

PROFESSIONAL SERVICES CONTRACT

PART I - AGREEMENT

THIS AGREEMENT, entered into this 7th day of October 2014, by and between the South Western Oklahoma Development Authority, hereinafter called the "*District*," acting herein by Debora Glasgow, Executive Director of the South Western Oklahoma Development Authority, hereunto duly authorized, and City of Clinton, hereinafter called the "*City*," acting herein by Seth Adams, Mayor of the City of Clinton, OK.

WITNESSETH THAT:

WHEREAS, the City desires to implement **EDA Project Number 08-79-04999**, a Public Works Program project funded by the U. S. Department of Commerce and administered by the Southwest Regional Office of the Economic Development Administration; and

WHEREAS, the City is and will act with authority as the Fiscal Agent for the EDA funded project identified above, and

WHEREAS, the City desires to engage the District to render certain project management, reporting and support services in connection with the EDA project.

NOW THEREFORE, the parties do mutually agree as follows:

1. **Scope of Services**
Part II, Scope of Services, is hereby incorporated by reference into this Agreement.
2. **Time of Performance** - The services of the District shall commence on October 7, 2014. All of the services required and performed hereunder shall be completed no later than October 7, 2019.
3. **Access to Information** - It is agreed that all information, data, reports and records and/or other information as is existing, available and necessary for the carrying out of the work outlined above shall be furnished to the District by the City and its agents. No charge will be made to the District for such information and the City and its agents will cooperate with the District in every way possible to facilitate the performance of the work described in the contract.
4. **Compensation and Method of Payment** - The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed Twenty Thousand dollars (\$20,000.00). Payment to the District shall be based on satisfactory completion of identified milestones in Part III - Payment Schedule of this Contract. Should the Project be completed in its entirety prior to the period allowed for its completion, all of the District's responsibilities and services required under this agreement be fully completed, and all obligations to the EDA are met, full compensation to the District in the amount of Twenty Thousand dollars (\$20,000.00) shall be completed at that time. Interim payment to the District shall be upon percentage completion of the scope of work.
5. **Indemnification** - The District shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the City and its agents from and against them, and shall assume full responsibility for administering the project identified above.

6. **Miscellaneous Provisions**

1. This Agreement shall be construed under and in accord with the laws of the State of Oklahoma, and all obligations of the parties created hereunder are performable in Custer County, Oklahoma.
2. 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.
3. In any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof, and this Agreement shall not be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
4. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
5. This Agreement may be amended by mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

7. **Terms and Conditions** - This Agreement is subject to the provisions titled, "Part IV Terms and Conditions" and attached hereto and incorporated by reference herein.

IN WITNESSETH HEREOF, the parties have hereunto set their hands and seals as of the date first affixed above.

City of Clinton

**South Western Oklahoma
Development Authority**

**Seth Adams,
Mayor**

**Debora Glasgow,
Executive Director**

ATTEST

ATTEST

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PART II - SCOPE OF SERVICES

The District shall provide the following scope of services:

1. Project Management

1. Develop a record keeping system consistent with program guidelines, including the establishment of a filing system.
2. Maintenance of filing system.
3. Provide general advice and technical assistance to City personnel on implementation of the EDA project and regulatory matters pertaining thereto.
4. Furnish the City with necessary completed forms and reporting required for implementation of the EDA project.
5. Assist the City in meeting all special condition requirements that may be stipulated in the contract between the City and U. S. Department of Commerce, Economic Development Administration, Southwest Regional Office.
6. Prepare and submit all required project reporting required by EDA Project Number 08-79-04999, including but not limited to progress reporting, quarterly reporting, and other reporting included in the EDA Project Agreement between the City and the EDA Southwest Regional Office.
7. Establish internal procedures to document expenditures associated with local administration of the project.
8. Serve as liaison for the City during the implementation and completion of the EDA project with any monitoring visit by staff representatives from EDA or its Southwest Regional Office.

2. Financial Management

1. Assist the City, by improving its ability to manage and report progress and use of funds from federal sources through the Southwest Regional Office of the EDA for the project identified above.
2. Assist the City in compliance with all EDA rules, regulations, specifications, or other directives pertinent to the identified project.
3. Prepare and submit all reporting for all funded and scheduled drawdowns of project funds on behalf of the City, in order to ensure orderly, timely allocation and disbursement of funds within the period of this agreement.
4. Review invoices received for payment and file back-up documentation.

5. Provide general advice and technical assistance to the City and its agents on implementation of the EDA project and regulatory matters pertaining thereto.
6. Assist the City in interpreting and complying with established procedures for the EDA project and reporting to the Southwest Regional Office.
7. Provide general advice and technical assistance to the City and its agents on implementation of the EDA project and associated regulatory matters.

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PART III - PAYMENT SCHEDULE

The City shall reimburse the District for grant administration services provided for completion of the scope of work in the amount of Twenty Thousand dollars (\$20,000.00), based upon milestones depicting percentage completion of the scope of work. The payments to the District will be made from funds provided by the City. Milestones established for payment and the amounts paid are as follows:

Payment Schedule

Payment	Amount	Basis of Payment
I	\$ 4,000.00	Completion of twenty percent (20%) of the scope of work identified herein.
II	\$4,000.00	Completion of forty percent (40%) of the scope of work identified herein.
III	\$4,000.00	Completion of sixty percent (60%) of the scope of work identified herein.
IV	\$4,000.00	Completion of eighty percent (80%) of the scope of work identified herein.
V	\$4,000.00	Completion of one hundred percent (100%) of the scope of work identified herein.
Total Payment	\$ 20,000.00	

All payments shall be determined by the City from its estimates of completion of the entire EDA project. Payment to the District shall be made from those estimates and in the amounts prescribed above.

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PART IV - TERMS AND CONDITIONS

1. **Termination of Contract.** If, through any cause, the District shall fail to fulfill in a timely and proper manner its obligation under this Contract, or if the District shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to the District of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. If the Contract is terminated by the City as provided herein, the District will be paid for the time provided and expenses incurred up to the termination date.

If the contract is terminated by the City as provided herein, all finished or unfinished documents, information or reports prepared by the District under this Contract shall, at the option of City, become its property and the District shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the District shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by the District, and the may withhold any payments to the District for the purpose of set-off until such time as the exact amount of damages due the City from the District is determined.

2. **Termination for Convenience of the City.** The City may terminate this Contract at any time by giving at least ten (10) days notice in writing to the District. If the Contract is terminated by the City as provided herein, the District will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the District, Paragraph 1 hereof relative to termination shall apply.
3. **Changes.** The City may, from time to time, request changes in the scope of the services of the District to be performed hereunder. Such changes, including any increase or decrease in the amount of the District's compensation which are mutually agreed upon by and between the City and the District shall be incorporated in written amendments to this Contract.
4. **Personnel.**
 1. The District represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.
 2. All of the services required hereunder will be performed by the District or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
 3. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

5. **Assignment of Contract.** The District shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto: Provided, however, that claims for money by the District from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.
6. **Reports and Information.** The District, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.
7. **Findings Confidential.** All of the reports, information, data, etc., prepared or assembled by the District under this contract are confidential, and the District agrees that they shall not be made available to any individual or organization without the prior written approval of the City.
8. **Compliance with Local Laws.** The District shall comply with applicable laws, ordinances and codes of the State of Oklahoma and its local governments.
9. **Equal Employment Opportunity.** During the performance of this Contract, the District agrees as follows:
 1. The District will not discriminate against any employee or applicant for employment because of race, creed, sex, color, handicap, or national origin. The District will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, handicap or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The District agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.
 2. The District will, in all solicitation or advertisements for employees placed by or on behalf of the District, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, handicap or national origin.
 3. The District will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
 4. The District will include the provisions 9.1, 9.2, and 9.3 in every subcontract or purchase order unless exempted.
10. **Civil Rights Act of 1964.** Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

11. **Section 109 of the Housing and Community Development Act of 1974.** No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
12. **Public Works and Economic Development Act of 1965, as amended:** The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the U. S. Department of Commerce, Economic Development Administration. For Public Works and Development Facilities under the Public Works and Economic Development Act of 1965, as amended, the award to the City, Award Number 08-01-04953, supports the project and effort described herein, which is incorporated into this agreement by reference. Where terms of this agreement differ, the terms of the award shall prevail.
13. **Government Performance and Results Act of 1993 (GPRA) Reporting Requirements – Performance Measures.** The District agrees to report to the City on program performance measures and program outcomes in such form and at such intervals as may be prescribed by the EDA, Award Number 08-01-04773, in compliance with the Government Performance and Results Act of 1993. Performance measures and reporting requirements that apply to program activities funded by the Award to the City will be provided in a separate GPRA information collection document. EDA will advise the City in writing within a reasonable period prior to the time of submission of the reports and in the event that there are any modifications in the performance measures.
14. **Interest of Members of the District.** No member of the governing body of the District and no other officer, employee, or agent of the District who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract and the City shall take appropriate steps to assure compliance.
15. **Interest of Other Local Public Officials.** No member of the governing body of the District and no other public official of the District, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the City shall take appropriate steps to assure compliance.
16. **Interest of Firm and Employees.** The District covenants that it presently has no interest and shall not acquire interest, direct or indirect, in the project area, study area, site, or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The District further covenants that in the performance of this Contract, no person having any such interest shall be employed.