

PENDING APPROVAL

OKLAHOMA COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM REQUEST SHEET

FOR THE June 9, 2010 AGENDA

DEPARTMENT: County Clerk

REQUESTED BY: Jon Wilkerson

REQUISITION NO.: _____ N/A _____ REQUISITION SHEET ATTACHED: _____ YES _____ X _____ N/A

NAME OF FUNDS: _____

FUND NUMBERS: _____ / _____ / _____

DOES THE AGENDA ITEM CONTAIN PRIVACY-PROTECTED OR SECURITY INFORMATION? _____ YES _____ X _____ NO

AGENDA ITEMS CONTAINING PRIVACY-PROTECTED OR SECURITY INFORMATION WILL NOT BE HYPERLINKED TO THE AGENDA.

NUMBER OF ORIGINAL DOCUMENTS TO BE RETURNED TO YOUR DEPARTMENT: _____ Three _____

1. AGENDA ITEM READS AS FOLLOWS: Discussion and possible action to receive engagement letter and Consulting Service Agreement with Milliman Consultants and Actuaries effective July 1, 2010 and ending June 30, 2011, to complete an actuarial pension valuation of the Defined Benefit Employees Retirement System of Oklahoma County. This item was approved by the Retirement Board on May 24, 2010 and is requested byCarolynn Caudill, County Clerk, and Secretary to the Board. This item has also been approved as to form and legality by John Jacobsen, Assistant District Attorney. (Document received).

APPROVED BY DA
(If Applicable)

APPROVED BY ENGINEER
(If Applicable)

APPROVED BY PURCHASING
(If Applicable)

ASSISTANT DISTRICT ATTORNEY

COUNTY ENGINEER

PURCHASING AGENT

Please initial that document has been reviewed for privacy-protected or security information

DISTRICT ATTORNEY: _____ YES _____ N/A

COUNTY CLERK: _____ YES _____ N/A

Indicate any privacy-protected information that exists _____

(NOTE: THE CHAIRMAN/CHIEF DEPUTY MUST APPROVE ALL EMERGENCY REQUESTS FOR ANY ITEM SUBMITTED AFTER THE DEADLINE)

DATE OF REQUEST: _____ APPROVED BY: _____

CHAIRMAN

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Consulting Services Agreement

This Agreement ("Agreement") is entered into between Milliman, Inc. (Milliman) and the Oklahoma County Board of County Commissioners on behalf of the Oklahoma County Retirement Board ("Client") as of July 1, 2010. Client has engaged Milliman to perform consulting services as described in the description of service attached hereto as Exhibit A and incorporated herein by this reference (the "Services"). Such Services may be modified from time to time by agreement and may also include general actuarial consulting services. In the event of any conflict between the terms of this Agreement and the terms of any Exhibit attached hereto, the terms of the Agreement shall control. In consideration for Milliman agreeing to perform these Services, Client agrees as follows:

1. **Engagement Terms.** Client acknowledges the obligation to pay Milliman for the Services rendered in accordance with the fee schedule and description of services attached hereto as Exhibit A. Milliman will bill Client periodically for Services rendered and expenses incurred as set forth in Exhibit A. All invoices are payable upon receipt. Milliman reserves the right to stop all work if any bill goes unpaid for 60 days. Furthermore, this Agreement may be terminated upon thirty (30) days written notice by Milliman or Client. Regardless of the reason for termination of Services, Milliman shall be entitled to payment for Services completed prior to such termination and Milliman shall retain any records it has relating to the Client plans for a period of at least three years from date of termination. If Milliman's assistance is reasonably required past termination, such services shall be provided at Milliman's then standard hourly rate unless another basis is agreed to by both parties.

2. **Handling of Data and Other Confidential Information.** Milliman shall use reasonable efforts to identify errors in data and obtain corrections to erroneous data, but Milliman cannot warrant the correctness of data supplied by Client or other parties, nor can Milliman be responsible for data not provided in a timely manner.

Any information received from Client will be considered "Confidential Information". However, information received from Client will not be considered Confidential Information if (a) the information is or comes to be generally available to the public during the course of Milliman's work; (b) was independently developed by Milliman without resort to information from the Client; or (c) Milliman receives the information from another source who is not under an obligation of confidentiality to Client. Milliman agrees that Confidential Information shall not be disclosed to any third party.

3. **Limitation of Liability.** Milliman will perform all Services in accordance with applicable professional standards. To the maximum extent permitted by Oklahoma law, the parties agree that Milliman, its officers, directors, agents and employees, shall not be liable to Client, under any theory of law including negligence, tort, breach of contract or otherwise, for any damages in excess of \$1 million. In no event shall Milliman be liable for lost profits of Client or any other type of incidental or consequential damages. The foregoing limitations shall not apply in the event of the intentional fraud or willful misconduct of Milliman.

4. **No Third Party Distribution.** Milliman's work product provided to Client under this Agreement ("Work Product") is prepared solely for the use and benefit of Client in accordance with its statutory and regulatory requirements. Milliman recognizes that the Work Product may be public records subject to disclosure to third parties, however, Milliman does not intend to benefit and assumes no duty or liability to any third parties who receive the Work Product in this

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fashion and may include disclaimer language on its Work Product so stating. To the extent that the Work Product is not subject to disclosure under applicable public records laws, Client agrees that it shall not disclose the Work Product to third parties without Milliman's prior written consent; provided, however, that Client may distribute the Work Product to (i) its professional service providers who are subject to a duty of confidentiality and who agree to not use Milliman's work product for any purpose other than to provide services to Client, or (ii) any applicable regulatory or governmental agency, as required.

5. Tool Development. Milliman shall retain all rights, title and interest (including, without limitation, all copyrights, patents, service marks, trademarks, trade secret and other intellectual property rights) in and to all technical or internal designs, methods, ideas, concepts, know-how, techniques, generic documents and templates that have been previously developed by Milliman or developed during the course of the provision of the Services provided such generic documents or templates do not contain any Client Confidential Information or proprietary data. Rights and ownership by Milliman of original technical designs, methods, ideas, concepts, know-how, and techniques shall not extend to or include all or any part of the Client's proprietary data or Client Confidential Information. To the extent that Milliman may include in the materials any pre-existing Milliman proprietary information or other protected Milliman materials, Milliman agrees that Client shall be deemed to have a fully paid up license to make copies of the Milliman owned materials as part of this Agreement for its internal business purposes and provided that such materials cannot be modified or distributed outside the Client without the written permission of Milliman.

6. Status of Milliman. Milliman will provide the Services as an independent contractor. No other relationship to the Client nor the plan is implied or intended. Milliman shall not be deemed to be a "named fiduciary" or "plan administrator" as these terms are defined under ERISA or any similar or successor law.

7. Choice of Law and Venue. The construction, interpretation, and enforcement of this Agreement shall be governed by the substantive contract law of the State of Oklahoma, without regard to its conflict of laws provisions. In the event any provision of this Agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect. It is the intention of the parties that the Limitation of Liability paragraph contained herein shall be enforceable. Each party to this Agreement hereby consents to and subjects itself to the jurisdiction of the courts of competent jurisdiction of the federal courts located in Oklahoma County, Oklahoma with respect to any claim or proceeding relating to this Agreement. In the event that a claim or proceeding is not subject to the jurisdiction of the federal courts based on the Federal Rules of Civil Procedure, the lawsuit will be filed and conducted in the state courts located in Oklahoma County, Oklahoma. Each party waives its right to a jury trial in any judicial proceeding arising out of or relating to this Agreement.

8. General. Neither party shall be liable for any delay or failure to perform due to causes or events beyond such party's reasonable control. The Agreement, together with the Exhibits thereto, contains the entire agreement and understanding between Milliman and Client with respect to the Services and the subject matter thereof and supersedes all prior agreements and negotiations, written and oral, relating to the subject matter. The Agreement and such Exhibits shall not be deemed or construed to be modified, amended, or waived, in whole or in part, except as set forth herein or in writing executed by the parties hereto. No document, purchase order, or any handwritten or typewritten text which purports to alter or amend the printed text of the Agreement shall alter or amend any provision of the Agreement or otherwise control, unless

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Milliman and Client both specify in writing that such terms or conditions shall control. Execution and delivery of the Agreement by facsimile transmission shall be binding for all purposes.

MILLIMAN, INC.

By: Patricia A Kahle

Name: Patricia Ann Kahle

Title: Principal & Consulting Actuary

Date: April 23, 2010

OKLAHOMA COUNTY RETIREMENT BOARD

By: Raymond L. Vaughn Jr

Name: _____

Title: _____

Date: _____

Raymond L. Vaughn Jr
4/29/2010

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Exhibit A

Service and Fees

The Schedule shall be attached to and part of the Consulting Services Agreement executed by Milliman, Inc. and the Oklahoma County Retirement Board.

The actuarial services described below are considered the regular services to be provided under the contract. The fees listed below are based on a not-to-exceed basis for the following regular services:

- Annual actuarial valuation of the benefits provided, including a review of the Plan's funding level, and GASB disclosure information.

We understand that the fee below is guaranteed for one-year from July 1, 2010 to June 30, 2011 and that if the County wishes to continue a year-to-year relationship with Milliman, the annual "not to exceed" fee listed below will be charged for the aforementioned services:

	<u>Not to Exceed Fee</u>
July 1, 2010 – June 30, 2011:	\$ 6,200

If the work effort required to complete the project generates a lower fee based on our hourly rates, we will bill the lower amount.

The fees anticipate a routine amount of questions and follow-up regarding the actuarial valuation. No extra charge will be made for routine phone calls or for telephone consultations throughout the term of the agreement, as long as such consultations do not exceed approximately one hour per month.

These fees do not include attendance at any board meetings or any studies or work outside the scope of the valuation. Attendance at one board meeting per year to present the valuation would add \$3,500 to the annual fees. Alternatively, attendance at board meeting, via phone, to present the valuation would add \$500 to the annual fee.

We will bill separately, on a time-and-expense basis, for consulting services associated with special projects, including benefit improvement studies and benefit calculations. The allocation of staff on any special project will be designed to balance the skills of the Milliman staff with the need for the lowest possible fee. Some projects may, by their nature, require that substantially all of the time be provided by the consulting actuaries, but others may be heavily weighted by lower level actuarial staff and clerical staff. When special projects arise we would be happy to provide an estimate of the additional fee involved and if the project is well-defined, to provide a not-to-exceed fee.