

# PENDING APPROVAL

## OKLAHOMA COUNTY BOARD OF COUNTY COMMISSIONERS

### AGENDA ITEM REQUEST SHEET

FOR THE \_\_\_\_\_ Next \_\_\_\_\_ AGENDA

**(THE DEADLINE IS ONE WEEK PRIOR TO THE DATE THE AGENDA IS TO BE POSTED)**

STATE OF OKLAHOMA  
OKLAHOMA COUNTY  
RECORDED OR FILED  
2010 JUL 28 A 10:57  
STATE OF OKLAHOMA  
OKLAHOMA COUNTY  
COURT CLERK  
ROCKWELL

DEPARTMENT: ENGINEERING REQUESTED BY: STACEY TRUMBO

REQUISITION NO.: \_\_\_\_\_ REQUISITION SHEET ATTACHED: YES N/A

NAME OF FUNDS: \_\_\_\_\_

FUND NUMBERS: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

PLEASE INITIAL IF PRIVACY/PROTECTED INFORMATION EXISTS: \_\_\_\_\_ YES \_\_\_\_\_ N/A

NUMBER OF ORIGINAL DOCUMENTS TO BE RETURNED TO YOUR DEPARTMENT: 21

AGENDA ITEM READS AS FOLLOWS **Discussion and possible action for approval of Rural Economic Action Plan (REAP) Funds Contract, T-2010-58 with ACOG to receive funding for a drainage study on Rockwell between 178<sup>th</sup> and 192<sup>nd</sup> Streets in Oklahoma County, District 3. This item is requested by Stacey Trumbo, P.E., County Engineer. (Document Received)**

APPROVED BY DA  
(If Applicable)

APPROVED BY ENGINEER  
(If Applicable)

APPROVED BY PURCHASING  
(If Applicable)

NA  
ASSISTANT DISTRICT ATTORNEY

Stacey Trumbo  
COUNTY ENGINEER

NA  
PURCHASING AGENT

**Please initial if privacy/security protected information exist**

DISTRICT ATTORNEY – PRIVACY/SECURITY PROTECTED INFORMATION: \_\_\_\_\_ YES \_\_\_\_\_ N/A

COUNTY CLERK – PRIVACY/PROTECTED INFORMATION: RC YES \_\_\_\_\_ N/A

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

DATE OF REQUEST: \_\_\_\_\_ APPROVED BY: \_\_\_\_\_

CHAIRMAN

# PENDING APPROVAL

## PART I – SUMMARY

T-2010-58

Contract Title: Rural Economic Action Plan Funds  
Contract Number: 2010 REAP Fund  
Contracting Agency: Association of Central Oklahoma Governments  
Grant Recipient: Hon. Ray Vaughn, Commissioner  
Oklahoma County District #3  
320 Robert S. Kerr, Suite 101  
Oklahoma City, OK 73102

Description of Project(s): Funds will be used for a drainage study on Rockwell between 178<sup>th</sup> and 192<sup>nd</sup>.

### Funds

Amount: \$50,000.00  
Source: Senate Bill 1866  
Second Session, 51<sup>st</sup> Oklahoma Legislature [2008]

Submit Requisitions To:

Issue Payment To:

Association of Central Oklahoma Governments  
Attn: Steve Willoughby  
21 E. Main Street, Suite 100  
Oklahoma City, OK 73104-2405

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Agreement Components: Part I - Summary and Signatures  
Part II - Terms and Conditions

### SIGNATURES - EXECUTION OF CONTRACT

RECIPIENT – Oklahoma County District #3

Association of Central Oklahoma Governments

\_\_\_\_\_  
Signature

\_\_\_\_\_  
John G. Johnson, Executive Director

\_\_\_\_\_  
Typed Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# PENDING APPROVAL

## PART II - TERMS AND CONDITIONS

### 1. AVAILABILITY OF FUNDS

Payments pursuant to this contract are to be made only from monies made available to the Association of Central Oklahoma Governments (ACOG) by the State of Oklahoma for the REAP program. Notwithstanding any other provisions, payments to the Recipient by ACOG are subject to the availability of such funds, as determined by State action and/or law. ACOG may take any action necessary in accordance with such determination.

### 2. MODIFICATION (AMENDMENT)

- a. This contract is subject to such modification as may be required by State law or regulations. Any such modification may be done unilaterally by ACOG.
- b. Except as otherwise provided in this contract, the work and services to be performed and the total contract amount may be modified only upon written agreement of the duly authorized representatives of both parties.
- c. Revisions to the contract must be approved in writing in advance by ACOG.
- d. A waiver by ACOG of any provision of this contract must be in writing and signed by the Executive Director of ACOG or his designee.

### 3. ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS

ACOG will provide funding for the project up to the total contract amount.

### 4. RECIPIENT

- a. The Recipient will provide the necessary personnel, facilities, supplies, equipment, and/or related resources and skills to accomplish all projects in accordance with the terms and conditions of this contract. The Recipient agrees to perform those duties, obligations and representations contained in this contract and all amendments thereto submitted to and accepted by ACOG, and to be bound by the provisions of all subcontracts, said application being incorporated herein and made a part hereof by reference.
- b. All of the work and services required shall be performed by the Recipient, or be performed under the Recipient's supervision, and all personnel engaged therein must be fully qualified and authorized under State and local law to perform such work and services.

# PENDING APPROVAL

- c. None of the work and services covered by this contract may be subcontracted without prior written approval of ACOG.
- d. In no event will this contract or any subcontract incur obligation on the part of ACOG beyond that stated in Section 3, above.

## 5. EMPLOYEE BENEFITS

The Recipient shall have full responsibility for payment of Workers' Compensation insurance, unemployment insurance, social security, State and federal income tax, and any other deductions required by law for their employees.

## 6. CERTIFICATIONS BY RECIPIENT

- a. The Recipient expressly agrees to be solely responsible to ensure that the use of monies received under this contract complies with all State statutes and other legal authority. The Recipient recognizes that it is responsible for assuring financial and programmatic compliance by its subcontractors.
- b. The Recipient specifically certifies and assures that:
  - [1] It will adhere to State and federal regulations pertaining to non-discrimination and the Americans with Disabilities Act.
  - [2] It will maintain fiscal controls and accounting procedures adequate to ensure the proper disbursement and accounting for all funds received pursuant to this program.
- c. The Recipient certifies that it will be in compliance with the provisions of 25 O.S. § 1313 by July 1, 2008.
- d. The Recipient specifically certifies that the nature, extent and scope of the project to be funded is one and the same project as described in part one of this contract and as described in the recipient's grant application for project funds. The recipient's grant application is attached hereto as Exhibit A and made a part hereof by reference.

## 7. HOLD HARMLESS CLAUSE

The Recipient shall, within limitations placed on such entities by State law, save harmless ACOG, its agents, officers and employees from all claims and actions and all expenses defending same that are brought as a result of any injury or damages sustained by any

# PENDING APPROVAL

person or property in consequence of any act or omission by the Recipient or any subcontractor. The Recipient shall, within limitations placed on such entities by State law, same harmless ACOG, its agents, officers, and employees from any claim or amount recovered as a result of infringement of patent, trademark or copyright or from any claim or amounts arising or recovered under Workers' Compensation law or any other law. In any agreement with any subcontractor or any agent for the Recipient, the Recipient will specify that such subcontractors or agents shall hold harmless ACOG, its agents, officers and employees for all the hereinbefore-described expenses, claims, actions or amounts recovered.

## 8. POLITICAL ACTIVITY

- a. No portion of the contract funds may be used for any political activity or to further the election or defeat of any candidate for public office; nor shall any portion of the contract funds be used to further the adoption or defeat of any bond, proposal or issue brought to a vote of the people.
- b. No portion of the contract funds may be used for lobbying activities.

## 9. PAYMENTS TO COMPANIES

- a. No contract funds may be paid to any corporation, limited liability company, partnership, proprietor or other private entity except for services provided pursuant to an approved contract.
- b. No contract funds may be loaned to any corporation, limited liability company, partnership, proprietor or other legal entity.

## 10. NO-CONFLICT COVENANT

The Recipient covenants that no members or employees of any governing board of the Recipient or subcontractor have any personal or financial interest in this contract, direct or indirect, and that none shall acquire any such interest that would conflict with the full and complete execution of this contract. The Recipient further covenants that in the performance of this contract no person having any such interest will be employed by the Recipient or subcontractor as set forth in the affidavit attached hereto and made a part hereof by reference.

# PENDING APPROVAL

## 11. PUBLICATIONS AND OTHER MATERIALS

- a. No material produced in whole or in part under this contract shall be subject to copyright in the United States or any other country. ACOG shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this contract.
- b. Any publication or other material produced as a result of this contract shall include in a prominent location near the beginning the following statement:

This {type of material} was financed in whole or in part by funds from the State of Oklahoma as administered by the Oklahoma Department of Commerce.

## 12. COMPENSATION TO RECIPIENT

- a. Funds made available pursuant under this contract shall be used only for expenses incurred during the period funded as specified in Part I for the purposes and activities approved and agreed to by ACOG. No contract funds shall be used for expenses incurred either prior to or after the time period specified. Contract funds shall not be used for any purpose other than those approved and agreed to by ACOG.
- b. The funds provided under this contract shall not be used to pay any administrative/planning expenses of the entity requesting the funds or any subcontractor, or any expenses of the Recipient or subcontractor in preparation for this project. This provision shall not apply to funds provided pursuant to 62 O.S. § 2011(C).
- c. ACOG may provide for and make progressive estimate payments to Recipient of the amount due Recipient's contractors and/or suppliers. ACOG shall require written assurances from Recipient that the work claimed on any such progressive billings has been performed or the materials received, prior to paying Recipient's progressive and final billing. ACOG may provide for and make advance payments of grant funds to Recipients of amounts due Recipients' contractors and/or suppliers, as ACOG deems necessary and appropriate, subject to availability of funds from the State.

## 13. TRAVEL AND PER DIEM

No travel-related costs, including per diem, shall be paid from these funds.

# PENDING APPROVAL

## 14. PROCUREMENT

Procurement of goods and services and the management and disposition of personal property acquired with contract funds shall be governed by the principles of the Oklahoma Central Purchasing Act, 74 O.S. §85.1, et seq.

## 15. RECORDS, REPORTS, DOCUMENTATION

- a. The Recipient shall maintain records and accounts, including property, personnel and financial records that properly document and account for all project funds. Some specific types and forms of records may be required by ACOG.
- b. The Recipient shall furnish ACOG with narrative reports and financial reports related to this contract in the forms and at such times as may be required by ACOG.
- c. The Recipient shall retain all books, documents, papers, records and other materials involving all activities and transactions related to this contract for at least five (5) years from the date of submission of the Final Expenditure Report or until all audit findings have been resolved, whichever is later, or as otherwise required by law. The Recipient shall, as ACOG deems necessary, permit authorized representatives of ACOG and the State of Oklahoma to have full access to and the right to fully examine all such materials.
- d. The Recipient has not paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in the procuring of this contract.

## 16. CLOSING OUT OF PERIOD FUNDED

- a. The Recipient shall promptly return to ACOG and the Rural Economic Action Plan fund any funds received under this contract that are not obligated as of the final date of the period funded. Funds shall be considered obligated only if goods and services have been received or a binding contract for such has been executed as of the final date of the period funded.
- b. The Recipient shall submit closeout documents no later than thirty (30) days after the final date of the period funded. Said closeout documents shall be accompanied by the Final Expenditure Report.
- c. When actual expenditures total less than the contract amount, the contract shall automatically be deobligated to actual expenditures as shown in the closeout

# PENDING APPROVAL

documents and such excess funds shall be promptly returned to ACOG and the Rural Economic Action Plan fund.

## 17. INTERPRETATION, REMEDIES

- a. In the event the parties fail to agree on changes or interpretations of this contract, the decision of ACOG shall prevail.
- b. In the event of any disagreement between the Recipient and ACOG relating to the technical competence of the work and services being performed and its conformity to the requirements of this contract, the decision of ACOG shall prevail.
- c. Neither forbearance nor payment by ACOG shall be construed to constitute waiver of any remedies for any default or breach by the Recipient or subcontractor that exists or occurs later.
- d. This Agreement shall be construed in accordance with the Constitution and laws of the State of Oklahoma. Venue for any action to construe or have enforced any provision of this Agreement shall be in the District Court of Oklahoma County, State of Oklahoma.

## 18. TERMINATION OR SUSPENSION, LIQUIDATED DAMAGES

- a. This contract may be terminated or suspended in whole or in part at any time by written agreement of the parties.
- b. This contract may be terminated or suspended by ACOG, in whole or in part, for cause, after notice and an opportunity for Recipient to present reasons why such action should not be taken. Grounds constituting cause include but are not limited to:
  - (1) Recipient fails to comply with provisions of this contract or with any applicable laws, regulations, guidelines or procedures, or is unduly dilatory in executing its commitments under this contract.
  - (2) Purposes for the funds have not been or will not be fulfilled or would be illegal to carry out.
  - (3) Recipient has submitted incorrect or incomplete documentation pertaining to this contract.

# PENDING APPROVAL

- c. In the event of termination or suspension, the Recipient shall be entitled to payment for otherwise valid and allowable obligations incurred in good faith prior to notice of such action and to reimbursement for reasonable and necessary expenses. The Recipient shall reduce to the minimum possible all obligations, prepaid expenses and other costs.
- d. The Recipient shall not be relieved of liability to ACOG for damages sustained by ACOG by virtue of any breach of this contract by Recipient or subcontractor. ACOG may withhold payments due under this contract pending resolution of the damages.
- e. Recipient shall have one year from the date of execution of its contracts and/or purchases to complete the project. The Executive Director of ACOG may, as he deems appropriate, grant Recipient up to a total of ninety (90) days in time extensions to complete the project.

## 19. AUDITS

- a. ACOG may obtain and review audits of the Recipients to fulfill its responsibility to ensure that all projects funded through ACOG comply with the provisions of this agreement. Such an audit of the project may be performed coincidental to any required annual financial audit of the Recipient.
- b. In the alternative, ACOG may collect documentation on all the projects it funds and have that documentation audited to insure that those projects have been performed in compliance with the provisions of this contract. Such an audit of those projects may be performed in conjunction with any required annual financial audit of ACOG.

## 20. ENTIRE AGREEMENT

This contract constitutes the entire agreement between ACOG and the Recipient, and is final and complete. No evidence of alleged prior dealings, course of dealing or performance not specifically set out herein shall be deemed in any sense relevant to supply any unexpressed term, to supplement or qualify this contract or to add any stipulation or obligation different from or inconsistent with the express provisions of this contract.

## 21. SEVERABILITY CLAUSE

If any provision under this contract or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this contract or its application that can be given effect without the invalid provision or application.

# PENDING APPROVAL

## CONTRACT NON-COLLUSION AFFIDAVIT

In accordance with 74 O.S. § 85.23, \_\_\_\_\_, of lawful age, being first duly sworn, on oath says:

1. [S]he is the duly authorized agent of \_\_\_\_\_ (vendor), the contractor under the contract which is attached to this statement, for the purpose of certifying the facts pertaining to the giving of things of value to government personnel in order to procure said contract;
2. [S]he is fully aware of the facts and circumstances surrounding the making of the contract to which this statement is attached and has been personally and directly involved in the proceedings leading to the procurement of said contract;
3. Neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement is attached; and

In accordance with 74 O.S. § 85.42.B, the contractor further certifies that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract.

In accordance with 74 O.S. § 85.41.F.1, if this contract is for professional services as defined in 74 O.S. § 85.2.25, and if the final product is a written proposal, report, or study, the contractor further certifies that [s]he has not previously provided the state agency or any other state agency with a final product that is a substantial duplication of the final product of the proposed contract.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Title

STATE OF Oklahoma

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Number: \_\_\_\_\_