

**STATE OF OKLAHOMA DEPARTMENT OF TRANSPORTATION
PROJECT AGREEMENT NO. 39375(04)**

Congestion Relief in West Oklahoma City

THIS AGREEMENT, made the day and year last written below, by and among the City of Oklahoma City, hereinafter referred to as the **CITY**, CSMS Management, LLC, a Delaware limited liability company, hereinafter referred to as **CSMS** and the Department of Transportation of the State of Oklahoma, hereinafter referred to as the **DEPARTMENT**, for the following intents and purposes and subject to the following terms and conditions, to wit:

WITNESSETH:

WHEREAS, the **DEPARTMENT** is charged under the laws of the State of Oklahoma with the construction and maintenance of state highways and bridges; and

WHEREAS, the **DEPARTMENT**, as part of its responsibilities for the construction and maintenance of state highways and bridges, must cooperate with the local entities of government to allow the location, construction and maintenance of mutual use facilities pursuant to Title 69 OS §304; and

WHEREAS, receipt of the benefits of this project will require the **CITY** to assume certain financial obligations; and

WHEREAS, the Constitution and laws of the State of Oklahoma impose fiscal limitations on the **CITY** and their ability to agree to financial obligations; and

WHEREAS, the parties hereto recognize those fiscal limitations and agree that the financial obligations assumed by the **CITY** by the terms of this Agreement are enforceable only to the extent as may be allowed by law or as may be determined by a court of competent jurisdiction.

NOW THEREFORE, subject to the limitations herein before described and the limitations of applicable Oklahoma law, the **DEPARTMENT**, the **CITY**, and **CSMS**, in consideration of the mutual covenants and stipulations as set forth herein, do mutually promise and agree as follows:

SECTION 1: PROJECT AGREEMENT

1.1 The **DEPARTMENT** will request approval from the Transportation Commission for participation in the project that consists of Congestion Relief in West in Oklahoma City. This includes the improvements to the I-40 and Cimarron Road interchange bridge and approaches and ramps in Oklahoma City, depicted on Exhibit A, hereinafter referred to as the **Project**.

1.2 The **DEPARTMENT** will recommend approval of the **Project** by the Federal Highway Administration (FHWA).

1.3 The **CITY** and the **DEPARTMENT** shall comply with Title VI of the Civil Rights Act of 1964, 78 O.S. § 252.42, U.S.C. §2000d-et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 21 - "Nondiscrimination in federally assisted Programs of the Department of Transportation-effectuation of Title VI of the Civil Rights Act 1964."

1.4 The **DEPARTMENT** and the **CITY** mutually recognize that each party is a governmental entity subject to the provisions of the Governmental Tort Claims Act (51 O.S. § 151 et seq.). The **DEPARTMENT** and the **CITY** hereby mutually agree that each is and may be held severally liable for any and all claims, demands, and suits in law or equity, of any nature whatsoever, paying for damages or otherwise, arising from any negligent act or omission of any of their respective employees, agents or officers which may occur during the prosecution or performance of this Agreement to the extent provided in the Governmental Tort Claims Act. Each party agrees to severally bear all costs of investigation and defense of claims arising under the Governmental Tort Claims Act and any judgments which may be rendered in such cause to the limits provided by law. Nothing in this section shall be interpreted or construed to waive any legal defense which may be available to a party or any exemption, limitation or exception which may be provided by the Governmental Tort Claims Act.

SECTION 2: ENGINEERING RESPONSIBILITIES

2.1 CSMS shall provide, or cause to be provided, professional engineering services for the development of the Plans, Specifications, and Estimates (PS&E).

2.1.1 The design and plans shall be subject to review and acceptance by the **CITY**, the **DEPARTMENT**, and **FHWA** and shall conform to current State and AASHTO policies and standards, as modified by the **DEPARTMENT**.

2.2 To the extent permitted by law, all data prepared under this Agreement shall be made available to the **DEPARTMENT**, the **CITY**, and **CSMS** without restriction or limitation on their further use, with exception of any documents or information that would be considered attorney/client privileged.

2.3 CSMS will conduct, or cause to be conducted, the environmental studies and prepare the National Environmental Protection Act (NEPA) documents as required.

2.4 CSMS will be responsible for completing all permitting requirements with Federal or State regulations including The United States Corps of Engineers 404 permit, floodplain activity, and Interstate Access Justification.

2.5 The **CITY** will be responsible for any environmental mitigation deemed necessary for the Project. Should fulfillment of this responsibility necessitate the expenditure of City funds not encumbered herewith, fulfillment of this responsibility will be subject to City Council appropriation.

2.6 The **DEPARTMENT** will forward the environmental documents and Interstate Access Justification to FHWA for approval.

SECTION 3: LAND ACQUISITION AND UTILITY RELOCATION

3.1 The **CITY** warrants that, it has or will acquire all land, property, or rights-of-way in its jurisdiction needed for complete implementation of said Project, free and clear of all obstructions and encumbrances and in full accordance with the **DEPARTMENT's** guidelines for Right-of-Way Acquisition on Federal-Aid Projects, the Uniform Relocation Act, the National Environmental Policy Act and all other applicable local, state, and federal regulations.

3.2 The **CITY** by separate City Council action will provide permanent easement on any right-of-way owned by the **CITY** for facilities needed for the Project subject to the **CITY's** acceptance of the design and plans for the Project and such easements as provided in Section 2.1 herein.

3.3 The **CITY** shall remove, at its own respective expense, or cause the removal of, all encroachments on existing streets as shown on said plans within its jurisdiction.

3.4 In exchange for the consideration provided from and through the **DEPARTMENT**, the **CITY** shall convey title to the State of Oklahoma on all tracts of land acquired in the name of the respective County on the State or Federal Highway System (if any) as required by and in accordance with Oklahoma Administrative Code Title 730, Chapter 20, Section 730:20-1-2.

3.5 The **CITY** will execute the utility adjustment necessary for the Project and will certify prior to establishing a letting date that all existing utility facilities (if any) have been properly adjusted to accommodate the construction of the Project and will be solely responsible for any payment required therefore.

3.6 Should fulfillment of any of the responsibilities in this Section 3 necessitate the expenditure of City funds not encumbered herewith, fulfillment of such responsibilities will be subject to City Council appropriation.

SECTION 4: CONSTRUCTION RESPONSIBILITIES

4.1 The **DEPARTMENT**, the **CITY**, and **CSMS** agree to comply with all applicable laws and regulations necessary to meet the Oklahoma Department of Environmental Quality (ODEQ) and City of Oklahoma Stormwater Quality requirements for pollution prevention including discharges from storm water runoff during the planning and design of this Project. It is also agreed that the storm water management plan for the Project previously described in Section 1.1 includes project plans and specifications, required schedules for accomplishing the temporary and permanent erosion control work, the site-specific storm water pollution prevention plan and the appropriate location map contained in the utility relocation plans.

4.2 The roadway improvements and all devices specified herein shall not be altered, removed, or cease to be operative without mutual written consent of the **DEPARTMENT** and the **CITY** with jurisdiction over that portion of the roadway improvement.

4.3 The **CITY** will allow for the closure of Cimarron Road through the area necessary for the duration of the Project.

4.4 Upon approval of this Agreement and the plans, specifications, and estimates by the Federal Highway Administration, the **DEPARTMENT** will advertise and let the contract for the Project in the usual and customary manner. It is agreed that the Project herein contemplated is proposed to be financed as described in this agreement, and that this Agreement, all plans, specifications, estimate of costs, acceptance of work, payments, and procedure in general hereunder are subject in all things at all times to all Federal laws, regulations, orders and approvals as may be applicable hereto.

4.5 **CSMS**, the **CITY**, and the **DEPARTMENT** shall enter into one or more construction and maintenance agreements for the Project elements on terms acceptable to the parties not inconsistent with this Agreement.

4.6 The **DEPARTMENT**, using its own forces or the services of others, will supervise and inspect all work performed by the construction contractor and will provide such engineering, inspection and testing services as may be required to ensure that the construction of the Project is accomplished in accordance with the approved PS&E.

4.7 Upon completion maintenance responsibilities will defer to appropriate jurisdictions by Oklahoma Administration Code 730:35-1-11.

SECTION 5: CONSTRUCTION FUNDING

5.1 The total estimated construction cost is **\$25,000,000** including construction supervision and inspection services as defined in Section 4.6, herein after referred to

as the Construction Estimate. The **CITY** will provide 30.3%, **CSMS** will provide 24.2%, and the **DEPARTMENT** will provide **45.5%** prorata up to the Construction Estimate. These funds shall be deposited with the **DEPARTMENT** prior to the advertisement for bids.

5.2 If the cost of the Project exceeds the Construction Estimate, the parties shall contribute to the excess costs in the order of and up to the following:

5.2.1 The **DEPARTMENT** will provide the first **\$3,625,000** in costs above the Construction Estimate, at which time the **DEPARTMENT** shall not be required to provide any additional funding; and

5.2.2 The **CITY** will provide the next **\$2,425,000** in costs above the Construction Estimate, at which time the **CITY** shall not be required to provide any additional funding; and

5.2.3 **CSMS** will provide the next **\$1,950,000** in costs above the Construction Estimate, at which time **CSMS** shall not be required to provide any additional funding.

5.3 The **CITY** and **CSMS** will be responsible for payment of their required funding share within 45 days of receipt of a **DEPARTMENT** invoice. Upon final acceptance of this project, the **DEPARTMENT** shall refund funds previously deposited by the **CITY** and **CSMS** not utilized for the Project.

SECTION 6: PRIOR UNDERSTANDING

6.1 This Agreement incorporates and reduces to writing all prior understandings, promises, agreements, commitments, covenants, or conditions, and constitutes the full and complete understanding and contractual relationship of the parties.

SECTION 7: AMENDMENTS OR MODIFICATION OF AGREEMENT

7.1 No changes, revisions, amendments, or alterations in the manner, scope, or type of work or compensation to be paid by the **DEPARTMENT** shall be effective unless reduced to writing and executed by the parties with same formalities as are observed in the execution of this Agreement.

SECTION 8: GOVERNING LAW AND VENUE

8.1 Any claims, disputes or litigation relating to the solicitation, execution, interpretation, performance, or enforcement of this Agreement shall be governed by the laws of the State of Oklahoma, applicable federal laws and regulations, and the applicable rules, regulations, policies, and procedures of the Oklahoma Transportation Commission. Venue for any action, claim, dispute or litigation,

mediation or arbitration shall be in the state and federal courts serving Canadian County, Oklahoma.

SECTION 9: DISPUTE RESOLUTION

9.1 The parties hereto have entered into this Agreement in the State of Oklahoma and the laws of the State of Oklahoma shall apply. The parties agree to bargain in good faith in direct negotiation to achieve resolutions of any dispute and, if such efforts are unsuccessful, to retain a neutral mediation service to mediate the dispute prior to filing court action. Mediation shall be conducted in Canadian County, Oklahoma and the costs of such mediation shall be borne equally by the parties. If mediation is not successful, venue for any action brought to enforce the terms of this agreement shall be as provided in Section 8 herein. Each party shall bear any costs and attorney fees incurred by that party in such litigation.

SECTION 10: TERMINATION

10.1 This Agreement may be terminated by any of the following conditions:

10.1.1 By mutual agreement and consent, in writing of all parties.

10.1.2 By any party by written notice, upon the failure of the other parties to fulfill their obligations as set forth herein.

10.1.3 By the **DEPARTMENT** for reasons of its own and not subject to the mutual consent of the **CITY** or **CSMS** upon five (5) days written notice to the **CITY** and **CSMS** prior to the letting of the contract for the Project.

10.1.4 By the **CSMS** for reasons of its own and not subject to the mutual consent of the **CITY** or the **DEPARTMENT** upon five (5) days written notice to the **CITY** and **DEPARTMENT** prior to the letting of the contract for the Project.

10.1.5 By satisfactory completion of all services and obligations described herein.

10.2 The termination of this Agreement shall extinguish all rights, duties, obligations, and liabilities of the **DEPARTMENT**, **CSMS**, and the **CITY** under this Agreement except for the litigation resolution and **CSMS** cost participation provisions provided in Section 5.1. If the potential termination of this Agreement is due to the failure of either the **DEPARTMENT**, **CSMS**, or the **CITY** to fulfill their obligation as set forth herein, the non-breaching party will notify the party alleged to be in breach that possible breach of agreement has occurred. The party alleged to be in breach should make a good faith effort to remedy that breach as outlined by non-breaching party within a period mutually agreed by each party.

SECTION 11: RECORDS

11.1 The **CITY** is to maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at its respective offices at all reasonable times, during the agreement period and for three (3) years from the date of final payment under the agreement, for inspection by the **DEPARTMENT** and the State Auditor and Inspector, and copies thereof shall be furnished to the **DEPARTMENT** if requested.

SECTION 12: NOTICES

12.1 All notices, demands, requests, or other communications which may be or are required to be given, served or sent by either party to the other pursuant to this Agreement shall be in writing and shall be deemed to have been properly given or sent:

12.1.1 If intended for the **DEPARTMENT**, by mailing first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid addressed to:

Oklahoma Department of Transportation
District 4 Engineer
Matt Mitchell
P.O. Box 471
Perry, OK 73077

12.1.2 If intended for the **CITY**, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to:

City of Oklahoma City
Attn: City Engineer
420 West Main Street, Seventh Floor
Oklahoma City, OK 73102

12.1.3 If intended for **CSMS**, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to:

CSMS Management, LLC
Attn: Jeff Nadalo, General Counsel
11200 W. Broadway, Suite 2332
Pearland, TX 77584

SECTION 13: HEADINGS

13.1 Article headings used in this Agreement are inserted for convenience of reference only and shall not be deemed a part of this Agreement for any purpose.

SECTION 14: BINDING EFFECTS

14.1 This Agreement shall be binding upon and inure to the benefit of the **DEPARTMENT, CSMS,** and the **CITY,** severally, and shall be binding upon their successors and assigns, respectively, subject to the limitations of Oklahoma law.

SECTION 15: SEVERABILITY

15.1 If any provision, clause, or paragraph of this Agreement or any document incorporated by reference shall be determined invalid by a court of competent jurisdiction, such determination shall not affect the other provisions, clauses, or paragraphs of this Agreement which are not affected by the determination. The provisions, clauses, or paragraphs of this Agreement and any documents incorporated by reference are declared severable.

SECTION 16: EFFECTIVE DATE

16.1 This Agreement shall become effective on the date of execution by the **DEPARTMENT's** Deputy Director or designee as the last party to execute this Agreement.

SECTION 17: ASSIGNMENT

17.1 CSMS shall be permitted to assign this Agreement in whole or in part in **CSMS'** sole and absolute discretion to a **CSMS** Affiliate. Any assignment of this Agreement is conditioned on the assignee agreeing in writing to be bound by the obligations of the assignor under this Agreement and no assignment shall relieve the assigning party of its obligations under this Agreement. "Affiliate" means, with respect to a party, any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such party. "Control" (including "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract, or otherwise.

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IN WITNESS WHEREOF, the Deputy Director of the **DEPARTMENT** or designee, pursuant to authority vested by the Transportation Commission, has hereunto subscribed his name as Deputy Director of the **DEPARTMENT** and the **CITY** and **CSMS** have each severally executed the same pursuant to authority prescribed by law on the date of the last signature on this Agreement.

CITY OF OKLAHOMA CITY

APPROVED by The City of Oklahoma City this ____ day of _____, 2026.

Attest:

City Clerk

Mayor

Reviewed For Form And Legality:



City Attorney

CSMS MANAGEMENT, LLC. a Delaware limited liability company



[Joe O'Leary \(Sep 10, 2026 12:05:50 EDT\)](#)

Joe O'Leary, Vice President

Date: _____

STATE OF OKLAHOMA DEPARTMENT OF TRANSPORTATION

Recommended For Approval:

Approved As To Form And Legality:

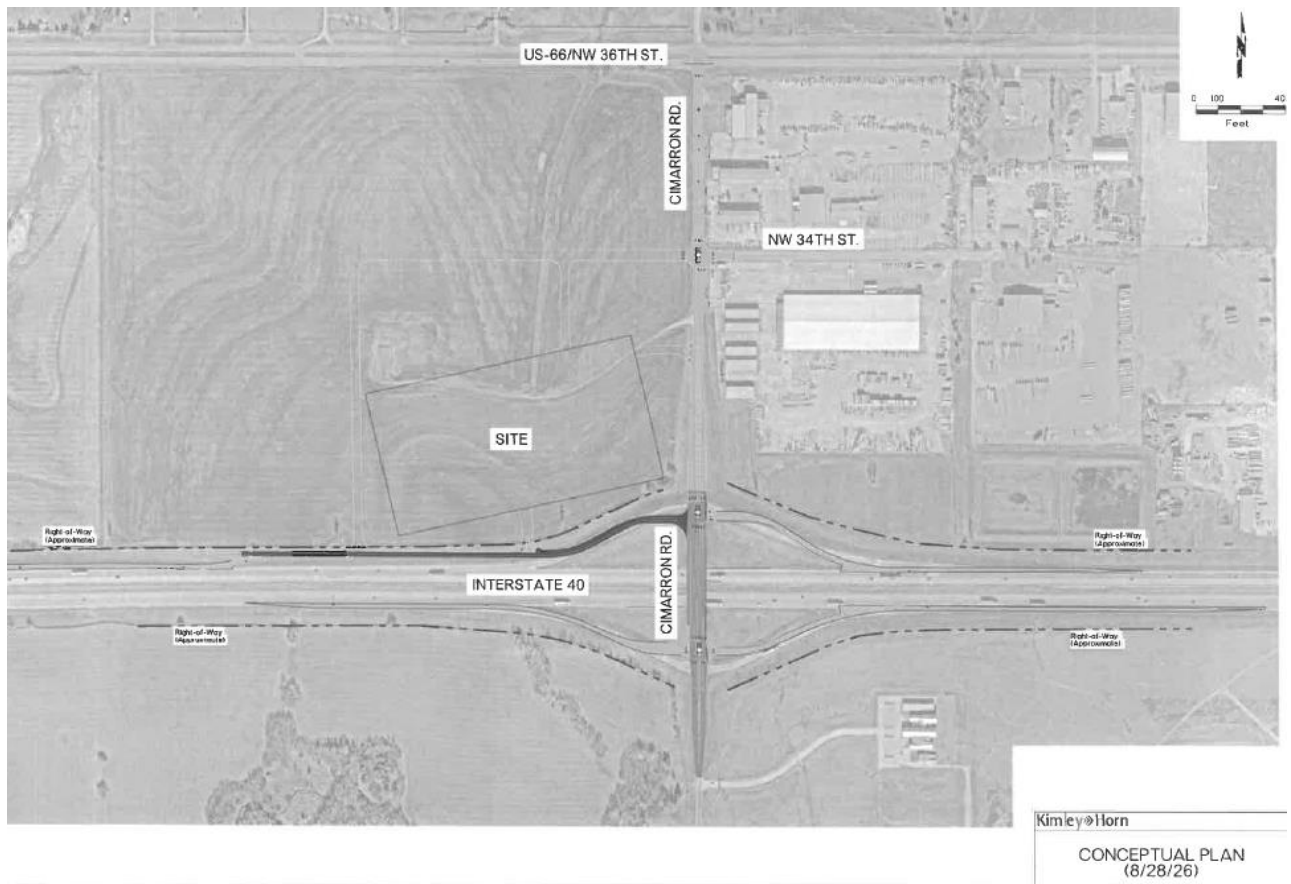
District 4 Engineer Date

General Counsel Date

Approved:

Deputy Director Date

EXHIBIT A
PROJECT



ODOT Project Agreement (Oklahoma City, OK-Yukon)

Final Audit Report

2026-09-10

Created:	2026-09-10
By:	Buc-ee's Contracts (Buc-ees-Contracts@buc-ees.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAxGaEYtB6UINq4k1PWX-JcnvcE1-jTIOh

"ODOT Project Agreement (Oklahoma City, OK-Yukon)" History

-  Document created by Buc-ee's Contracts (Buc-ees-Contracts@buc-ees.com)
2026-09-10 - 2:36:06 PM GMT
-  Document emailed to joe.oleary@buc-ees.com for signature
2026-09-10 - 2:37:47 PM GMT
-  Email viewed by joe.oleary@buc-ees.com
2026-09-10 - 4:05:10 PM GMT
-  Signer joe.oleary@buc-ees.com entered name at signing as Joe O'Leary
2026-09-10 - 4:05:48 PM GMT
-  Document e-signed by Joe O'Leary (joe.oleary@buc-ees.com)
Signature Date: 2026-09-10 - 4:05:50 PM GMT - Time Source: server - Signature Appearance Selected: MOBILE_DRAW
-  Agreement completed.
2026-09-10 - 4:05:50 PM GMT