process. Work directly with PIA to process requests for additional information and clarification during application review. Minimize the risk of denied or reduced funding requests and significantly reduce the disruption of applicant staff and internal processes by providing professional assistance during the review process.

**CIPA Compliance Review.** Review applicant provided documentation to verify compliance with the *Children’s Internet Protection Act* (CIPA).

## POST-FUNDING SERVICES

**Follow Up Services.** Prepare, submit and track FCC Forms 486, 500, and 472 (BEARs) as required. Work directly with program administrator, USAC<sup>4</sup>, on E-Rate related issues and coordinate with service providers and applicant to ensure payment of services. Assist applicant with preparation and submission of service certifications during invoice review.

*Reconciliation of service provider discounts (Form 474) is offered outside of K&S’s standard fee and may be contracted separately. Applicant is responsible for their own accounts payable functions including but not limited to payment of their bills, submission of disconnect notices, dispute of past due fees, and other actions as necessary for proper handling of accounts payable activities. K&S is not responsible for payment of applicant’s bills, Service Provider discounts, or other billing disputes.*

**Selective Reviews and Appeals.** In the event of funding denials, reductions, or other disputes related to E-Rate funding, K&S will represent the applicant in filing appeals with USAC and, if necessary, with the FCC.

*Services offered outside of K&S’s standard fee and may be contracted separately include C1 self-provisioned projects, Emergency Connectivity Fund (ECF), assistance with on-site audits, special compliance reviews, Selective Review Information Requests (SRIR), Competitive Bidding Reviews, Cost Effectiveness Reviews, Payment Quality Assessment (PQA) Reviews, and other reviews as requested by USAC.*

**SPIN Changes and Service Substitutions.** K&S will process up to one SPIN (Service Provider Identification Number) change or service substitution request for each funding request as needed after funding. Additional SPIN changes and service substitution requests will be billed at a rate of **\$225.00/hour**.

**Service Delivery Deadline Extensions.** K&S will process service delivery deadline extensions as requested by applicant prior to the deadline for installation of non-recurring services. Applicant must provide K&S with a reasonable explanation for the extension and **must** provide the request to K&S a **minimum of FOUR (4) weeks prior to the invoicing due date**.

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<sup>4</sup> Universal Services Administrative Company, Schools and Libraries Division.

**Invoice Deadline Extensions.** Effective with the E-Rate Modernization Order, invoicing deadlines must be met unless a written request for a one-time extension is submitted prior to the invoicing deadline. In response to a timely filed invoice extension request, USAC will provide only one invoice extension for an additional 120 days.

K&S will process invoice deadline extension requests on behalf of the applicant upon receipt of request for an invoice extension by either the applicant or the service provider. **Extension requests must be submitted to K&S a minimum of FOUR (4) weeks prior to the invoice due date.**

**Applicants must cooperate with K&S in a timely manner providing necessary documentation to submit reimbursement requests to USAC or to request service provider discounts.**

K&S is not responsible for invoices submitted after the invoice deadline by service providers or for reimbursement requests not submitted due to lack of response by the applicant.

K&S will contact the service provider and request discounts on behalf of the applicant as long as the applicant provides the documentation requested by the service provider to K&S within eight (8) weeks of receipt of the funding commitment decision letter. Applicants who choose the reimbursement method must provide copies of all documentation necessary to process the reimbursement request to K&S no later than eight (8) weeks prior to the invoicing deadline. "Lack of response by the applicant" means that the applicant submitted the requested documentation outside of the time frames listed above.

**Program Compliance and Documentation.** K&S will provide the following:

- Professional expertise on development of strategies to maximize E-Rate discounts to meet educational or library goals.
- Advisement of known E-Rate program rules, procedures, and filing requirements that may impact the successful filing and review of E-Rate applications.
- Timeline for processing applications within deadlines for both USAC and applicant's board approval.
- Assistance with the review and identification of eligible products and services based on the most recent eligible services list and guidance available from USAC.
- Assistance with cost allocation of products and services according to USAC guidelines.
- Assistance (non-attorney) with contract documentation for compliance with USAC rules and regulations.
- Verbal and written notification of changes in E-Rate program rules, regulations and procedures.
- Copies of forms processed and supporting documentation retained in electronic format.
- Access to online tools for funding data and analysis for all years of the E-Rate program.

**USAC E-Rate Productivity Center (EPC).** USAC utilizes an online E-Rate productivity center for E-Rate form submission and document retention. K&S assists our clients with gaining access to EPC, setting up K&S as a related organization and providing training on how to use and access the USAC online productivity center.

**Comprehensive Bidding Site.**

K&S offers exclusive use of their secure online bidding site for competitive bidding, request for proposals, evaluation, online Q&A, email notifications, bid evaluation and bid award. Online documentation allows clients to review all bid documentation in one single location.

**Document Retention and E-Rate Sharepoint Site.**

E-Rate program documentation is retained online in Microsoft Sharepoint with easy access by clients. Online site features documentation section for retention in compliance with FCC rules as well as a client share section for clients to upload, download or edit documentation throughout the year.

**Summer Workshops, Monthly Conference Calls, K&S Client Portal, Webinars, Live Chat, and other Support.** K&S offers monthly conference calls to update our clients on current E-Rate information. E-Rate workshops and webinars are provided at no cost. Clients may attend in person, online or view archived sessions. Clients have access to their customized Sharepoint E-Rate folders with documentation, calendars, reference materials and to-do items. Step by Step webinars on K&S's website, [www.kelloggllc.com](http://www.kelloggllc.com), provide access to training including RFP questionnaire and bid evaluations. K&S offers instant response using online live chat. Unlimited phone and email support are provided throughout the year

# **E-RATE LETTER OF AGENCY**

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**APPLICANT: Newcastle Independent School District 1 (139795)**

**Funding Years Authorized: 2023-24, 2024-25, 2025-26**

("Applicant") hereby authorizes Kellogg & Sovereign® Consulting, Consultant Registration Number 16024809, or its designated agents or employees ("K&S") to act on our behalf during the term of this authorization.

Although not exclusive, K&S is specifically authorized to conduct the following actions on behalf of the Applicant:

- ♦ Prepare and submit Federal Communications Commission ("FCC") Forms 470, 471, 486, 500, 472 and other forms requested by the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC")
- ♦ Prepare and submit documentation to USAC or the FCC in compliance with E-Rate program rules and regulations.
- ♦ Act as our agent in working with representatives of the FCC or USAC, as well as OCC, to provide information as requested during application review, selective reviews, site visits, audits and any other activity associated with review of our applications.
- ♦ Prepare Requests for Proposal ("RFPs") to be posted online.
- ♦ Provide information to service providers as needed to clarify information in RFPs and Forms 470.
- ♦ Solicit and receive proposals from service providers for requested services.
- ♦ Prepare comparisons of proposals from service providers.
- ♦ Complete contracts for eligible E-Rate services as specifically directed by the Applicant's authorized representative.
- ♦ Prepare and submit documentation including the pre-approval request and/or affidavit to the Oklahoma Corporation Commission (OCC) on behalf of the OUSF Beneficiary
- ♦ Provide information to service providers as needed related to OUSF matters.

**I also understand that in submitting these forms on our behalf, K&S will be making certifications for our school district. By signing this Letter of Agency, I make the following certifications as required by the E-Rate Program**

1.

- a) I certify that the schools I represent are all schools under the statutory definitions of elementary and secondary schools as defined under 47 C.F.R. § 54.500, that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.
- b) I certify that the schools I represent has/have secured access, separately or through this program, to all the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that to the extent that the billed entity is passing through the non-discounted charges for the services requested under this Letter of Agency, that the entities I represent have secured access to all of the resources to pay the non-discounted charges for eligible services and products from funds to which access has been secured in the current funding year.
- c) I certify that the services the school, library, or district purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the rules of the Federal Communications Commission (Commission or FCC) at 47 C.F.R. § 54.513.

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<sup>1</sup> <https://www.usac.org/e-rate/applicant-process/competitive-bidding/letter-of-agency-loa/>

- d) I certify that the schools I represent has/have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
- e) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.
- f) I certify that I will retain required documents for a period of at least ten (10) years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. I certify that I will retain all documents necessary to demonstrate compliance with the statutory or regulatory requirements regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the E-Rate Program.
- g) I certify that I am authorized to procure and/or order telecommunications and other supported services for the eligible entity(ies) covered by this Letter of Agency. I certify that I am authorized to make this request on behalf of the eligible entity(ies) covered by this Letter of Agency, that I have examined this Letter, that all of the information on this Letter is true and correct to the best of my knowledge, that the entities that will be receiving discounted services under this Letter pursuant to this application have complied with the terms, conditions and purposes of the E-Rate program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.
- h) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the Schools and Libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed and will notify USAC should I be informed or become aware that I or any of the entities, or any person associated in any way with my entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the Schools and Libraries support mechanism.
- i) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all the cost of the supported services.
- j) I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information and belief, all information provided to K&S for E-Rate submission is true. If any of the statements made above are incorrect, fraudulent or misleading, the undersigned and their institution agrees to indemnify, as allowed by state law, K&S, its members, employees and agents of any and all liability, legal fees or actions that may arise from the incorrect, fraudulent or misleading statement(s).

Applicant Name: **Newcastle Independent School District 1** \_\_\_\_\_

Mailing Address, City, ST, Zip: \_\_\_\_\_

Signature of Authorized Person: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name of Authorized Person: \_\_\_\_\_ Title: \_\_\_\_\_

*This authorization shall remain in effect until K&S is notified of its cancellation in writing via certified mail.*



## Professional E-Rate Management Services – Fee Schedule Newcastle Independent School District 1, Newcastle, Oklahoma

Professional Fees for E-Rate management services described in the Kellogg & Sovereign® Consulting (“K&S”) *Master Services Agreement for Professional E-Rate & OUSF Management Services* (“MSA”) and the *Scope of Professional E-Rate & OUSF Management Services* (“Scope of Services”) are listed below.

Fees for E-Rate FY2023 are separated between Data Transmission and/or Internet Access services ("C1" or "Category One") and Internal Broadband Connections, Managed Internal Broadband Services (MIBS) and Basic Maintenance of Internal Broadband Connections (BMIC) categories of service ("C2" or "Category Two").

Fees for requests for funding in the Category Two categories of service shall be based on a percent of the total funding commitment amount issued by the Universal Service Administrative Company ("USAC") on each of the applicant's FY2023 Funding Commitment Decision Letter(s). The Base Filing Fee for C2 services is due in full at the time the application is filed. The amount due in excess of the Base Filing Fee is contingent upon funding and shall be due and payable upon issuance by USAC of the Funding Commitment Decision Letter related to FY2023 C2 Services.

### FEES FOR E-RATE FUNDING YEAR 2023 {7/1/2023-6/30/2024}

Category of Service	Description	Amount	Billing Date
<b>Category 1 (C1)</b> Telecommunications & Broadband Services	Pre and Post Funding for C1 Services	\$3,100.00	January 2023
<b>Category 2 (C2)</b> Internal Broadband Connections, MIBS & Maintenance	Base Filing Fee for C2 Services	\$850.00	March 2023
	Pre and Post Funding for C2 Services	3% of funding commitment amount less base filing fee.	Due upon funding

### FEES FOR OUSF COMPLIANCE SERVICES FOR THE PERIOD JULY 1, 2022 – JUNE 30, 2023

OUSF Document and Compliance Services. Includes preparation and submission of applicant affidavit(s) and assistance with document requests.	<b>Check YES to request</b>
<b>Annual cost \$825.00 – billed January 2023</b>	<input type="checkbox"/> YES
OUSF consulting fee includes up to 12 hours consulting time directly related to OUSF. Additional hours will be billed at \$175/hour	<input type="checkbox"/> NO

Payment terms are net 45 days, unless otherwise noted.

**Fees for additional Form 470 filings.** After K&S has filed the Form 470 and RFP for the Applicant for FY2023, the applicant may choose to request additional services or make cardinal changes to the services requested. K&S fees are as follows:

- (a) Additional Form 470 requested more than 45 days prior to close of the filing window: \$750
- (b) Additional Form 470 requested less than 45 days prior to close of the filing window: \$1,500

**Documentation.** K&S will provide E-Rate Documentation on the applicant's Kellogg & Sovereign E-Rate Sharepoint folder for online access. E-rate applicants also have access to their E-rate documentation on the USAC E-Rate Productivity Center (EPC).

**Remittances.** Payments should be remitted to Sigma Technology Fund, LLC dba Kellogg & Sovereign Consulting P.O. Box 222113 Dallas, Texas 75222-2113

If fees or expenses are not paid within 90 days, K&S may elect to terminate the contractual agreement in whole or in part as detailed in the MSA.

Should K&S encounter any unforeseen problems which will warrant additional time or expense, you will be notified of the situation including any added cost. You will have the opportunity to agree to any additional expenses prior to additional expenses being incurred. Any and all additional charges other than the standard fees outlined above, detailed in the MSA, or listed in the Scope of Services shall be agreed to in writing by both parties.

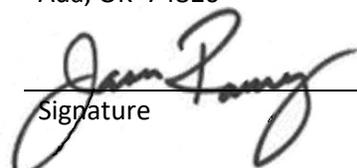
IN WITNESS WHEREOF, the parties have executed this Agreement on the dates shown below.

FOR:  
**Newcastle Independent School District 1**  
101 N Main Street  
Newcastle, OK 73065

FOR:  
**Kellogg & Sovereign Consulting**  
1400 Hoppe Blvd, Suite D  
Ada, OK 74820

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature



\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Jason Ramey  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
CEO  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
November 16, 2022  
Date

## Newcastle Public Schools Encumbrance Register

**Options:** Year: 2022-2023, Date Range: 7/1/2022 - 6/30/2023, PO Range: 24 - 24, Fund Codes: 11

Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	24	07/01/2022	51338	McClain-Garvin Co Yth & Fam Ctr	LPC Counselors	100,800.00
			722-2132-336-000-0000-000-105		11/15/2022	75,600.00
			722-2132-336-000-0000-000-105		07/01/2022	7,350.00
			722-2132-336-000-0000-000-105		07/01/2022	6,100.00
			722-2132-336-000-0000-000-105		07/01/2022	7,350.00
			722-2132-336-000-0000-000-105		07/01/2022	4,400.00
<b>Non-Payroll Total:</b>						<b>\$100,800.00</b>
<b>Payroll Total:</b>						<b>\$0.00</b>
<b>Balance Forward:</b>						<b>\$0.00</b>
<b>Report Total:</b>						<b>\$100,800.00</b>

# Purchase Order

Newcastle Public Schools

Bill To 

Ship To: Newcastle Public Schools  
Administration Building  
101 North Main Street  
Newcastle OK 73065

Vendor No: 51338  
To: McClain-Garvin Co Yth & Fam Ctr  
  
Frontline Family Solutions  
902 NW 32nd  
Newcastle OK 73065

PO No  
2023-11-24

PO Date  
7/1/2022

Amount  
\$100,800.00

Date Requested	Date Approved
7/1/2022	6/22/2022

Requested By  
SHASTA FEUERBORN

Encumbered By

Description	Vendor Item No	Qty	Unit Price	Amount
3 Additional Counselors through our partnership with Frontline Family Solutions		1.000	\$75,600.00	\$75,600.00
LPC Counselors		1.000	\$25,200.00	\$25,200.00



**ENGINEERING | SURVEYING | PLANNING**  
SMITH ROBERTS BALDISCHWILER, LLC

November 23, 2022

Mark Kasulis  
MA+ Architecture  
Phone: (405) 525-8806

Exhibit A

RE: DesignReady™ Survey  
Newcastle Public Schools

Dear Mr. Kasulis,

Smith Roberts Baldischwiler, LLC (SRB) is pleased to submit a proposal for a survey on the above referenced project for the estimated cost for the following options:

- Task 1** – DesignReady & Boundary Survey ~ \$20,500.00 (High School Base)
- Task 2** – DesignReady & Boundary Survey ~ \$13,200.00 (Middle School Base)
- Task 3** – DesignReady & Boundary Survey ~ \$2,500.00 (Middle School Athletic)
- Task 4** – DesignReady & Boundary Survey ~ \$12,000.00 (Elementary School Base)
- Task 5** – DesignReady & Boundary Survey ~ \$7,600.00 (Early Childhood Center and Playground)

Reimbursable expenses, such as overnight courier service, state taxes (if applicable), recording and copying fees will be an additional expense from the costs of the survey

The DesignReady™ Survey will include the following:

- Horizontal Control is on the North American Datum of 1983 (NSRS2011), in a State Plane Coordinate System (Lambert Conic Projection in the State of Oklahoma)
- Vertical Control is on North American Vertical Datum of 1988 (NAVD88)
- Surface Elevations on a 50' grid
- Benchmarks (Min of 2 permanent monuments set)
- Fence Sizes, Types and Gate Locations
- Tree Sizes (Trunk diameter only)
- Street Names
- Outside Edge of Pavement (Shoulder), Edge of Driving Lane
- Centerline for all Roadways
- Types of Surfaces (Concrete Paving, Asphalt Paving, Gravel, Grass, etc.)
- All above ground improvements including visible Utility services (locates provided by Okie811)
- Manhole Top of Rim and Flowline Elevations
- Curb inlets, Number of Grates and Hoods, and Flowline Elevations
- Size, Type, Flowline and Direction of all Pipes within Structures
- Headwalls or End Sections on Cross Drains
- Size and Type of Cross Drain
- Ditch, Stream and Creek Flowlines
- Building Information, Dimensions, Height, Finished Floor Elevations

The Survey can be completed within four to six (4-6) weeks from notice to proceed (subject to change if NTP is received after 30 days from the date of this proposal). This will be dependent on the receipt of a notice to proceed in a timely manner. If this proposal meets with your approval, please complete the attached agreement and return.

We can also provide lidar data on this project. Please let me know if you would like more details.

If you have any questions, please contact me.

Sincerely,  
  
Matthew Shelton  
Project Manager  
matthew.shelton@srbok.com





**ENGINEERING | SURVEYING | PLANNING**

SMITH ROBERTS BALDISCHWILER, LLC

**AGREEMENT**

**PERSON OR ENTITY PLACING ORDER:**

Name / Company			
Address			
City, State, Zip			
Telephone	Office:	Cell:	Fax:
Email			
Contact	Office:	Tele:	Email:

**PERSON OR ENTITY RESPONSIBLE FOR PAYMENT ("CLIENT"):**

Name / Company			
Address			
City, State, Zip			
Telephone	Office:	Cell:	Fax:
Email			
Contact	Office:	Tele:	Email:

**PROJECT NAME / DESCRIPTION:** \_\_\_\_\_

**SCOPE OF SERVICES/ PROJECT SCHEDULE:** See Exhibit A (Parties to sign and date Exhibit A)

**FEES AND EXPENSES:**  See Exhibit A  Describe: \_\_\_\_\_

**PAYMENT TERMS:**  See Exhibit A  30 days  Other: \_\_\_\_\_

**SRB PROJECT MANAGER:** \_\_\_\_\_ **EMAIL ADDRESS:** \_\_\_\_\_

**PHONE:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

**TERMS**

For the consideration recited and mutual promises herein made, incorporating Page 1 as if set forth fully herein, the parties agree:

**1. Location of Underground Utilities.** The underground utilities shown on any plans or drawings produced or provided by SRB pursuant to this agreement have been located from field survey information, existing drawings, and other available information. SRB makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned, or that the utilities shown are in the exact location indicated. SRB does not physically locate any underground utilities, therefore, unless otherwise expressly provided herein, SRB shall not be responsible for determining the exact location of any underground utilities. Client agrees that the contractor who performs the work shall be required to comply with all applicable statutes, ordinances, codes, rules, and regulations, and specifications regarding location of underground utilities, and shall be required to verify the accuracy of all measurements and the physical location of all underground utilities prior to commencing work or ordering materials.

**2. Default/Remedies; Lien.** Should either Party breach this agreement, the prevailing Party in any litigation shall have the right to recover all of such party's reasonable expenses and costs incurred by reason of such litigation, including, but not limited to, attorney's fees, court costs, and costs of suit preparation. Upon breach of this agreement by Client, Smith Roberts Baldischwiler, LLC ("SRB") may without notice or demand file a lien on the property for or upon which services have been performed and Client shall be responsible for all costs of filing, prosecution, and release of said lien, including but not limited to court costs, litigation costs, expenses, and attorneys fees, in addition to any other remedies allowed by law.

**3. Miscellaneous.** In case any one or more of the provisions of this Agreement shall be invalid, illegal, or unenforceable in any respect, such provisions shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to this Agreement to the extent possible and in any event, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Oklahoma. Jurisdiction and Venue shall lie exclusively in the state and federal courts located Oklahoma County, Oklahoma. This Agreement is a final expression of the intent of the Parties and shall be modified only by a duly executed written instrument signed by both Parties. Failure to pursue any legal or equitable remedy or right available to a Party shall not constitute a waiver of such right, nor shall any such forbearance, failure or actual waiver imply or constitute waiver of subsequent default or breach. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision of this Agreement or of any succeeding breach of the same provision. No delay in acting with regard to any breach of any provision of this Agreement shall be construed to be a waiver of such provision. The captions to the sections of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation. This Agreement shall be binding upon the Parties hereto, their respective heirs, successors and assigns, but shall not be assigned by any party hereto without the written consent of the other party. This Agreement may be executed in counter parts, each of which will be deemed an original and all of which together will constitute one instrument.

**4. Progressive Billing / Late Payments.** Unless provided otherwise herein, all work in progress may be invoiced monthly and is due within thirty (30) days from date of invoice. All past due payments bear interest at the rate of 1.5% per month. If payments are past due, in addition to its right to collect, SRB may suspend work or refuse to deliver the work ordered.

**PERSON OR ENTITY  
PLACING ORDER:**

\_\_\_\_\_  
Name: \_\_\_\_\_ Date \_\_\_\_\_  
Title: \_\_\_\_\_

**SRB:**

\_\_\_\_\_  
Name: \_\_\_\_\_ Date \_\_\_\_\_  
Title: \_\_\_\_\_

**PERSON OR ENTITY  
RESPONSIBLE FOR PAYMENT:**

\_\_\_\_\_  
Name: \_\_\_\_\_ Date \_\_\_\_\_  
Title: \_\_\_\_\_

# Subsurface Exploration Fee Proposal

## Newcastle H.S. Addition

**OKLAHOMA CITY LABORATORY**  
3400 N. LINCOLN BLVD.  
OKLAHOMA CITY, OK 73105  
405.528.0541

**LAWTON LABORATORY**  
202 SE J AVE  
LAWTON, OK 73501  
580.353.0872

**TULSA LABORATORY**  
7648 E. 46TH PLACE  
TULSA, OK 74145  
918.289.0005

**ENID LABORATORY**  
902 TRAIL W. LOOP  
ENID, OK 73703  
580.237.3130



CORPORATE OFFICE • OKLAHOMA CITY  
3400 N Lincoln Blvd • Oklahoma City, OK 73105  
(405) 528-0541 • (800) 725-0541 • (405) 528-0559 FAX

7648 E 46<sup>th</sup> PI  
Tulsa, OK 74145  
(918)289-0005

902 Trails West Loop  
Enid, OK 73703  
(580) 237-3130

202 SE "J" Ave  
Lawton, OK 73501  
(580) 353-0872

November 22, 2022

MA+ Architecture  
110 N. Mercedes Drive, Suite 200  
Norman, OK 73069

VIA Email: [markk@maplusarch.com](mailto:markk@maplusarch.com)

Attn: Mr. Mark Kasulis, AIA, NCARB

Regarding: Revised Proposal for Subsurface Exploration  
Newcastle H.S. Addition  
Newcastle, Oklahoma

Dear Mark:

Standard Testing & Engineering, LLC (STE) is pleased to provide this revised proposal for geotechnical exploration services for the Newcastle H.S. Addition, located in Newcastle, Oklahoma.

### Scope of Work

This geotechnical study is to evaluate the soil's and/ or rock's strength conditions, check the soil plasticity characteristics, and to recommend subgrade preparation, foundation types, and pavement sections for the proposed project. Based in the information provided to us, it is our understanding that the project consists of the following:

- Project Address: 101 N Main St, Newcastle, OK 73065
- New H.S. Addition Partial 2-Story (approx. 48,000 sq.ft.)
- New Band Room/Storm Shelter (approx. 6,800 sq.ft)
- New Parking and School Bus Loading Zone

### Field Exploration

A total of **fifteen (15)** borings are requested to be drilled. **Eight (8)** building borings are requested to be drilled to the depth of **twenty (20)** feet or five (5) into bedrock and **seven (7)** pavement borings are requested to be drilled to the depth of **five (5)** feet using truck mounted CME 55 within the project's footprint. Samples will be obtained from borings at regular intervals and at soil layer interfaces where material characteristics change. A minimum of three samples will be obtained within the top five (5) feet and at 5-foot intervals thereafter using the following methods:

- Split-Barrel Sampler (SPT) in cohesionless soils, and cohesive soils
- Grab samples will also be collected

Soil samples will be sealed in the field to prevent disturbance and moisture changes and transported to the laboratory for testing. All borings will be plugged in accordance with Oklahoma Water Resource Board (OWRB) regulations. The ground surface at the borings' locations will be surveyed by rod and transit methods in relation to a convenient fixed object or a benchmark provided by the client. Groundwater, if encountered, will be measured during, and at the completion of drilling operations. Standard Testing will call OKIE to locate utilities in public easements, the owner is responsible for locating private utilities at the site.

Minor damage at the site, such as rutting in landscaping and cracking in light duty concrete or asphalt paving (i.e. sidewalks and driveways) may occur during the field exploration due to the size and weight of the drilling equipment. Any remediation or repair of damages resulting from the use of such equipment in order to perform the field exploration is not part of this scope and will not be the responsibility of Standard Testing.

### **Laboratory Testing**

Laboratory tests shall be assigned and performed to classify soils and obtain geotechnical physical characteristics for soils and rock such as strength, compressibility and compaction characteristics. Perform laboratory testing consistent in quantity and quality with local geotechnical engineering practice to provide the information for the foundation recommendations required in the report. We will perform following laboratory tests:

- Soil Moisture Content Test
- Atterberg Limits Test (PI)
- Sieve Analysis

### **Reporting, Scheduling, Authorization and Cost**

The drilling work can be scheduled within **five (5) to seven (7)** working days after receiving notice to proceed and obtaining clearance of utilities at the site. Report will be issued within **seven (7)** working days after completion of laboratory testing.

A report will be generated including the following:

- Vicinity map and boring location plan
- Computer generated boring logs with soil stratification based on visual soil classification, and laboratory test results
- Boring and site elevations
- Laboratory test results summary
- Summary of field testing and drilling methods
- Narrative of difficulties and access obstructions
- Subsurface soil conditions
- Ground water levels observed during and at the completion of drilling, and anticipated seasonal high water level
- Seismic site class using IBC 2018 and ASCE 7-16
- Previous construction activity
- PVR analysis results with removal or treatment of objectionable materials
- Earthworks recommendations including engineered fill requirements
- Compaction requirements

- Drainage system recommendations
- Foundation recommendations including allowable bearing pressure for shallow foundations
- Foundation recommendations including allowable end bearing and skin friction capacities for deep foundations
- Estimated settlement
- Slab-on-grade floor slab recommendations, including modulus of subgrade reaction
- Asphalt concrete and Portland cement concrete pavement section recommendation for light and heavy-duty traffic
- Other construction considerations

The cost estimate for geotechnical services, including borings, laboratory testing, and reporting as described is presented in the following table:

Description	Cost (\$)	Type
Geotechnical Exploration	\$9,950.00	Lump Sum

The geotechnical exploration fee includes up to 3 hours of engineering support in the design phase after the geotechnical report is submitted. Additional services, if required and/or requested, will be provided at our standard unit rates.

We appreciate the opportunity to provide the budgetary proposal. To authorize this work, please return a completed copy of the attached "Agreement for services" form by e-mail to [rkhalife@stantest.com](mailto:rkhalife@stantest.com). If there are any questions concerning this proposal or if further information is required, please contact me at 405.528.0541 or 405.395.8040.

Sincerely,



Roy Khalife, PE  
Senior Geotechnical Engineer

Standard Testing & Engineering, LLC

# Standard Testing Services

## Laboratory Testing Services

- Soil Classification
- Sieve Analysis
- Specific Gravity
- Standard & Modified Proctor
- Atterberg Limits
- Dry Density
- California Bearing Ratio
- Direct Shear
- Tri-axial (UU, CU, CD)
- 1-D Consolidation & Swell
- Unconfined Compressive Strength
- LA Abrasion Aggregate Durability
- Compressive Strength of Concrete, Grout, Mortar & Masonry
- Alkali-Silica Reactivity
- Beam Flexural Strength
- Soil, Asphalt & Concrete Mix Design
- Superpave Gyrotory
- Extraction & Gradation
- Maximum Theoretical Specific Gravity
- Marshall Stability & Flow
- pH & Resistivity
- Soluble Sulfate, Chloride
- Freeze-Thaw & Wet-Dry
- Flat or Elongated Particles
- Masonry Absorption

## Drilling Services

- CPT-U
- Mud Rotary
- Continuous Flight Hollow Stem Auger
- Continuous Flight Solid Stem Auger
- Rock Coring
- Pavement Coring
- Texas Cone Testing
- Standard Penetration Testing
- Monitoring Wells & Piezometer Installation
- Settlement Plates Installation & Monitoring
- Inclinator Installation & Monitoring
- Pressuremeter Testing
- CME-55 Truck Mounted
- CME-750 ATV
- Pavement Coring Trailer

## Construction Services Testing & Inspection

- Roadway Coring & Length Measurement
- Soil Compaction by Nuclear Method
- Soil Compaction by Sand Cone Method
- Depth Check
- Flow Test
- Unit Weight Test
- Slump Test
- Air Content Test
- Concrete & CLSM
- Cylinder Cast
- Roadway Density by Nuclear Method
- Pier Drilling Inspection Foundation Inspection
- Double Ring Infiltrometer
- Floor Flatness and Levelness
- Relative Humidity of Concrete Slabs
- Fireproofing Testing
- Structural Steel Inspection
- Shop Inspection
- Post Tensioning Inspection
- Rebar Inspection
- Concrete Beam Cast
- Masonry Construction Inspection
- Proofroll Inspection
- Pavement Inspection & Elevation

## Geotechnical Services

- Drone Aerial Assessment
- Bridge Subsurface Exploration
- Roadway Subsurface Exploration
- Pedological Study
- Pavement Design
- Slope Stability Analysis
- Settlement Analysis
- HDD Pipeline Analysis
- Shallow and Deep Foundation Recommendations
- Foundation Design
- Retaining Wall Design Recommendations
- Geotechnical Forensic Studies
- Dams & Embankments Studies
- Design-Build
- Plate Bearing Test



- AASHTO RE:SOURCE Accredited
- AASHTO R18 Laboratory
- ODOT Qualified Laboratory
- USACE Validated Laboratory

# Portfolio



## **FEDERAL**

- KC-46 Depot Hangar
- KC-46 Infrastructure Project
- Altus AFB Runway Reconstruction
- FAA Security Command Center
- Tinker AFB Repair AWACS Apron



## **SCHOOLS K-12**

- Various Norman Public Schools
- Various Edmond Public Schools
- Various Lawton Public Schools
- Medford Public Schools
- Various Oklahoma City Public Schools



## **HIGHER EDUCATION**

- OU Stadium Expansion
- OU Asp Avenue Parking Garage
- OU Devon Energy Hall
- OU Donald Reynold Performing Arts Center
- OU Biomedical Research Center



## **HEALTHCARE**

- OU Medical 11 Story Bed Tower
- OHHS Super West Expansion
- Norman Regional Healthplex
- OU Children's Hospital
- Mercy Hospital in Ardmore



## **WAREHOUSES**

- Various Hobby Lobby Warehouses
- Tinker Medical Warehouse
- MROTC Boeing Hangars
- Moore/Norman Vo Warehouse Renovation
- Chappell Supply & Equipment Warehouse



## **TRANSPORTATION**

- OTA EOC-2435 & 2434B
- OTA EOC-2433B & 2434A
- OTA JKT-2371 Mainline & Ramps
- SH-48 over Cimarron River
- US-81 over Washita River



## **WIND FARMS**

- Kings Plain Wind Farm
- Red Bed Plains Wind Farm
- Mammoth Plains Wind Farm
- Rush Springs Wind Farm
- Buffalo Bear Wind Farm



## **MUNICIPAL**

- Scissor Tail Park OKC
- Myriad Botanical Gardens
- Ford Center Expansion
- Edmond Streetscapes Project
- Various City of OKC Projects



## **WATER / WASTEWATER**

- Hefner WTP Expansion
- Coffee Creek Wastewater Treatment Plant
- Hefner WTP Chemical Storage Facility
- Arcadia WTP Control Building
- Bethany Water Treatment Plant



## **COMMERCIAL**

- Firelake Grand Casino and Hotel
- Riverwind Hotel in Norman
- Embassy Suites Hotel & Conference
- Goodyear Plant Expansion
- Nestle Purina Plant Expansion

**STANDARD TESTING AND ENGINEERING COMPANY  
AGREEMENT FOR SERVICES**

<b>Project</b> Newcastle H.S. Addition	<b>Client</b> MA+ Architecture
<b>Project Location (Site)</b> Newcastle, Oklahoma	<b>Client Project Number</b>
<b>STE Project Number</b>	<b>Owner (if different from Client)</b>
<b>Date</b> November 22, 2022	<b>Owner Project Number</b>
<b>This contract is by and between:</b>  MA+ Architecture  ("CLIENT")  and  Standard Testing and Engineering Company 3400 N. Lincoln Boulevard Oklahoma City, Oklahoma 73105-5408  ("STE")EIN: 82-3042789	<b>Mail Invoices to:</b>    <b>Address Project Correspondence to Client Representative:</b> Mr. Mark Kasulis, AIA, NCARB  <b>Authorized STE Project Representative:</b> Roy Khalife, P.E.
CLIENT hereby engages STE to provide the services set forth in PART I, at the project described herein ("Project"), CLIENT agrees to pay STEC charges invoices by STE for services rendered on the project in accordance with PART II and to be bound by the Standard Terms and Conditions attached hereto and incorporated herein. The parties agree:	
<b>PART I – Scope of Work</b> (attached "Exhibit I" if more spaces is required) Quality Control and Acceptance as presented in the attached proposal dated November 22, 2022.	
<b>PART II – Fee</b> (attach "Exhibit II" if more spaces is required) Per Estimated Budget dated November 22, 2022	
The CLIENT agrees to pay STE's invoices upon receipt. STE may suspend work for lack of timely payment. Should payment not be received within 30 days of invoice date, the CLIENT agrees to also pay a service charge of 1.5 percent per month or 18 percent per annum and the costs of collection, including reasonable attorney's fees. If 1.5 percent per month exceeds the maximum allowed by law, the service charge of 1.5 percent will automatically be reduced to the maximum legally allowed. If CLIENT has any object to any of STE's invoices, CLIENT must so advise STE in writing giving the reason for such objections within 14 days of receipt by the CLIENT of such invoice, and shall promptly pay the undisputed portion. Payment shall constitute final approval of all aspects of the corresponding Work performed to date by STE. If the Project is terminated in whole or in part, then STE shall be paid by the CLIENT for services performed prior to STE's received of written notice of such termination, including STE's reimbursable expenses and actual and reasonable shut-down costs.	
<b>Disclosure of Hazardous and Toxic Material and Conditions at the Project</b> (check One) CLIENT is not aware of any hazardous wastes or substances, toxic materials or conditions or petroleum products ("Hazardous Materials") existing at the site of the Project, EXCEPT:	
<input type="checkbox"/> None <input type="checkbox"/> Petroleum Fuels Only <input type="checkbox"/> Those items Described (attached "Exhibit III" if more space is required)	
<b>CLIENT</b>  Signature _____  Name _____  Title _____  Date _____	<b>Standard Testing and Engineering Company</b>  Signature <u></u>  Name <u>Roy Khalife, P.E.</u>  Title <u>Vice-President of Operations</u>  Date <u>November 22, 2022</u>

# STANDARD TESTING AND ENGINEERING COMPANY

## STANDARD TERMS AND CONDITIONS

Standard Testing and Engineering Company, herein "STE", as an independent consultant, agrees to provide to the "CLIENT" the services described in the Scope of Work for the Project provided in Part I or Exhibit I of this Agreement, pursuant to the following Standard Terms and Conditions which constitute a part of this Agreement:

### ARTICLE 1. SERVICES BY STE

a. STE will perform the services to be provided by STE pursuant to this Agreement in accordance with generally accepted engineering principles and practices of performance by professionals of ordinary skill existing at the time of performance under similar conditions for the locality where the services are to be performed. The CLIENT hereby acknowledges that the Project involves certain inherent risk factors (such as limitations on laboratory analytical methods, variations in subsurface conditions and the like) which may adversely affect the results of the Project, even though the services are performed with such care and skill. Data, interpretations and recommendations by STE will be based solely on information available to STE. STE will not be responsible for any other party's use or interpretations of information reported by STE and/or the recommendation(s) of any other party based on such information. STE's services do not include the investigation or detection of, nor do the recommendations in STE's reports address the presence or prevention of, biological pollutants such as mold, fungi, bacteria, viruses; or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If computer software is to be provided to the CLIENT as part of the services, CLIENT will execute a separate software license agreement. **STE MAKES NO WARRANTIES OR GUARANTEES EXPRESS OR IMPLIED, RELATING TO STE'S SERVICES AND STE SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

b. The Scope of Work cannot be changed, altered or amended except by written agreement signed by both parties. If CLIENT and STE agree in writing for STE to perform additional services, then STE will be entitled to an increase in compensation at rates provided in this Agreement. STE reserves the right to elect not to perform additional services. If STE determines in its sole discretion that additional services are necessary to avoid a delay in the completion of the Project, then STE shall perform those services without waiting for instructions from CLIENT and shall be entitled to an increase in compensation for such services at the standard hourly billing rate charged for those employees performing the services, plus reimbursable expenses, if any.

c. STE's personnel may be present, either full or part time, to provide observation and field testing of specific parts of the Project in accordance with the Scope of Work set forth herein. STE will be responsible for supervision and site safety measures for its own employees but shall not be responsible for the supervision or health and safety precautions for any other parties, including CLIENT, CLIENT's contractors, or any other parties present at the site. Should a contractor be involved in the Project, STE's work does not include supervision or direction of the work of the contractor, its employees or agents.

d. Title to all samples and waste materials remains with Client, and at no time shall STE take title to the above material. Portions of samples are consumed by testing. Unless otherwise stated in the Scope of Work, the remaining residue of all test samples from the Project tested by STE shall remain the property of CLIENT and shall be handled by STE as follows: At CLIENT's written request, STE will maintain preservable test samples and specimens or the residue therefrom for 30 days after the report date free of storage charges. After the initial 30 days, upon written request, STE will retain test specimens or samples for a mutually acceptable storage charge and time period. If CLIENT does not make a written request to preserve samples and specimens, then STE may dispose of the samples or specimens or return them to CLIENT at CLIENT's expenses. If it is determined that no test(s) are necessary on the sample(s), or determining that a sample originally thought to be NON-HAZARDOUS is in fact HAZARDOUS, then STE will return the samples to CLIENT.

e. Field tests or boring locations described in STE's report or shown on sketches are based on specific information furnished by others and/or estimates made in the field by STE personnel. Such dimensions, depths or elevations are approximations and are not warranted to be exact.

f. STE shall maintain during the performance of the services by it under this agreement if reasonably available, (i) statutory Workers' Compensation liability coverage, (ii) Comprehensive General Liability

insurance coverage, and (iii) automobile liability coverage in policy amounts of not less than One Million Dollars (\$1,000,000.00). STE represents that it currently has professional liability coverage in the aggregate limit of at least One Million Dollars (\$1,000,000.00) and agrees to attempt to maintain such coverage for the period of performance of the Scope of Work and for a period of one (1) year following completion of those services, if such coverage is reasonably available at commercially affordable premiums. For the purpose of this Agreement, "reasonably available" and "commercially affordable"

shall mean that more than half the consultants practicing the same professional discipline in the state where the project is located are able to obtain such coverage

### ARTICLE 2. THE CLIENT'S RESPONSIBILITIES

a. CLIENT has obtained access and right of entry to the Project and hereby grants free access and right of entry to the Project to STE, its employees, agents, and subcontractors, for the purpose of performing all acts, studies and research, including without limitation the obtaining of samples and the performance of tests and evaluations, pursuant to the Scope of Work. CLIENT understands that subsurface conditions throughout the site may vary from those apparent at the discrete sampling locations or other sources of subsurface data and that site conditions may change from time to time. CLIENT agrees that STE's proposed sampling locations are approximate and that STE may depart a reasonable distance from those locations. CLIENT accepts that, despite STE's use of reasonable precautions to reduce damage, invasive services such as drilling, or sampling may damage or alter the site and that site restoration is not provided by STE unless specifically included in the Scope of Work.

b. CLIENT represents that CLIENT possesses all necessary permits and licenses required for the performance of the services to be provided by STE under this Agreement and for the continuation of CLIENT and STE's activities at the Project.

c. CLIENT will furnish or cause to be furnished such reports, data, studies, plans, specifications, documents and other information deemed necessary by STE for the proper performance of STE's services pursuant to this Agreement. STE may rely upon documents provided by the CLIENT in performing the services required under this Agreement; however, CLIENT-provided documents will remain the property of the CLIENT. All documents, including, but not limited to, drawings, specifications, reports, boring logs, field notes, laboratory test data, calculations and estimates prepared by STE as part of the service, pursuant to this Agreement, shall remain STE's exclusive property. CLIENT agrees that all documents of any nature furnished to CLIENT or CLIENT's agents or designees, if not paid for, will be returned upon demand and will not be used by CLIENT for any purpose whatsoever. CLIENT further agrees that under no circumstances shall any documents produced by STE pursuant to this Agreement be used at any location or for any project not expressly provided for in this Agreement without STE's prior written consent. If CLIENT uses all or any portion of STE's work on another project without STE's written permission, CLIENT shall defend, indemnify and hold STE harmless from any and all claims arising from such unauthorized use.

d. CLIENT shall be responsible for identifying, locating, and marking, and/or shall arrange for identifying, locating and marking of private subterranean structures or utilities and subsurface structures. STE shall take reasonable precautions to avoid damage or injury to such utilities and structures. STE shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities which were identified and marked by CLIENT or a one-call provider. STE shall not be responsible for any damage, liability or costs, or for any property damage, injury or economic loss arising or allegedly arising from damages to utilities or subterranean structures that were not identified, located, or marked by CLIENT or the one-call provider, or that were not properly communicated to STE; or that were improperly marked on documentation, plans, drawing or utility clearance materials provided to STE. STE shall not be responsible for any damage, liability or costs, or for any property damage, injury or economic loss arising or allegedly arising from damages to utilities or subterranean structures caused by subsurface penetrations in locations approved by CLIENT and/or the one-call provider, except for damages caused by the negligence of STE in the use of such information. CLIENT waives any claim against STE and agrees to defend, indemnify, and hold STE and its officers, directors, employees, shareholders, agents, and subcontractors harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subterranean structures and utilities not identified or not accurately located. In addition, CLIENT agrees to compensate STE for any time spent or expenses

incurred by STE in defense of any such claim, with compensation to be based upon STE's prevailing fee schedule and expense reimbursement policy.

e. CLIENT shall provide, or cause to be provided, to STE all documents and information known or available to CLIENT that relate to the identity, location, quantity, nature, or characteristic of any Hazardous Material (i.e., hazardous waste under RCRA, hazardous substance under CERCLA, hazardous constituent, toxic material, radioactive material, contaminated material, or petroleum product) on, under, or near the site, and shall immediately transmit new, updated, or revised information as it becomes available.

f. Unless otherwise provided herein, CLIENT shall assume all responsibility for, including control and removal of, and protect, defend and save harmless STE from and against all claims, demands and causes of action of every kind and character arising from pollution or contamination (including naturally occurring radioactive material) which originates above the surface of the land or water from spills of fuels, lubricants, motor oils, pipe dope, paints, solvents, ballast, bilge and garbage, except unavoidable pollution from reserve pits, wholly in STE's possession and control and directly associated with STE's equipment. In the event a third party commits an act or omission which results in pollution or contamination for which either STE or CLIENT, for whom such party is performing work, is held to be legally liable, the responsibility therefore shall be considered as between STE and CLIENT, to be the same as if the party for whom the work was performed had performed the same and all of the obligations regarding defense, indemnity, holding harmless and limitation of responsibility and liability, as set forth herein, shall be specifically applied.

g. CLIENT shall release STE of any liability for, and shall defend and indemnify STE against, any and all claims, liability and expense resulting from operations under this Agreement on account of any alleged injury to, destruction of, or loss or impairment of any property right in or to oil, gas, water or other mineral substances, if at the time of the alleged act or omission causing injury, destruction, loss or impairment, said substance had not been reduced to physical possession above the surface of the earth. CLIENT shall release STE of any liability for, and shall defend and indemnify STE against, any and all claims, liability and expense resulting from operations under this Agreement on account of any alleged loss or damage to any formation, strata, or reservoir beneath the surface of the earth.

h. CLIENT agrees to pay STE's invoices upon receipt. STE may suspend work for lack of timely payment. Should payment not be received within 30 days of invoice date, the CLIENT agrees to also pay a service charge of 1.5 percent per month or 18 percent per annum and the costs of collection, including reasonable attorneys' fees. If 1.5 percent per month exceeds the maximum allowed by law, the service charge of 1.5 percent will automatically be reduced to the maximum legally allowed. If CLIENT has any objection to an STE invoice, CLIENT must so advise STE in writing giving the reasons for such objections within 14 days of receipt by the CLIENT of such invoice, and shall promptly pay the undisputed portion. Payment shall constitute final approval of all aspects of the corresponding Work performed to date by STE. If the Project is terminated in whole or in part, then STE shall be paid by the CLIENT for services performed prior to STE's receipt of written notice of such termination, including STE's reimbursable expenses and actual and reasonable shut-down costs.

**ARTICLE 3. PUBLIC LIABILITY:** Except for claims by employees of STE for Workers' Compensation, in the event any third party brings suit or claim for damages against STE alleging exposure to or damage from material, elements or constituents at the Project before, during, or after the services are performed by STE or any of its agents pursuant to this Agreement, which is alleged to have resulted in or caused disease or any adverse health condition to any third party or resulted in costs for remedial action, uninhabitability of any property, or any other property damage or loss of any kind, then CLIENT agrees at its sole cost to defend STE in any such suit or claim and to indemnify and hold harmless STE and its officers, directors, employees and shareholders from and against any loss, damages, liabilities and cost (including, but not limited to, reasonable attorney fees) and to pay on behalf of STE and its officers, directors, employees and shareholders any judgment entered against STE and its officers, directors, employees and shareholders, including any interest thereon. CLIENT will have the right to investigate, negotiate and settle, with STE's written concurrence, any such suit or claim, and STE will cooperate in the defense of any such suit or claim.

**ARTICLE 4. GENERAL CONDITIONS, NOTIFICATION, LIMITATION OF LIABILITY AND INDEMNIFICATION**

a. Except as otherwise provided in this Agreement, STE and CLIENT shall defend, indemnify, and hold harmless the other, their agents, and

employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are caused by the joint or concurrent negligence of STE and CLIENT, they shall be borne by each party in proportion to its own negligence under comparative fault principles.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR: LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**

b. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither CLIENT nor STE, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any delay damages, any punitive damages or any incidental, indirect or consequential damages arising out of or connected in any way to the Project(s) or to this Agreement. This mutual waiver of delay damages and consequential damages shall include, but is not limited to, disruptions, accelerations, inefficiencies, increased construction costs, increased home office overhead, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other delay or consequential damages that either party may have incurred from any cause of action including, but not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. Both the CLIENT and STE shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project(s).

c. To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of STE and STE's officers, directors, employees, shareholders, agents, and subcontractors, and any of them, to the CLIENT, for any and all claims, losses, costs, or damages, including attorney's fees and costs and expert witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Project or this Agreement from any cause or causes shall not exceed the total compensation received by STE under this Agreement. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law, except that this limitation does not apply to the extent damages are paid under STE's Comprehensive General Liability Insurance or automobile liability insurance.

d. The CLIENT further agrees, to the fullest extent permitted by law, to limit the liability of STE and STE's officers, directors, employees, shareholders, agents, and subcontractors, and any of them, to all construction contractors and subcontractors on the Project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert witness fees and costs, so that the total aggregate liability of STE and STE's subcontractors to all those named shall not exceed STE's total fee for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising unless otherwise prohibited by law, except that this limitation does not apply to the extent damages are paid under STE's Comprehensive General Liability Insurance or automobile liability insurance.

e. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither party's individual employees, principals, officers or directors shall be subject to personal liability or damages arising out of or connected in any way to the Project or to this Agreement.

f. This Agreement may be terminated by either party upon giving the other party not less than seven (7) calendar days written notice or by mutual agreement. The receiving party shall have that seven (7) calendar day period in which to cure the default. If this Agreement is terminated by either party, STE shall be paid in full for all services performed through the termination date, in addition to STE's reimbursable expenses and reasonable shut-down costs incurred.

g. Neither CLIENT nor STE may delegate, assign, sublet or transfer its duties or interest in this Agreement without the prior written consent of the other party, except STE may retain the services of subcontractors to assist STE in performance of its duties and obligations hereunder.

**ARTICLE 5. UNFORESEEN OCCURRENCES:** If during the performance of services by STE under this Agreement, any unforeseen hazardous substances or petroleum products or constituents thereof or other

unforeseen conditions or occurrences are encountered which in STE's sole judgment significantly affect or may affect the services, the risk involved in providing the services, or the Scope of Work, STE and CLIENT will mutually agree to revise the Agreement to include consideration of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or STE may, at its option, terminate this Agreement effective on the date specified by STE in writing.

**ARTICLE 6. LITIGATION ASSISTANCE:** Unless expressly set forth in the Scope of Work, the Scope of Work does not include costs of STE for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CLIENT. All such services required or requested of STE, except for suits or claims between the parties to this Agreement, will be reimbursed by the CLIENT according to STE's normal rates and charges for such services and payment for such services shall be in accordance with this Agreement.

**ARTICLE 7. FORCE MAJEURE:** STE is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the reasonable control of STE.

**ARTICLE 8. NO THIRD-PARTY BENEFICIARIES:** This Agreement and STE's performance of the Scope of Work are for STE's and CLIENT's sole benefit and exclusive use with no third parties intended. Reliance upon STE's performance of the Scope of Work and any work product is limited to CLIENT and is not intended for third parties. For a time period limited to three months following STE's completion of the Scope of Work and submittal of any work product in the form of a report, STE will issue additional reports addressed to, and for the use of, other parties designated by CLIENT, contingent upon each such party signing and returning STE's reliance agreement and STE receiving the agreed-upon fee for each additional report so issued.

**ARTICLE 9. SURVIVAL:** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating the responsibility or liability between CLIENT and STE shall survive the completion of the services and the termination of this Agreement.

**ARTICLE 10. INTEGRATION:** This Agreement and the documents attached hereto, and which are incorporated herein constitute the entire agreement between the parties and cannot be changed or amended except by a written instrument signed by all parties hereto. In the event CLIENT issues a purchase order or similar form to authorize or otherwise administer payment for Work under this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken.

**ARTICLE 11. GOVERNING LAW AND VENUE:** This Agreement shall be governed in all respects by the laws of the State of Oklahoma. Each of the parties hereto shall only enforce a claim arising out of this Agreement in the appropriate state or federal court having subject and personal jurisdiction located in Oklahoma City, Oklahoma. For purposes of any action or proceeding instituted with respect to any such claim, except those for which CLIENT must first pursue Dispute Resolution as provided herein, all of the parties hereto irrevocably submit to the jurisdiction of such courts and irrevocably consent to service of process out of such courts by mailing a copy of the summons and complaint, by certified mail, return receipt

requested, postage prepaid to each party at the address provided for such party in this Agreement.

**ARTICLE 12. DISPUTE RESOLUTION:** CLIENT shall not be entitled to assert any claim, including but not limited to, professional negligence, negligence, breach of contract, misconduct, error, omission, fraud, or misrepresentation ("Claim") against STE unless and until CLIENT has first obtained a written opinion from an independent, registered professional of the relevant discipline ("Expert") that STE has violated the standard of care applicable to STE's performance of the Scope of Work. The opinion must contain: (a) the name and license number of the Expert; (b) the qualifications of the Expert, including a list of all publications authored in the previous 10 years and a list of all cases in which the Expert testified within the previous 4 years; (c) a statement by the Expert setting forth the factual basis for the Claim; (d) a statement by the Expert of each and every act, error, or omission that the Expert contends supports the Claim or any alleged violation of any applicable standard of care; (e) a statement by the Expert of all opinions the Expert holds regarding the Claim or any alleged violation of any applicable standard of care; (f) a list of every document related to the Project reviewed by the Expert; and (g) a list of every individual who provided Expert with any information regarding the Project. The opinion is a condition precedent to the right of CLIENT to assert any Claim in any litigation or arbitration and CLIENT's failure to timely provide an opinion to STE will be grounds for automatic dismissal of the Claim with prejudice. CLIENT shall furnish this opinion to STE and the parties shall endeavor to resolve the dispute within thirty (30) days, after which CLIENT may pursue its remedies at law. The prevailing party in any litigation relating to a Claim shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Claim.

**ARTICLE 13. INDEPENDENT CONTRACTOR:** In performing services under this Agreement, STE shall operate as, and have the status of, an independent contractor and shall not act as or be an employee of the CLIENT.

**ARTICLE 14. SUBCONSULTANTS:** STE may utilize as necessary in its discretion subconsultants or other subcontractors. STE will be paid for all services rendered by its subconsultants and other subcontractors as set forth in this Agreement.

**ARTICLE 15. NOTICE:** Notices shall be sufficiently given if sent by certified mail, postage prepaid, to each of the parties at the address noted for such party in this Agreement, or such other address as shall be furnished in writing by either party.

**ARTICLE 16. ENTIRE AGREEMENT:** This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the CLIENT and STE.



# Subsurface Exploration Fee Proposal

## Newcastle Middle School



**OKLAHOMA CITY LABORATORY**  
3400 N. LINCOLN BLVD.  
OKLAHOMA CITY, OK 73105  
405.528.0541

**LAWTON LABORATORY**  
202 SE J AVE  
LAWTON, OK 73501  
580.353.0872

**TULSA LABORATORY**  
7648 E. 46TH PLACE  
TULSA, OK 74145  
918.289.0005

**ENID LABORATORY**  
902 TRAIL W. LOOP  
ENID, OK 73703  
580.237.3130



CORPORATE OFFICE • OKLAHOMA CITY  
3400 N Lincoln Blvd • Oklahoma City, OK 73105  
(405) 528-0541 • (800) 725-0541 • (405) 528-0559 FAX

7648 E 46<sup>th</sup> PI  
Tulsa, OK 74145  
(918)289-0005

902 Trails West Loop  
Enid, OK 73703  
(580) 237-3130

202 SE "J" Ave  
Lawton, OK 73501  
(580) 353-0872

October 24, 2022

MA+ Architecture  
110 N. Mercedes Drive, Suite 200  
Norman, OK 73069

VIA Email: [markk@maplusarch.com](mailto:markk@maplusarch.com)

Attn: Mr. Mark Kasulis, AIA, NCARB

Regarding: Proposal for Subsurface Exploration  
Newcastle Middle School  
Newcastle, Oklahoma

Dear Mark:

Standard Testing & Engineering, LLC (STE) is pleased to provide this proposal for geotechnical exploration services for the Newcastle Middle School, located in Newcastle, Oklahoma.

### Scope of Work

This geotechnical study is to evaluate the soil's and/ or rock's strength conditions, check the soil plasticity characteristics, and to recommend subgrade preparation, foundation types, and pavement sections for the proposed project. Based in the information provided to us, it is our understanding that the project consists of the following:

- Project Address: 611 E Fox Ln, Newcastle, OK 73065
- New Middle School Additions (approx. 16,000 sq.ft)
- New Athletic Building (approx. 1,000 sq.ft)
- New Road/Pavement

### Field Exploration

A total of **twelve (12)** borings are requested to be drilled. **Six (6)** building borings are requested to be drilled to the depth of **twenty (20)** feet or five (5) feet into bedrock and **six (6)** pavement borings are requested to be drilled to the depth of **five (5)** feet using truck mounted CME 55 within the project's footprint. Samples will be obtained from borings at regular intervals and at soil layer interfaces where material characteristics change. A minimum of three samples will be obtained within the top five (5) feet and at 5-foot intervals thereafter using the following methods:

- Split-Barrel Sampler (SPT) in cohesionless soils, and cohesive soils
- Grab samples will also be collected

Soil samples will be sealed in the field to prevent disturbance and moisture changes and transported to the laboratory for testing. All borings will be plugged in accordance with Oklahoma Water Resource Board (OWRB) regulations. The ground surface at the borings' locations will be surveyed by rod and transit methods in relation to a convenient fixed object or a benchmark provided by the client. Groundwater, if encountered, will be measured during, and at the completion of drilling operations. Standard Testing will call OKIE to locate utilities in public easements, the owner is responsible for locating private utilities at the site.

Minor damage at the site, such as rutting in landscaping and cracking in light duty concrete or asphalt paving (i.e. sidewalks and driveways) may occur during the field exploration due to the size and weight of the drilling equipment. Any remediation or repair of damages resulting from the use of such equipment in order to perform the field exploration is not part of this scope and will not be the responsibility of Standard Testing.

### **Laboratory Testing**

Laboratory tests shall be assigned and performed to classify soils and obtain geotechnical physical characteristics for soils and rock such as strength, compressibility and compaction characteristics. Perform laboratory testing consistent in quantity and quality with local geotechnical engineering practice to provide the information for the foundation recommendations required in the report. We will perform following laboratory tests:

- Soil Moisture Content Test
- Atterberg Limits Test (PI)
- Sieve Analysis

### **Reporting, Scheduling, Authorization and Cost**

The drilling work can be scheduled within **five (5) to seven (7)** working days after receiving notice to proceed and obtaining clearance of utilities at the site. Report will be issued within **seven (7)** working days after completion of laboratory testing.

A report will be generated including the following:

- Vicinity map and boring location plan
- Computer generated boring logs with soil stratification based on visual soil classification, and laboratory test results
- Boring and site elevations
- Laboratory test results summary
- Summary of field testing and drilling methods
- Narrative of difficulties and access obstructions
- Subsurface soil conditions
- Ground water levels observed during and at the completion of drilling, and anticipated seasonal high water level
- Seismic site class using IBC 2018 and ASCE 7-16
- Previous construction activity
- PVR analysis results with removal or treatment of objectionable materials
- Earthworks recommendations including engineered fill requirements
- Compaction requirements

- Drainage system recommendations
- Foundation recommendations including allowable bearing pressure for shallow foundations
- Foundation recommendations including allowable end bearing and skin friction capacities for deep foundations
- Estimated settlement
- Slab-on-grade floor slab recommendations, including modulus of subgrade reaction
- Asphalt concrete and Portland cement concrete pavement section recommendation for light and heavy-duty traffic
- Other construction considerations

The cost estimate for geotechnical services, including borings, laboratory testing, and reporting as described is presented in the following table:

Description	Cost (\$)	Type
Geotechnical Exploration	\$7,750.00	Lump Sum

The geotechnical exploration fee includes up to 3 hours of engineering support in the design phase after the geotechnical report is submitted. Additional services, if required and/or requested, will be provided at our standard unit rates.

We appreciate the opportunity to provide the budgetary proposal. To authorize this work, please return a completed copy of the attached "Agreement for services" form by e-mail to [rkhalife@stantest.com](mailto:rkhalife@stantest.com). If there are any questions concerning this proposal or if further information is required, please contact me at 405.528.0541 or 405.395.8040.

Sincerely,



Roy Khalife, PE  
Senior Geotechnical Engineer

Standard Testing & Engineering, LLC

# Standard Testing Services

## Laboratory Testing Services

- Soil Classification
- Sieve Analysis
- Specific Gravity
- Standard & Modified Proctor
- Atterberg Limits
- Dry Density
- California Bearing Ratio
- Direct Shear
- Tri-axial (UU, CU, CD)
- 1-D Consolidation & Swell
- Unconfined Compressive Strength
- LA Abrasion Aggregate Durability
- Compressive Strength of Concrete, Grout, Mortar & Masonry
- Alkali-Silica Reactivity
- Beam Flexural Strength
- Soil, Asphalt & Concrete Mix Design
- Superpave Gyrotory
- Extraction & Gradation
- Maximum Theoretical Specific Gravity
- Marshall Stability & Flow
- pH & Resistivity
- Soluble Sulfate, Chloride
- Freeze-Thaw & Wet-Dry
- Flat or Elongated Particles
- Masonry Absorption

## Drilling Services

- CPT-U
- Mud Rotary
- Continuous Flight Hollow Stem Auger
- Continuous Flight Solid Stem Auger
- Rock Coring
- Pavement Coring
- Texas Cone Testing
- Standard Penetration Testing
- Monitoring Wells & Piezometer Installation
- Settlement Plates Installation & Monitoring
- Inclinator Installation & Monitoring
- Pressuremeter Testing
- CME-55 Truck Mounted
- CME-750 ATV
- Pavement Coring Trailer

## Construction Services Testing & Inspection

- Roadway Coring & Length Measurement
- Soil Compaction by Nuclear Method
- Soil Compaction by Sand Cone Method
- Depth Check
- Flow Test
- Unit Weight Test
- Slump Test
- Air Content Test
- Concrete & CLSM
- Cylinder Cast
- Roadway Density by Nuclear Method
- Pier Drilling Inspection Foundation Inspection
- Double Ring Infiltrometer
- Floor Flatness and Levelness
- Relative Humidity of Concrete Slabs
- Fireproofing Testing
- Structural Steel Inspection
- Shop Inspection
- Post Tensioning Inspection
- Rebar Inspection
- Concrete Beam Cast
- Masonry Construction Inspection
- Proofroll Inspection
- Pavement Inspection & Elevation

## Geotechnical Services

- Drone Aerial Assessment
- Bridge Subsurface Exploration
- Roadway Subsurface Exploration
- Pedological Study
- Pavement Design
- Slope Stability Analysis
- Settlement Analysis
- HDD Pipeline Analysis
- Shallow and Deep Foundation Recommendations
- Foundation Design
- Retaining Wall Design Recommendations
- Geotechnical Forensic Studies
- Dams & Embankments Studies
- Design-Build
- Plate Bearing Test



- AASHTO RE:SOURCE Accredited
- AASHTO R18 Laboratory
- ODOT Qualified Laboratory
- USACE Validated Laboratory

# Portfolio



## **FEDERAL**

- KC-46 Depot Hangar
- KC-46 Infrastructure Project
- Altus AFB Runway Reconstruction
- FAA Security Command Center
- Tinker AFB Repair AWACS Apron



## **SCHOOLS K-12**

- Various Norman Public Schools
- Various Edmond Public Schools
- Various Lawton Public Schools
- Medford Public Schools
- Various Oklahoma City Public Schools



## **HIGHER EDUCATION**

- OU Stadium Expansion
- OU Asp Avenue Parking Garage
- OU Devon Energy Hall
- OU Donald Reynold Performing Arts Center
- OU Biomedical Research Center



## **HEALTHCARE**

- OU Medical 11 Story Bed Tower
- OHHS Super West Expansion
- Norman Regional Healthplex
- OU Children's Hospital
- Mercy Hospital in Ardmore



## **WAREHOUSES**

- Various Hobby Lobby Warehouses
- Tinker Medical Warehouse
- MROTC Boeing Hangars
- Moore/Norman Vo Warehouse Renovation
- Chappell Supply & Equipment Warehouse



## **TRANSPORTATION**

- OTA EOC-2435 & 2434B
- OTA EOC-2433B & 2434A
- OTA JKT-2371 Mainline & Ramps
- SH-48 over Cimarron River
- US-81 over Washita River



## **WIND FARMS**

- Kings Plain Wind Farm
- Red Bed Plains Wind Farm
- Mammoth Plains Wind Farm
- Rush Springs Wind Farm
- Buffalo Bear Wind Farm



## **MUNICIPAL**

- Scissor Tail Park OKC
- Myriad Botanical Gardens
- Ford Center Expansion
- Edmond Streetscapes Project
- Various City of OKC Projects



## **WATER / WASTEWATER**

- Hefner WTP Expansion
- Coffee Creek Wastewater Treatment Plant
- Hefner WTP Chemical Storage Facility
- Arcadia WTP Control Building
- Bethany Water Treatment Plant



## **COMMERCIAL**

- Firelake Grand Casino and Hotel
- Riverwind Hotel in Norman
- Embassy Suites Hotel & Conference
- Goodyear Plant Expansion
- Nestle Purina Plant Expansion

**STANDARD TESTING AND ENGINEERING COMPANY  
AGREEMENT FOR SERVICES**

<b>Project</b> Newcastle Middle School	<b>Client</b> MA+ Architecture
<b>Project Location (Site)</b> Newcastle, Oklahoma	<b>Client Project Number</b>
<b>STE Project Number</b>	<b>Owner (if different from Client)</b>
<b>Date</b> October 24, 2022	<b>Owner Project Number</b>
<b>This contract is by and between:</b> MA+ Architecture  ("CLIENT")  and  Standard Testing and Engineering Company 3400 N. Lincoln Boulevard Oklahoma City, Oklahoma 73105-5408  ("STE")EIN: 82-3042789	<b>Mail Invoices to:</b>   <b>Address Project Correspondence to Client Representative:</b> Mr. Mark Kasulis, AIA, NCARB  <b>Authorized STE Project Representative:</b> Roy Khalife, P.E.
CLIENT hereby engages STE to provide the services set forth in PART I, at the project described herein ("Project"), CLIENT agrees to pay STEC charges invoices by STE for services rendered on the project in accordance with PART II and to be bound by the Standard Terms and Conditions attached hereto and incorporated herein. The parties agree:	
<b>PART I – Scope of Work</b> (attached "Exhibit I" if more spaces is required) Quality Control and Acceptance as presented in the attached proposal dated October 24, 2022.	
<b>PART II – Fee</b> (attach "Exhibit II" if more spaces is required) Per Estimated Budget dated October 24, 2022	
The CLIENT agrees to pay STE's invoices upon receipt. STE may suspend work for lack of timely payment. Should payment not be received within 30 days of invoice date, the CLIENT agrees to also pay a service charge of 1.5 percent per month or 18 percent per annum and the costs of collection, including reasonable attorney's fees. If 1.5 percent per month exceeds the maximum allowed by law, the service charge of 1.5 percent will automatically be reduced to the maximum legally allowed. If CLIENT has any object to any of STE's invoices, CLIENT must so advise STE in writing giving the reason for such objections within 14 days of receipt by the CLIENT of such invoice, and shall promptly pay the undisputed portion. Payment shall constitute final approval of all aspects of the corresponding Work performed to date by STE. If the Project is terminated in whole or in part, then STE shall be paid by the CLIENT for services performed prior to STE's received of written notice of such termination, including STE's reimbursable expenses and actual and reasonable shut-down costs.	
<b>Disclosure of Hazardous and Toxic Material and Conditions at the Project</b> (check One) CLIENT is not aware of any hazardous wastes or substances, toxic materials or conditions or petroleum products ("Hazardous Materials") existing at the site of the Project, EXCEPT:  <input type="checkbox"/> None <input type="checkbox"/> Petroleum Fuels Only <input type="checkbox"/> Those items Described (attached "Exhibit III" if more space is required)	
<b>CLIENT</b>  Signature _____  Name _____  Title _____  Date _____	<b>Standard Testing and Engineering Company</b>  Signature <u></u>  Name <u>Roy Khalife, P.E.</u>  Title <u>Vice-President of Operations</u>  Date <u>October 24, 2022</u>

# STANDARD TESTING AND ENGINEERING COMPANY

## STANDARD TERMS AND CONDITIONS

Standard Testing and Engineering Company, herein "STE", as an independent consultant, agrees to provide to the "CLIENT" the services described in the Scope of Work for the Project provided in Part I or Exhibit I of this Agreement, pursuant to the following Standard Terms and Conditions which constitute a part of this Agreement:

### ARTICLE 1. SERVICES BY STE

a. STE will perform the services to be provided by STE pursuant to this Agreement in accordance with generally accepted engineering principles and practices of performance by professionals of ordinary skill existing at the time of performance under similar conditions for the locality where the services are to be performed. The CLIENT hereby acknowledges that the Project involves certain inherent risk factors (such as limitations on laboratory analytical methods, variations in subsurface conditions and the like) which may adversely affect the results of the Project, even though the services are performed with such care and skill. Data, interpretations and recommendations by STE will be based solely on information available to STE. STE will not be responsible for any other party's use or interpretations of information reported by STE and/or the recommendation(s) of any other party based on such information. STE's services do not include the investigation or detection of, nor do the recommendations in STE's reports address the presence or prevention of, biological pollutants such as mold, fungi, bacteria, viruses; or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If computer software is to be provided to the CLIENT as part of the services, CLIENT will execute a separate software license agreement. **STE MAKES NO WARRANTIES OR GUARANTEES EXPRESS OR IMPLIED, RELATING TO STE'S SERVICES AND STE SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

b. The Scope of Work cannot be changed, altered or amended except by written agreement signed by both parties. If CLIENT and STE agree in writing for STE to perform additional services, then STE will be entitled to an increase in compensation at rates provided in this Agreement. STE reserves the right to elect not to perform additional services. If STE determines in its sole discretion that additional services are necessary to avoid a delay in the completion of the Project, then STE shall perform those services without waiting for instructions from CLIENT and shall be entitled to an increase in compensation for such services at the standard hourly billing rate charged for those employees performing the services, plus reimbursable expenses, if any.

c. STE's personnel may be present, either full or part time, to provide observation and field testing of specific parts of the Project in accordance with the Scope of Work set forth herein. STE will be responsible for supervision and site safety measures for its own employees but shall not be responsible for the supervision or health and safety precautions for any other parties, including CLIENT, CLIENT's contractors, or any other parties present at the site. Should a contractor be involved in the Project, STE's work does not include supervision or direction of the work of the contractor, its employees or agents.

d. Title to all samples and waste materials remains with Client, and at no time shall STE take title to the above material. Portions of samples are consumed by testing. Unless otherwise stated in the Scope of Work, the remaining residue of all test samples from the Project tested by STE shall remain the property of CLIENT and shall be handled by STE as follows: At CLIENT's written request, STE will maintain preservable test samples and specimens or the residue therefrom for 30 days after the report date free of storage charges. After the initial 30 days, upon written request, STE will retain test specimens or samples for a mutually acceptable storage charge and time period. If CLIENT does not make a written request to preserve samples and specimens, then STE may dispose of the samples or specimens or return them to CLIENT at CLIENT's expenses. If it is determined that no test(s) are necessary on the sample(s), or determining that a sample originally thought to be NON-HAZARDOUS is in fact HAZARDOUS, then STE will return the samples to CLIENT.

e. Field tests or boring locations described in STE's report or shown on sketches are based on specific information furnished by others and/or estimates made in the field by STE personnel. Such dimensions, depths or elevations are approximations and are not warranted to be exact.

f. STE shall maintain during the performance of the services by it under this agreement if reasonably available, (i) statutory Workers' Compensation liability coverage, (ii) Comprehensive General Liability

insurance coverage, and (iii) automobile liability coverage in policy amounts of not less than One Million Dollars (\$1,000,000.00). STE represents that it currently has professional liability coverage in the aggregate limit of at least One Million Dollars (\$1,000,000.00) and agrees to attempt to maintain such coverage for the period of performance of the Scope of Work and for a period of one (1) year following completion of those services, if such coverage is reasonably available at commercially affordable premiums. For the purpose of this Agreement, "reasonably available" and "commercially affordable"

shall mean that more than half the consultants practicing the same professional discipline in the state where the project is located are able to obtain such coverage

### ARTICLE 2. THE CLIENT'S RESPONSIBILITIES

a. CLIENT has obtained access and right of entry to the Project and hereby grants free access and right of entry to the Project to STE, its employees, agents, and subcontractors, for the purpose of performing all acts, studies and research, including without limitation the obtaining of samples and the performance of tests and evaluations, pursuant to the Scope of Work. CLIENT understands that subsurface conditions throughout the site may vary from those apparent at the discrete sampling locations or other sources of subsurface data and that site conditions may change from time to time. CLIENT agrees that STE's proposed sampling locations are approximate and that STE may depart a reasonable distance from those locations. CLIENT accepts that, despite STE's use of reasonable precautions to reduce damage, invasive services such as drilling, or sampling may damage or alter the site and that site restoration is not provided by STE unless specifically included in the Scope of Work.

b. CLIENT represents that CLIENT possesses all necessary permits and licenses required for the performance of the services to be provided by STE under this Agreement and for the continuation of CLIENT and STE's activities at the Project.

c. CLIENT will furnish or cause to be furnished such reports, data, studies, plans, specifications, documents and other information deemed necessary by STE for the proper performance of STE's services pursuant to this Agreement. STE may rely upon documents provided by the CLIENT in performing the services required under this Agreement; however, CLIENT-provided documents will remain the property of the CLIENT. All documents, including, but not limited to, drawings, specifications, reports, boring logs, field notes, laboratory test data, calculations and estimates prepared by STE as part of the service, pursuant to this Agreement, shall remain STE's exclusive property. CLIENT agrees that all documents of any nature furnished to CLIENT or CLIENT's agents or designees, if not paid for, will be returned upon demand and will not be used by CLIENT for any purpose whatsoever. CLIENT further agrees that under no circumstances shall any documents produced by STE pursuant to this Agreement be used at any location or for any project not expressly provided for in this Agreement without STE's prior written consent. If CLIENT uses all or any portion of STE's work on another project without STE's written permission, CLIENT shall defend, indemnify and hold STE harmless from any and all claims arising from such unauthorized use.

d. CLIENT shall be responsible for identifying, locating, and marking, and/or shall arrange for identifying, locating and marking of private subterranean structures or utilities and subsurface structures. STE shall take reasonable precautions to avoid damage or injury to such utilities and structures. STE shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities which were identified and marked by CLIENT or a one-call provider. STE shall not be responsible for any damage, liability or costs, or for any property damage, injury or economic loss arising or allegedly arising from damages to utilities or subterranean structures that were not identified, located, or marked by CLIENT or the one-call provider, or that were not properly communicated to STE; or that were improperly marked on documentation, plans, drawing or utility clearance materials provided to STE. STE shall not be responsible for any damage, liability or costs, or for any property damage, injury or economic loss arising or allegedly arising from damages to utilities or subterranean structures caused by subsurface penetrations in locations approved by CLIENT and/or the one-call provider, except for damages caused by the negligence of STE in the use of such information. CLIENT waives any claim against STE and agrees to defend, indemnify, and hold STE and its officers, directors, employees, shareholders, agents, and subcontractors harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subterranean structures and utilities not identified or not accurately located. In addition, CLIENT agrees to compensate STE for any time spent or expenses

incurred by STE in defense of any such claim, with compensation to be based upon STE's prevailing fee schedule and expense reimbursement policy.

e. CLIENT shall provide, or cause to be provided, to STE all documents and information known or available to CLIENT that relate to the identity, location, quantity, nature, or characteristic of any Hazardous Material (i.e., hazardous waste under RCRA, hazardous substance under CERCLA, hazardous constituent, toxic material, radioactive material, contaminated material, or petroleum product) on, under, or near the site, and shall immediately transmit new, updated, or revised information as it becomes available.

f. Unless otherwise provided herein, CLIENT shall assume all responsibility for, including control and removal of, and protect, defend and save harmless STE from and against all claims, demands and causes of action of every kind and character arising from pollution or contamination (including naturally occurring radioactive material) which originates above the surface of the land or water from spills of fuels, lubricants, motor oils, pipe dope, paints, solvents, ballast, bilge and garbage, except unavoidable pollution from reserve pits, wholly in STE's possession and control and directly associated with STE's equipment. In the event a third party commits an act or omission which results in pollution or contamination for which either STE or CLIENT, for whom such party is performing work, is held to be legally liable, the responsibility therefore shall be considered as between STE and CLIENT, to be the same as if the party for whom the work was performed had performed the same and all of the obligations regarding defense, indemnity, holding harmless and limitation of responsibility and liability, as set forth herein, shall be specifically applied.

g. CLIENT shall release STE of any liability for, and shall defend and indemnify STE against, any and all claims, liability and expense resulting from operations under this Agreement on account of any alleged injury to, destruction of, or loss or impairment of any property right in or to oil, gas, water or other mineral substances, if at the time of the alleged act or omission causing injury, destruction, loss or impairment, said substance had not been reduced to physical possession above the surface of the earth. CLIENT shall release STE of any liability for, and shall defend and indemnify STE against, any and all claims, liability and expense resulting from operations under this Agreement on account of any alleged loss or damage to any formation, strata, or reservoir beneath the surface of the earth.

h. CLIENT agrees to pay STE's invoices upon receipt. STE may suspend work for lack of timely payment. Should payment not be received within 30 days of invoice date, the CLIENT agrees to also pay a service charge of 1.5 percent per month or 18 percent per annum and the costs of collection, including reasonable attorneys' fees. If 1.5 percent per month exceeds the maximum allowed by law, the service charge of 1.5 percent will automatically be reduced to the maximum legally allowed. If CLIENT has any objection to an STE invoice, CLIENT must so advise STE in writing giving the reasons for such objections within 14 days of receipt by the CLIENT of such invoice, and shall promptly pay the undisputed portion. Payment shall constitute final approval of all aspects of the corresponding Work performed to date by STE. If the Project is terminated in whole or in part, then STE shall be paid by the CLIENT for services performed prior to STE's receipt of written notice of such termination, including STE's reimbursable expenses and actual and reasonable shut-down costs.

**ARTICLE 3. PUBLIC LIABILITY:** Except for claims by employees of STE for Workers' Compensation, in the event any third party brings suit or claim for damages against STE alleging exposure to or damage from material, elements or constituents at the Project before, during, or after the services are performed by STE or any of its agents pursuant to this Agreement, which is alleged to have resulted in or caused disease or any adverse health condition to any third party or resulted in costs for remedial action, uninhabitability of any property, or any other property damage or loss of any kind, then CLIENT agrees at its sole cost to defend STE in any such suit or claim and to indemnify and hold harmless STE and its officers, directors, employees and shareholders from and against any loss, damages, liabilities and cost (including, but not limited to, reasonable attorney fees) and to pay on behalf of STE and its officers, directors, employees and shareholders any judgment entered against STE and its officers, directors, employees and shareholders, including any interest thereon. CLIENT will have the right to investigate, negotiate and settle, with STE's written concurrence, any such suit or claim, and STE will cooperate in the defense of any such suit or claim.

**ARTICLE 4. GENERAL CONDITIONS, NOTIFICATION, LIMITATION OF LIABILITY AND INDEMNIFICATION**

a. Except as otherwise provided in this Agreement, STE and CLIENT shall defend, indemnify, and hold harmless the other, their agents, and

employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are caused by the joint or concurrent negligence of STE and CLIENT, they shall be borne by each party in proportion to its own negligence under comparative fault principles.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR: LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**

b. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither CLIENT nor STE, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any delay damages, any punitive damages or any incidental, indirect or consequential damages arising out of or connected in any way to the Project(s) or to this Agreement. This mutual waiver of delay damages and consequential damages shall include, but is not limited to, disruptions, accelerations, inefficiencies, increased construction costs, increased home office overhead, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other delay or consequential damages that either party may have incurred from any cause of action including, but not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. Both the CLIENT and STE shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project(s).

c. To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of STE and STE's officers, directors, employees, shareholders, agents, and subcontractors, and any of them, to the CLIENT, for any and all claims, losses, costs, or damages, including attorney's fees and costs and expert witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Project or this Agreement from any cause or causes shall not exceed the total compensation received by STE under this Agreement. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law, except that this limitation does not apply to the extent damages are paid under STE's Comprehensive General Liability Insurance or automobile liability insurance.

d. The CLIENT further agrees, to the fullest extent permitted by law, to limit the liability of STE and STE's officers, directors, employees, shareholders, agents, and subcontractors, and any of them, to all construction contractors and subcontractors on the Project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert witness fees and costs, so that the total aggregate liability of STE and STE's subcontractors to all those named shall not exceed STE's total fee for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising unless otherwise prohibited by law, except that this limitation does not apply to the extent damages are paid under STE's Comprehensive General Liability Insurance or automobile liability insurance.

e. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither party's individual employees, principals, officers or directors shall be subject to personal liability or damages arising out of or connected in any way to the Project or to this Agreement.

f. This Agreement may be terminated by either party upon giving the other party not less than seven (7) calendar days written notice or by mutual agreement. The receiving party shall have that seven (7) calendar day period in which to cure the default. If this Agreement is terminated by either party, STE shall be paid in full for all services performed through the termination date, in addition to STE's reimbursable expenses and reasonable shut-down costs incurred.

g. Neither CLIENT nor STE may delegate, assign, sublet or transfer its duties or interest in this Agreement without the prior written consent of the other party, except STE may retain the services of subcontractors to assist STE in performance of its duties and obligations hereunder.

**ARTICLE 5. UNFORESEEN OCCURRENCES:** If during the performance of services by STE under this Agreement, any unforeseen hazardous substances or petroleum products or constituents thereof or other

unforeseen conditions or occurrences are encountered which in STE's sole judgment significantly affect or may affect the services, the risk involved in providing the services, or the

Scope of Work, STE and CLIENT will mutually agree to revise the Agreement to include consideration of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or STE may, at its option, terminate this Agreement effective on the date specified by STE in writing.

**ARTICLE 6. LITIGATION ASSISTANCE:** Unless expressly set forth in the Scope of Work, the Scope of Work does not include costs of STE for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CLIENT. All such services required or requested of STE, except for suits or claims between the parties to this Agreement, will be reimbursed by the CLIENT according to STE's normal rates and charges for such services and payment for such services shall be in accordance with this Agreement.

**ARTICLE 7. FORCE MAJEURE:** STE is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the reasonable control of STE.

**ARTICLE 8. NO THIRD-PARTY BENEFICIARIES:** This Agreement and STE's performance of the Scope of Work are for STE's and CLIENT's sole benefit and exclusive use with no third parties intended. Reliance upon STE's performance of the Scope of Work and any work product is limited to CLIENT and is not intended for third parties. For a time period limited to three months following STE's completion of the Scope of Work and submittal of any work product in the form of a report, STE will issue additional reports addressed to, and for the use of, other parties designated by CLIENT, contingent upon each such party signing and returning STE's reliance agreement and STE receiving the agreed-upon fee for each additional report so issued.

**ARTICLE 9. SURVIVAL:** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating the responsibility or liability between CLIENT and STE shall survive the completion of the services and the termination of this Agreement.

**ARTICLE 10. INTEGRATION:** This Agreement and the documents attached hereto, and which are incorporated herein constitute the entire agreement between the parties and cannot be changed or amended except by a written instrument signed by all parties hereto. In the event CLIENT issues a purchase order or similar form to authorize or otherwise administer payment for Work under this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken.

**ARTICLE 11. GOVERNING LAW AND VENUE:** This Agreement shall be governed in all respects by the laws of the State of Oklahoma. Each of the parties hereto shall only enforce a claim arising out of this Agreement in the appropriate state or federal court having subject and personal jurisdiction located in Oklahoma City, Oklahoma. For purposes of any action or proceeding instituted with respect to any such claim, except those for which CLIENT must first pursue Dispute Resolution as provided herein, all of the parties hereto irrevocably submit to the jurisdiction of such courts and irrevocably consent to service of process out of such courts by mailing a copy of the summons and complaint, by certified mail, return receipt

requested, postage prepaid to each party at the address provided for such party in this Agreement.

**ARTICLE 12. DISPUTE RESOLUTION:** CLIENT shall not be entitled to assert any claim, including but not limited to, professional negligence, negligence, breach of contract, misconduct, error, omission, fraud, or misrepresentation ("Claim") against STE unless and until CLIENT has first obtained a written opinion from an independent, registered professional of the relevant discipline ("Expert") that STE has violated the standard of care applicable to STE's performance of the Scope of Work. The opinion must contain: (a) the name and license number of the Expert; (b) the qualifications of the Expert, including a list of all publications authored in the previous 10 years and a list of all cases in which the Expert testified within the previous 4 years; (c) a statement by the Expert setting forth the factual basis for the Claim; (d) a statement by the Expert of each and every act, error, or omission that the Expert contends supports the Claim or any alleged violation of any applicable standard of care; (e) a statement by the Expert of all opinions the Expert holds regarding the Claim or any alleged violation of any applicable standard of care; (f) a list of every document related to the Project reviewed by the Expert; and (g) a list of every individual who provided Expert with any information regarding the Project. The opinion is a condition precedent to the right of CLIENT to assert any Claim in any litigation or arbitration and CLIENT's failure to timely provide an opinion to STE will be grounds for automatic dismissal of the Claim with prejudice. CLIENT shall furnish this opinion to STE and the parties shall endeavor to resolve the dispute within thirty (30) days, after which CLIENT may pursue its remedies at law. The prevailing party in any litigation relating to a Claim shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Claim.

**ARTICLE 13. INDEPENDENT CONTRACTOR:** In performing services under this Agreement, STE shall operate as, and have the status of, an independent contractor and shall not act as or be an employee of the CLIENT.

**ARTICLE 14. SUBCONSULTANTS:** STE may utilize as necessary in its discretion subconsultants or other subcontractors. STE will be paid for all services rendered by its subconsultants and other subcontractors as set forth in this Agreement.

**ARTICLE 15. NOTICE:** Notices shall be sufficiently given if sent by certified mail, postage prepaid, to each of the parties at the address noted for such party in this Agreement, or such other address as shall be furnished in writing by either party.

**ARTICLE 16. ENTIRE AGREEMENT:** This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the CLIENT and STE.

# Subsurface Exploration Fee Proposal

## Newcastle Elementary School Addition

**OKLAHOMA CITY LABORATORY**  
3400 N. LINCOLN BLVD.  
OKLAHOMA CITY, OK 73105  
405.528.0541

**LAWTON LABORATORY**  
202 SE J AVE  
LAWTON, OK 73501  
580.353.0872

**TULSA LABORATORY**  
7648 E. 46TH PLACE  
TULSA, OK 74145  
918.289.0005

**ENID LABORATORY**  
902 TRAIL W. LOOP  
ENID, OK 73703  
580.237.3130



CORPORATE OFFICE • OKLAHOMA CITY  
3400 N Lincoln Blvd • Oklahoma City, OK 73105  
(405) 528-0541 • (800) 725-0541 • (405) 528-0559 FAX

7648 E 46<sup>th</sup> PI  
Tulsa, OK 74145  
(918)289-0005

902 Trails West Loop  
Enid, OK 73703  
(580) 237-3130

202 SE "J" Ave  
Lawton, OK 73501  
(580) 353-0872

November 21, 2022

MA+ Architecture  
110 N. Mercedes Drive, Suite 200  
Norman, OK 73069

VIA Email: [markk@maplusarch.com](mailto:markk@maplusarch.com)

Attn: Mr. Mark Kasulis, AIA, NCARB

Regarding: Revised Proposal for Subsurface Exploration  
Newcastle Elementary School Addition  
Newcastle, Oklahoma

Dear Mark:

Standard Testing & Engineering, LLC (STE) is pleased to provide this proposal for geotechnical exploration services for the Newcastle Elementary School Addition, located in Newcastle, Oklahoma.

### Scope of Work

This geotechnical study is to evaluate the soil's and/ or rock's strength conditions, check the soil plasticity characteristics, recommend subgrade preparation, and pavement sections for the proposed project. Based in the information provided to us, it is our understanding that the project consists of the following:

- Project Address:
- New Road/Pavement

### Field Exploration

A total of **four (4)** borings are requested to be drilled to the depth of **five (5)** feet using truck mounted CME 55 within the project's footprint. Samples will be obtained from borings at regular intervals and at soil layer interfaces where material characteristics change. A minimum of three samples will be obtained within the top five (5) feet and at 5-foot intervals thereafter using the following methods:

- Grab samples will also be collected

Soil samples will be sealed in the field to prevent disturbance and moisture changes and transported to the laboratory for testing. All borings will be plugged in accordance with Oklahoma Water Resource Board (OWRB) regulations. The ground surface at the borings' locations will be surveyed by rod and transit methods in relation to a convenient fixed object or a benchmark provided by the client. Groundwater, if encountered, will be measured during, and at the completion of drilling operations. Standard Testing will call OKIE to locate utilities

in public easements, the owner is responsible for locating private utilities at the site. Additionally, Dynamic Cone Penetrometer (DCP) testing will also be performed in order to evaluate the existing subgrade condition.

Minor damage at the site, such as rutting in landscaping and cracking in light duty concrete or asphalt paving (i.e. sidewalks and driveways) may occur during the field exploration due to the size and weight of the drilling equipment. Any remediation or repair of damages resulting from the use of such equipment in order to perform the field exploration is not part of this scope and will not be the responsibility of Standard Testing.

### **Laboratory Testing**

Laboratory tests shall be assigned and performed to classify soils and obtain geotechnical physical characteristics for soils and rock such as strength, compressibility and compaction characteristics. Perform laboratory testing consistent in quantity and quality with local geotechnical engineering practice to provide the information for the foundation recommendations required in the report. We will perform following laboratory tests:

- Soil Moisture Content Test
- Atterberg Limits Test (PI)
- Sieve Analysis

### **Reporting, Scheduling, Authorization and Cost**

The drilling work can be scheduled within **five (5) to seven (7)** working days after receiving notice to proceed and obtaining clearance of utilities at the site. Report will be issued within **seven (7)** working days after completion of laboratory testing.

A report will be generated including the following:

- Vicinity map and boring location plan
- Computer generated boring logs with soil stratification based on visual soil classification, and laboratory test results
- Boring and site elevations
- Laboratory test results summary
- Summary of field testing and drilling methods
- Narrative of difficulties and access obstructions
- Subsurface soil conditions
- Earthworks recommendations including engineered fill requirements
- Compaction requirements
- Drainage system recommendations
- Ground water levels observed during and at the completion of drilling, and anticipated seasonal high water level
- Asphalt concrete and Portland cement concrete pavement section recommendation for light and heavy-duty traffic
- Other construction considerations

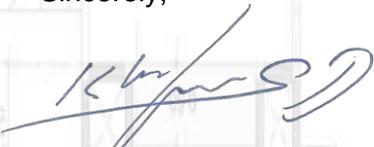
The cost estimate for geotechnical services, including borings, laboratory testing, and reporting as described is presented in the following table:

Description	Cost (\$)	Type
Geotechnical Exploration	\$2,650.00	Lump Sum

The geotechnical exploration fee includes up to 3 hours of engineering support in the design phase after the geotechnical report is submitted. Additional services, if required and/or requested, will be provided at our standard unit rates.

We appreciate the opportunity to provide the budgetary proposal. To authorize this work, please return a completed copy of the attached "Agreement for services" form by e-mail to [rkhalife@stantest.com](mailto:rkhalife@stantest.com). If there are any questions concerning this proposal or if further information is required, please contact me at 405.528.0541 or 405.395.8040.

Sincerely,



Roy Khalife, PE  
Senior Geotechnical Engineer

Standard Testing & Engineering, LLC



# Standard Testing Services

## Laboratory Testing Services

- Soil Classification
- Sieve Analysis
- Specific Gravity
- Standard & Modified Proctor
- Atterberg Limits
- Dry Density
- California Bearing Ratio
- Direct Shear
- Tri-axial (UU, CU, CD)
- 1-D Consolidation & Swell
- Unconfined Compressive Strength
- LA Abrasion Aggregate Durability
- Compressive Strength of Concrete, Grout, Mortar & Masonry
- Alkali-Silica Reactivity
- Beam Flexural Strength
- Soil, Asphalt & Concrete Mix Design
- Superpave Gyrotory
- Extraction & Gradation
- Maximum Theoretical Specific Gravity
- Marshall Stability & Flow
- pH & Resistivity
- Soluble Sulfate, Chloride
- Freeze-Thaw & Wet-Dry
- Flat or Elongated Particles
- Masonry Absorption

## Drilling Services

- CPT-U
- Mud Rotary
- Continuous Flight Hollow Stem Auger
- Continuous Flight Solid Stem Auger
- Rock Coring
- Pavement Coring
- Texas Cone Testing
- Standard Penetration Testing
- Monitoring Wells & Piezometer Installation
- Settlement Plates Installation & Monitoring
- Inclinator Installation & Monitoring
- Pressuremeter Testing
- CME-55 Truck Mounted
- CME-750 ATV
- Pavement Coring Trailer

## Construction Services Testing & Inspection

- Roadway Coring & Length Measurement
- Soil Compaction by Nuclear Method
- Soil Compaction by Sand Cone Method
- Depth Check
- Flow Test
- Unit Weight Test
- Slump Test
- Air Content Test
- Concrete & CLSM
- Cylinder Cast
- Roadway Density by Nuclear Method
- Pier Drilling Inspection Foundation Inspection
- Double Ring Infiltrometer
- Floor Flatness and Levelness
- Relative Humidity of Concrete Slabs
- Fireproofing Testing
- Structural Steel Inspection
- Shop Inspection
- Post Tensioning Inspection
- Rebar Inspection
- Concrete Beam Cast
- Masonry Construction Inspection
- Proofroll Inspection
- Pavement Inspection & Elevation

## Geotechnical Services

- Drone Aerial Assessment
- Bridge Subsurface Exploration
- Roadway Subsurface Exploration
- Pedological Study
- Pavement Design
- Slope Stability Analysis
- Settlement Analysis
- HDD Pipeline Analysis
- Shallow and Deep Foundation Recommendations
- Foundation Design
- Retaining Wall Design Recommendations
- Geotechnical Forensic Studies
- Dams & Embankments Studies
- Design-Build
- Plate Bearing Test



- AASHTO RE:SOURCE Accredited
- AASHTO R18 Laboratory
- ODOT Qualified Laboratory
- USACE Validated Laboratory

# Portfolio



## **FEDERAL**

- KC-46 Depot Hangar
- KC-46 Infrastructure Project
- Altus AFB Runway Reconstruction
- FAA Security Command Center
- Tinker AFB Repair AWACS Apron



## **SCHOOLS K-12**

- Various Norman Public Schools
- Various Edmond Public Schools
- Various Lawton Public Schools
- Medford Public Schools
- Various Oklahoma City Public Schools



## **HIGHER EDUCATION**

- OU Stadium Expansion
- OU Asp Avenue Parking Garage
- OU Devon Energy Hall
- OU Donald Reynold Performing Arts Center
- OU Biomedical Research Center



## **HEALTHCARE**

- OU Medical 11 Story Bed Tower
- OHHS Super West Expansion
- Norman Regional Healthplex
- OU Children's Hospital
- Mercy Hospital in Ardmore



## **WAREHOUSES**

- Various Hobby Lobby Warehouses
- Tinker Medical Warehouse
- MROTC Boeing Hangars
- Moore/Norman Vo Warehouse Renovation
- Chappell Supply & Equipment Warehouse



## **TRANSPORTATION**

- OTA EOC-2435 & 2434B
- OTA EOC-2433B & 2434A
- OTA JKT-2371 Mainline & Ramps
- SH-48 over Cimarron River
- US-81 over Washita River



## **WIND FARMS**

- Kings Plain Wind Farm
- Red Bed Plains Wind Farm
- Mammoth Plains Wind Farm
- Rush Springs Wind Farm
- Buffalo Bear Wind Farm



## **MUNICIPAL**

- Scissor Tail Park OKC
- Myriad Botanical Gardens
- Ford Center Expansion
- Edmond Streetscapes Project
- Various City of OKC Projects



## **WATER / WASTEWATER**

- Hefner WTP Expansion
- Coffee Creek Wastewater Treatment Plant
- Hefner WTP Chemical Storage Facility
- Arcadia WTP Control Building
- Bethany Water Treatment Plant



## **COMMERCIAL**

- Firelake Grand Casino and Hotel
- Riverwind Hotel in Norman
- Embassy Suites Hotel & Conference
- Goodyear Plant Expansion
- Nestle Purina Plant Expansion

**STANDARD TESTING AND ENGINEERING COMPANY  
AGREEMENT FOR SERVICES**

<b>Project</b> Newcastle Elementary School Addition	<b>Client</b> MA+ Architecture
<b>Project Location (Site)</b> Newcastle, Oklahoma	<b>Client Project Number</b>
<b>STE Project Number</b>	<b>Owner (if different from Client)</b>
<b>Date</b> November 21, 2022	<b>Owner Project Number</b>
<b>This contract is by and between:</b> MA+ Architecture  ("CLIENT")  and  Standard Testing and Engineering Company 3400 N. Lincoln Boulevard Oklahoma City, Oklahoma 73105-5408  ("STE")EIN: 82-3042789	<b>Mail Invoices to:</b>   <b>Address Project Correspondence to Client Representative:</b> Mr. Mark Kasulis, AIA, NCARB  <b>Authorized STE Project Representative:</b> Roy Khalife, P.E.
CLIENT hereby engages STE to provide the services set forth in PART I, at the project described herein ("Project"), CLIENT agrees to pay STEC charges invoices by STE for services rendered on the project in accordance with PART II and to be bound by the Standard Terms and Conditions attached hereto and incorporated herein. The parties agree:	
<b>PART I – Scope of Work</b> (attached "Exhibit I" if more spaces is required) Quality Control and Acceptance as presented in the attached proposal dated November 21, 2022.	
<b>PART II – Fee</b> (attach "Exhibit II" if more spaces is required) Per Estimated Budget dated November 21, 2022	
The CLIENT agrees to pay STE's invoices upon receipt. STE may suspend work for lack of timely payment. Should payment not be received within 30 days of invoice date, the CLIENT agrees to also pay a service charge of 1.5 percent per month or 18 percent per annum and the costs of collection, including reasonable attorney's fees. If 1.5 percent per month exceeds the maximum allowed by law, the service charge of 1.5 percent will automatically be reduced to the maximum legally allowed. If CLIENT has any object to any of STE's invoices, CLIENT must so advise STE in writing giving the reason for such objections within 14 days of receipt by the CLIENT of such invoice, and shall promptly pay the undisputed portion. Payment shall constitute final approval of all aspects of the corresponding Work performed to date by STE. If the Project is terminated in whole or in part, then STE shall be paid by the CLIENT for services performed prior to STE's received of written notice of such termination, including STE's reimbursable expenses and actual and reasonable shut-down costs.	
<b>Disclosure of Hazardous and Toxic Material and Conditions at the Project</b> (check One) CLIENT is not aware of any hazardous wastes or substances, toxic materials or conditions or petroleum products ("Hazardous Materials") existing at the site of the Project, EXCEPT:  <input type="checkbox"/> None <input type="checkbox"/> Petroleum Fuels Only <input type="checkbox"/> Those items Described (attached "Exhibit III" if more space is required)	
<b>CLIENT</b>  Signature _____  Name _____  Title _____  Date _____	<b>Standard Testing and Engineering Company</b>  Signature <u></u>  Name <u>Roy Khalife, P.E.</u>  Title <u>Vice-President of Operations</u>  Date <u>November 21, 2022</u>

# STANDARD TESTING AND ENGINEERING COMPANY

## STANDARD TERMS AND CONDITIONS

Standard Testing and Engineering Company, herein "STE", as an independent consultant, agrees to provide to the "CLIENT" the services described in the Scope of Work for the Project provided in Part I or Exhibit I of this Agreement, pursuant to the following Standard Terms and Conditions which constitute a part of this Agreement:

### ARTICLE 1. SERVICES BY STE

a. STE will perform the services to be provided by STE pursuant to this Agreement in accordance with generally accepted engineering principles and practices of performance by professionals of ordinary skill existing at the time of performance under similar conditions for the locality where the services are to be performed. The CLIENT hereby acknowledges that the Project involves certain inherent risk factors (such as limitations on laboratory analytical methods, variations in subsurface conditions and the like) which may adversely affect the results of the Project, even though the services are performed with such care and skill. Data, interpretations and recommendations by STE will be based solely on information available to STE. STE will not be responsible for any other party's use or interpretations of information reported by STE and/or the recommendation(s) of any other party based on such information. STE's services do not include the investigation or detection of, nor do the recommendations in STE's reports address the presence or prevention of, biological pollutants such as mold, fungi, bacteria, viruses; or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If computer software is to be provided to the CLIENT as part of the services, CLIENT will execute a separate software license agreement. **STE MAKES NO WARRANTIES OR GUARANTEES EXPRESS OR IMPLIED, RELATING TO STE'S SERVICES AND STE SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

b. The Scope of Work cannot be changed, altered or amended except by written agreement signed by both parties. If CLIENT and STE agree in writing for STE to perform additional services, then STE will be entitled to an increase in compensation at rates provided in this Agreement. STE reserves the right to elect not to perform additional services. If STE determines in its sole discretion that additional services are necessary to avoid a delay in the completion of the Project, then STE shall perform those services without waiting for instructions from CLIENT and shall be entitled to an increase in compensation for such services at the standard hourly billing rate charged for those employees performing the services, plus reimbursable expenses, if any.

c. STE's personnel may be present, either full or part time, to provide observation and field testing of specific parts of the Project in accordance with the Scope of Work set forth herein. STE will be responsible for supervision and site safety measures for its own employees but shall not be responsible for the supervision or health and safety precautions for any other parties, including CLIENT, CLIENT's contractors, or any other parties present at the site. Should a contractor be involved in the Project, STE's work does not include supervision or direction of the work of the contractor, its employees or agents.

d. Title to all samples and waste materials remains with Client, and at no time shall STE take title to the above material. Portions of samples are consumed by testing. Unless otherwise stated in the Scope of Work, the remaining residue of all test samples from the Project tested by STE shall remain the property of CLIENT and shall be handled by STE as follows: At CLIENT's written request, STE will maintain preservable test samples and specimens or the residue therefrom for 30 days after the report date free of storage charges. After the initial 30 days, upon written request, STE will retain test specimens or samples for a mutually acceptable storage charge and time period. If CLIENT does not make a written request to preserve samples and specimens, then STE may dispose of the samples or specimens or return them to CLIENT at CLIENT's expenses. If it is determined that no test(s) are necessary on the sample(s), or determining that a sample originally thought to be NON-HAZARDOUS is in fact HAZARDOUS, then STE will return the samples to CLIENT.

e. Field tests or boring locations described in STE's report or shown on sketches are based on specific information furnished by others and/or estimates made in the field by STE personnel. Such dimensions, depths or elevations are approximations and are not warranted to be exact.

f. STE shall maintain during the performance of the services by it under this agreement if reasonably available, (i) statutory Workers' Compensation liability coverage, (ii) Comprehensive General Liability

insurance coverage, and (iii) automobile liability coverage in policy amounts of not less than One Million Dollars (\$1,000,000.00). STE represents that it currently has professional liability coverage in the aggregate limit of at least One Million Dollars (\$1,000,000.00) and agrees to attempt to maintain such coverage for the period of performance of the Scope of Work and for a period of one (1) year following completion of those services, if such coverage is reasonably available at commercially affordable premiums. For the purpose of this Agreement, "reasonably available" and "commercially affordable"

shall mean that more than half the consultants practicing the same professional discipline in the state where the project is located are able to obtain such coverage

### ARTICLE 2. THE CLIENT'S RESPONSIBILITIES

a. CLIENT has obtained access and right of entry to the Project and hereby grants free access and right of entry to the Project to STE, its employees, agents, and subcontractors, for the purpose of performing all acts, studies and research, including without limitation the obtaining of samples and the performance of tests and evaluations, pursuant to the Scope of Work. CLIENT understands that subsurface conditions throughout the site may vary from those apparent at the discrete sampling locations or other sources of subsurface data and that site conditions may change from time to time. CLIENT agrees that STE's proposed sampling locations are approximate and that STE may depart a reasonable distance from those locations. CLIENT accepts that, despite STE's use of reasonable precautions to reduce damage, invasive services such as drilling, or sampling may damage or alter the site and that site restoration is not provided by STE unless specifically included in the Scope of Work.

b. CLIENT represents that CLIENT possesses all necessary permits and licenses required for the performance of the services to be provided by STE under this Agreement and for the continuation of CLIENT and STE's activities at the Project.

c. CLIENT will furnish or cause to be furnished such reports, data, studies, plans, specifications, documents and other information deemed necessary by STE for the proper performance of STE's services pursuant to this Agreement. STE may rely upon documents provided by the CLIENT in performing the services required under this Agreement; however, CLIENT-provided documents will remain the property of the CLIENT. All documents, including, but not limited to, drawings, specifications, reports, boring logs, field notes, laboratory test data, calculations and estimates prepared by STE as part of the service, pursuant to this Agreement, shall remain STE's exclusive property. CLIENT agrees that all documents of any nature furnished to CLIENT or CLIENT's agents or designees, if not paid for, will be returned upon demand and will not be used by CLIENT for any purpose whatsoever. CLIENT further agrees that under no circumstances shall any documents produced by STE pursuant to this Agreement be used at any location or for any project not expressly provided for in this Agreement without STE's prior written consent. If CLIENT uses all or any portion of STE's work on another project without STE's written permission, CLIENT shall defend, indemnify and hold STE harmless from any and all claims arising from such unauthorized use.

d. CLIENT shall be responsible for identifying, locating, and marking, and/or shall arrange for identifying, locating and marking of private subterranean structures or utilities and subsurface structures. STE shall take reasonable precautions to avoid damage or injury to such utilities and structures. STE shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities which were identified and marked by CLIENT or a one-call provider. STE shall not be responsible for any damage, liability or costs, or for any property damage, injury or economic loss arising or allegedly arising from damages to utilities or subterranean structures that were not identified, located, or marked by CLIENT or the one-call provider, or that were not properly communicated to STE; or that were improperly marked on documentation, plans, drawing or utility clearance materials provided to STE. STE shall not be responsible for any damage, liability or costs, or for any property damage, injury or economic loss arising or allegedly arising from damages to utilities or subterranean structures caused by subsurface penetrations in locations approved by CLIENT and/or the one-call provider, except for damages caused by the negligence of STE in the use of such information. CLIENT waives any claim against STE and agrees to defend, indemnify, and hold STE and its officers, directors, employees, shareholders, agents, and subcontractors harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subterranean structures and utilities not identified or not accurately located. In addition, CLIENT agrees to compensate STE for any time spent or expenses

incurred by STE in defense of any such claim, with compensation to be based upon STE's prevailing fee schedule and expense reimbursement policy.

e. CLIENT shall provide, or cause to be provided, to STE all documents and information known or available to CLIENT that relate to the identity, location, quantity, nature, or characteristic of any Hazardous Material (i.e., hazardous waste under RCRA, hazardous substance under CERCLA, hazardous constituent, toxic material, radioactive material, contaminated material, or petroleum product) on, under, or near the site, and shall immediately transmit new, updated, or revised information as it becomes available.

f. Unless otherwise provided herein, CLIENT shall assume all responsibility for, including control and removal of, and protect, defend and save harmless STE from and against all claims, demands and causes of action of every kind and character arising from pollution or contamination (including naturally occurring radioactive material) which originates above the surface of the land or water from spills of fuels, lubricants, motor oils, pipe dope, paints, solvents, ballast, bilge and garbage, except unavoidable pollution from reserve pits, wholly in STE's possession and control and directly associated with STE's equipment. In the event a third party commits an act or omission which results in pollution or contamination for which either STE or CLIENT, for whom such party is performing work, is held to be legally liable, the responsibility therefore shall be considered as between STE and CLIENT, to be the same as if the party for whom the work was performed had performed the same and all of the obligations regarding defense, indemnity, holding harmless and limitation of responsibility and liability, as set forth herein, shall be specifically applied.

g. CLIENT shall release STE of any liability for, and shall defend and indemnify STE against, any and all claims, liability and expense resulting from operations under this Agreement on account of any alleged injury to, destruction of, or loss or impairment of any property right in or to oil, gas, water or other mineral substances, if at the time of the alleged act or omission causing injury, destruction, loss or impairment, said substance had not been reduced to physical possession above the surface of the earth. CLIENT shall release STE of any liability for, and shall defend and indemnify STE against, any and all claims, liability and expense resulting from operations under this Agreement on account of any alleged loss or damage to any formation, strata, or reservoir beneath the surface of the earth.

h. CLIENT agrees to pay STE's invoices upon receipt. STE may suspend work for lack of timely payment. Should payment not be received within 30 days of invoice date, the CLIENT agrees to also pay a service charge of 1.5 percent per month or 18 percent per annum and the costs of collection, including reasonable attorneys' fees. If 1.5 percent per month exceeds the maximum allowed by law, the service charge of 1.5 percent will automatically be reduced to the maximum legally allowed. If CLIENT has any objection to an STE invoice, CLIENT must so advise STE in writing giving the reasons for such objections within 14 days of receipt by the CLIENT of such invoice, and shall promptly pay the undisputed portion. Payment shall constitute final approval of all aspects of the corresponding Work performed to date by STE. If the Project is terminated in whole or in part, then STE shall be paid by the CLIENT for services performed prior to STE's receipt of written notice of such termination, including STE's reimbursable expenses and actual and reasonable shut-down costs.

**ARTICLE 3. PUBLIC LIABILITY:** Except for claims by employees of STE for Workers' Compensation, in the event any third party brings suit or claim for damages against STE alleging exposure to or damage from material, elements or constituents at the Project before, during, or after the services are performed by STE or any of its agents pursuant to this Agreement, which is alleged to have resulted in or caused disease or any adverse health condition to any third party or resulted in costs for remedial action, uninhabitability of any property, or any other property damage or loss of any kind, then CLIENT agrees at its sole cost to defend STE in any such suit or claim and to indemnify and hold harmless STE and its officers, directors, employees and shareholders from and against any loss, damages, liabilities and cost (including, but not limited to, reasonable attorney fees) and to pay on behalf of STE and its officers, directors, employees and shareholders any judgment entered against STE and its officers, directors, employees and shareholders, including any interest thereon. CLIENT will have the right to investigate, negotiate and settle, with STE's written concurrence, any such suit or claim, and STE will cooperate in the defense of any such suit or claim.

**ARTICLE 4. GENERAL CONDITIONS, NOTIFICATION, LIMITATION OF LIABILITY AND INDEMNIFICATION**

a. Except as otherwise provided in this Agreement, STE and CLIENT shall defend, indemnify, and hold harmless the other, their agents, and

employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are caused by the joint or concurrent negligence of STE and CLIENT, they shall be borne by each party in proportion to its own negligence under comparative fault principles.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR: LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**

b. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither CLIENT nor STE, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any delay damages, any punitive damages or any incidental, indirect or consequential damages arising out of or connected in any way to the Project(s) or to this Agreement. This mutual waiver of delay damages and consequential damages shall include, but is not limited to, disruptions, accelerations, inefficiencies, increased construction costs, increased home office overhead, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other delay or consequential damages that either party may have incurred from any cause of action including, but not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. Both the CLIENT and STE shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project(s).

c. To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of STE and STE's officers, directors, employees, shareholders, agents, and subcontractors, and any of them, to the CLIENT, for any and all claims, losses, costs, or damages, including attorney's fees and costs and expert witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Project or this Agreement from any cause or causes shall not exceed the total compensation received by STE under this Agreement. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law, except that this limitation does not apply to the extent damages are paid under STE's Comprehensive General Liability Insurance or automobile liability insurance.

d. The CLIENT further agrees, to the fullest extent permitted by law, to limit the liability of STE and STE's officers, directors, employees, shareholders, agents, and subcontractors, and any of them, to all construction contractors and subcontractors on the Project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert witness fees and costs, so that the total aggregate liability of STE and STE's subcontractors to all those named shall not exceed STE's total fee for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising unless otherwise prohibited by law, except that this limitation does not apply to the extent damages are paid under STE's Comprehensive General Liability Insurance or automobile liability insurance.

e. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither party's individual employees, principals, officers or directors shall be subject to personal liability or damages arising out of or connected in any way to the Project or to this Agreement.

f. This Agreement may be terminated by either party upon giving the other party not less than seven (7) calendar days written notice or by mutual agreement. The receiving party shall have that seven (7) calendar day period in which to cure the default. If this Agreement is terminated by either party, STE shall be paid in full for all services performed through the termination date, in addition to STE's reimbursable expenses and reasonable shut-down costs incurred.

g. Neither CLIENT nor STE may delegate, assign, sublet or transfer its duties or interest in this Agreement without the prior written consent of the other party, except STE may retain the services of subcontractors to assist STE in performance of its duties and obligations hereunder.

**ARTICLE 5. UNFORESEEN OCCURRENCES:** If during the performance of services by STE under this Agreement, any unforeseen hazardous substances or petroleum products or constituents thereof or other

unforeseen conditions or occurrences are encountered which in STE's sole judgment significantly affect or may affect the services, the risk involved in providing the services, or the Scope of Work, STE and CLIENT will mutually agree to revise the Agreement to include consideration of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or STE may, at its option, terminate this Agreement effective on the date specified by STE in writing.

**ARTICLE 6. LITIGATION ASSISTANCE:** Unless expressly set forth in the Scope of Work, the Scope of Work does not include costs of STE for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CLIENT. All such services required or requested of STE, except for suits or claims between the parties to this Agreement, will be reimbursed by the CLIENT according to STE's normal rates and charges for such services and payment for such services shall be in accordance with this Agreement.

**ARTICLE 7. FORCE MAJEURE:** STE is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the reasonable control of STE.

**ARTICLE 8. NO THIRD-PARTY BENEFICIARIES:** This Agreement and STE's performance of the Scope of Work are for STE's and CLIENT's sole benefit and exclusive use with no third parties intended. Reliance upon STE's performance of the Scope of Work and any work product is limited to CLIENT and is not intended for third parties. For a time period limited to three months following STE's completion of the Scope of Work and submittal of any work product in the form of a report, STE will issue additional reports addressed to, and for the use of, other parties designated by CLIENT, contingent upon each such party signing and returning STE's reliance agreement and STE receiving the agreed-upon fee for each additional report so issued.

**ARTICLE 9. SURVIVAL:** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating the responsibility or liability between CLIENT and STE shall survive the completion of the services and the termination of this Agreement.

**ARTICLE 10. INTEGRATION:** This Agreement and the documents attached hereto, and which are incorporated herein constitute the entire agreement between the parties and cannot be changed or amended except by a written instrument signed by all parties hereto. In the event CLIENT issues a purchase order or similar form to authorize or otherwise administer payment for Work under this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken.

**ARTICLE 11. GOVERNING LAW AND VENUE:** This Agreement shall be governed in all respects by the laws of the State of Oklahoma. Each of the parties hereto shall only enforce a claim arising out of this Agreement in the appropriate state or federal court having subject and personal jurisdiction located in Oklahoma City, Oklahoma. For purposes of any action or proceeding instituted with respect to any such claim, except those for which CLIENT must first pursue Dispute Resolution as provided herein, all of the parties hereto irrevocably submit to the jurisdiction of such courts and irrevocably consent to service of process out of such courts by mailing a copy of the summons and complaint, by certified mail, return receipt

requested, postage prepaid to each party at the address provided for such party in this Agreement.

**ARTICLE 12. DISPUTE RESOLUTION:** CLIENT shall not be entitled to assert any claim, including but not limited to, professional negligence, negligence, breach of contract, misconduct, error, omission, fraud, or misrepresentation ("Claim") against STE unless and until CLIENT has first obtained a written opinion from an independent, registered professional of the relevant discipline ("Expert") that STE has violated the standard of care applicable to STE's performance of the Scope of Work. The opinion must contain: (a) the name and license number of the Expert; (b) the qualifications of the Expert, including a list of all publications authored in the previous 10 years and a list of all cases in which the Expert testified within the previous 4 years; (c) a statement by the Expert setting forth the factual basis for the Claim; (d) a statement by the Expert of each and every act, error, or omission that the Expert contends supports the Claim or any alleged violation of any applicable standard of care; (e) a statement by the Expert of all opinions the Expert holds regarding the Claim or any alleged violation of any applicable standard of care; (f) a list of every document related to the Project reviewed by the Expert; and (g) a list of every individual who provided Expert with any information regarding the Project. The opinion is a condition precedent to the right of CLIENT to assert any Claim in any litigation or arbitration and CLIENT's failure to timely provide an opinion to STE will be grounds for automatic dismissal of the Claim with prejudice. CLIENT shall furnish this opinion to STE and the parties shall endeavor to resolve the dispute within thirty (30) days, after which CLIENT may pursue its remedies at law. The prevailing party in any litigation relating to a Claim shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Claim.

**ARTICLE 13. INDEPENDENT CONTRACTOR:** In performing services under this Agreement, STE shall operate as, and have the status of, an independent contractor and shall not act as or be an employee of the CLIENT.

**ARTICLE 14. SUBCONSULTANTS:** STE may utilize as necessary in its discretion subconsultants or other subcontractors. STE will be paid for all services rendered by its subconsultants and other subcontractors as set forth in this Agreement.

**ARTICLE 15. NOTICE:** Notices shall be sufficiently given if sent by certified mail, postage prepaid, to each of the parties at the address noted for such party in this Agreement, or such other address as shall be furnished in writing by either party.

**ARTICLE 16. ENTIRE AGREEMENT:** This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the CLIENT and STE.