

**AGREEMENT BETWEEN THE  
BOARD OF COUNTY COMMISSIONERS OF MUSKOGEE COUNTY  
AND  
OXFORD PRODUCTIONS, INC.**

This Agreement (the “**Agreement**”) is entered into this 10 day of July, 2023, by and between the **Board of County Commissioners of Muskogee County** (“**County**”) and the **Oxford Productions, Inc.** (“**Oxford**”).

**WHEREAS**, the County desires to increase communications and accessibility for citizens and increase economic development and tourism promotion efforts for Muskogee County, Oklahoma;

**WHEREAS**, the parties mutually desire Oxford establish an independent contractor relationship with the County to establish such an office;

**NOW, THEREFORE**, in consideration of the mutual agreements and covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**Section 1. Intent**

The County desires to provide public funding for citizen education and accessibility, economic development and tourism promotion for Muskogee County and desires to contract with Oxford implement such a program.

**Section 2. Independent Contractor**

The County does hereby appoint Oxford, and Oxford does hereby accept such appointment, as an independent contractor, and not as an employee, of the County for the purposes of achieving the goals of this Agreement to increase communications and accessibility for the citizens of the county, promote tourism efforts in Muskogee County with a focus outside of the City of Muskogee, and increase quality of life perception for the purposes of economic development.

**Section 3. Services**

Oxford shall develop and foster highly collaborative partnerships between the County and business, citizens, economic development, and other tourism organizations, both locally and regionally, with a view towards creating, sustaining, and retaining a viable communications, economic development and tourism promotion strategy for Muskogee County which can support current and future business and industry needs. It is the express desire that such communication, economic development and tourism promotion effort support the needs of all communities and towns in Muskogee County regardless of location or size. Oxford will also provide citizen education and public promotion of Muskogee County and its various services to its citizens, including updating and maintaining a centralized web presence for the County including social media and traditional websites. To achieve the services identified above, Oxford shall employ such qualified and competent personnel as it determines necessary to implement the same and shall identify in writing the principal staff member assigned by Oxford to perform the functions hereunder.

**Section 4. Budget**

As compensation for the services provided hereunder, the County will pay Oxford a lump-sum of Sixty Thousand Dollars (\$60,000.00) annually payable in twelve (12) equal monthly installments of Five Thousand Dollars (\$5,000.00) per month in arrears.

**Section 5. Reporting**

Oxford shall provide quarterly reports to the County summarizing the accomplishments of Oxford under this Agreement.

**Section 6. Term and Termination**

The term of this Agreement is for one fiscal year commencing on the tenth day of July, 2023, and terminating on the last day of June, 2024. This Agreement shall automatically renew for succeeding fiscal years unless this Agreement is terminated prior to such time as follows:

- A. If the County fails to budget for the operation of this Agreement for the next succeeding fiscal year, then this Agreement shall automatically terminate on June 30 of the currently funded fiscal year.

OR

- B. Upon ninety (90) days written notice by either party with or without cause.

**Section 7. Miscellaneous**

- A. Oxford agrees to not assign or otherwise transfer this Agreement, or the rights herein contained, without the prior written consent of the County.

- B. Oxford agrees it will not exclude from participation in or deny any benefits of the services, programs, or activities hereunder to any person on the grounds of race, color, gender, nationality, sex, or sexual orientation as required by applicable law or to any qualified individual with a disability as defined by applicable law.

- C. The employees, agents, and properties of Oxford involved in the execution of this Agreement shall not be considered for any purposes the employees, agents, or properties of the County.

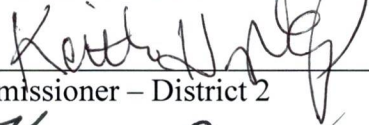
- D. The waiver of either party of any breach of any term, condition, or covenant contained herein shall not be deemed a waiver of any subsequent breach of the same or any other term, condition, or covenant.

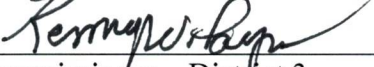
(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date written above by their respective officers thereunto duly authorized.

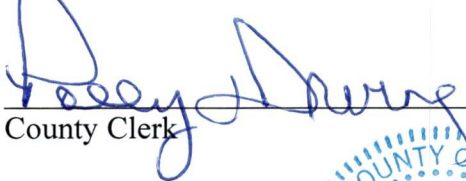
**BY THE COUNTY:**

\_\_\_\_\_  
Commissioner – District 1

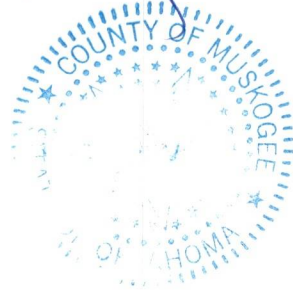
  
\_\_\_\_\_  
Commissioner – District 2

  
\_\_\_\_\_  
Commissioner – District 3

Attest:

  
\_\_\_\_\_  
County Clerk

**BY OXFORD:**



  
\_\_\_\_\_  
President



**OFFICE of GENERAL COUNSEL**  
*Muskogee County*

**John Tyler Hammons**  
*General Counsel*

STATE OF OKLAHOMA  
MUSKOGEE COUNTY  
FILED OR RECORDED

2023 MAY 31 8:42 AM  
608 42 Street  
Muskogee, OK 74401  
918-683-0309  
POLLY IRVING  
COUNTY CLERK

**OPINION OF THE GENERAL COUNSEL**  
**Opinion No. 2023-13**

**QUESTION BY:** Ken Doke, County Commissioner – District 1  
**DATE:** May 31, 2023  
**SUBJECT:** Bidding Contracts for Services

**INTRODUCTION**

This office has received your request for an official opinion from the General Counsel in which you ask, in effect, the following question:

*Is the County obligated to resort to competitive bids to obtain professional services?*

**SHORT ANSWER**

No. As long as the service isn't related to road or bridge construction services or information technology services, professional service agreements are not subject to competitive bidding.

**DISCUSSION**

County governments are expressly permitted by state law to “[m]ake all contracts” necessary to achieve their public goals. 19 OS § 3. You have asked whether the Board of County Commissioners may enter into a contract for professional services without soliciting competitive bids. The answer to your question must be found, if at all, in the provisions of the County Central Purchasing Act (19 OS § 1500 *et seq.*) (the “Act”) as the same is the only statute imposing competitive bidding requirements on county government for any type of procurement, excepting only the construction of public improvements which are governed by the Public Competitive Bidding Act (61 OS § 101 *et seq.*). For the purpose of this Opinion, this Office will assume the Public Competitive Bidding Act does not apply to the type of contracts which you have raised question.

The circumstances in which competitive bidding on contracts is required by the county government is specified by the Act. Under Section 1505 of the Act, the county government must use the competitive bidding process whenever it seeks to obtain “supplies, materials, *road and bridge construction services*, equipment and *information technology and telecommunication goods and services* for the maintenance, operation, and capital expenditure of county government.” 19 OS § 1505 (emphasis added). This Office’s “cardinal rule” is to “ascertain and give effect to legislative intent and purpose as expressed by statutory language.” *Kpiele-Poda v. Patterson-UTI Energy, Inc.*, 2023 OK 11, ¶ 19,

525 P.3d 28, 35. Legislative intent, first and foremost, flows “from a reading of the statutory language and its plain and ordinary meaning.” *Johnson v. CSAA Gen. Ins. Co.*, 2020 OK 110, ¶ 19, 478 P.3d 422, 432. “When the language of a statute is plain and clear it will be followed.” *Assessments for Tax Year 2012 of Certain Properties Owned by Throneberry v. Wright*, 2021 OK 7, ¶ 63, 481 P.3d 883, 908.

The above quoted language from Section 1505 is simple, clear, and plain. If the county government seeks to obtain “road and bridge construction services” or “information technology and telecommunication goods and services,” then the competitive bid process must be employed. Although the Act does not define what these terms mean, their plain and ordinary meaning is readily apparent: the former concerns the provision of labor as a general contractor for certain public works projects while the latter deals with labor necessary to effectively operate computer technology. Revealingly, Section 1505 is silent on the method of acquiring professional services – that is, the contracts for the provision of labor as opposed to transfer of property – which are neither “road and bridge construction services” nor “information technology and telecommunication goods and services.” When seeking to determine the intent of a legislative enactment, this Office employs the maxim *expressio unius est exclusio alterius* – “the mention of one thing in a statute implied excludes another thing.” *Morgan v. State Farm Mut. Auto. Ins. Co.*, 2021 OK 27, ¶ 28, 488 P.3d 743, 750. Because Section 1505 expressly mentioned “road and bridge construction services” and “information technology and telecommunication goods and services” as being subject to the competitive bid process, the clear intent is to exclude the acquisition of professional services not of this character. Accordingly, Section 1505, by its own terms, does not require professional services be acquired by competitive bid unless the same are rightfully classified as “road and bridge construction services” or “information technology and telecommunication goods and services.”

Finally, the question arises concerning what constitutes a professional service contract. A professional service contract is any contract for the provision of labor “which do not involve the supplying of products.” 74 OS § 85.2(19). While it is not possible for a formal opinion of the General Counsel to definitively rule whether a particular contract is a pure service contract, a pure contract for personal property, or one in which these objects are mixed, the guiding principle is “whether the predominant thrust of the contract [is] for [1] the *furnishing of work*, labor and services, or [2] the *transfer of any interest in [personal] property*.” *Gilbert Cent. Corp. v. State*, 1986 OK 6, 716 P.2d 654, 662–63 (emphasis added). Stated another way, the truest summary of the contract will determine if the contract qualifies as a professional service and if competitive bidding is required or not. For example, a contract for the rendition of services with personal property being merely incidentally involved – such as a contract with an artist for painting – need not be competitively bid while a contract for the transfer of property with labor being merely incidentally involved – such as a contract for the installation of water heater in a bathroom – must be.


## CONCLUSION

It is, therefore, the official opinion of the General Counsel that:

- 1. Unless the labor sought to be acquired is labor related to “road and bridge construction services” or “information technology and telecommunication goods and services,” a contract for the provision of labor not involving the transfer to or use by the county government of any equipment, materials, or supplies need not be bid through the competitive bid process.**

2. A contract for labor involving the transfer to or use by the county government of any equipment, materials, or supplies need not be bid through the competitive bid process if such transfer is merely incidental to the labor to be provided.
3. A contract for labor involving the transfer to or use by the county government of any equipment, materials, or supplies must be bid through the competitive bid process if such labor is merely incidental to the property to be acquired.

Respectfully submitted,

  
**JOHN TYLER HAMMONS**  
General Counsel

CC: Board of County Commissioners