

## AGREEMENT FOR MATERIALS TESTING SERVICES

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THIS AGREEMENT FOR MATERIALS TESTING SERVICES ("Agreement") is made and entered into effective November 17, 2025, by and between Muskogee County, and Quality Testing, with respect to the following recitals:

A. The County proposes to undertake the construction of an improvement project which requires the services of a duly qualified and licensed materials testing lab.

B. Quality Testing represents that it is licensed to provide materials testing services in the State of Oklahoma and is specially qualified to provide the services required by the County in this Agreement.

C. The parties have negotiated the terms pursuant to which Quality Testing will provide such services and reduce such terms to writing by this Agreement. Per the Request for Proposals, released by Muskogee County, and the Proposal submitted by Quality Testing. Muskogee County agrees to compensate Quality Testing a sum, not to exceed \$49,500.00, for basic inspection services.

In consideration of the covenants and conditions contained in this Agreement, the parties agree as follows:

1. **Retention of Quality Testing.** Muskogee County retains Quality Testing to perform, and Quality Testing agrees to provide to Muskogee County, for the consideration and upon the terms and conditions set forth below, the materials testing services specified in this Agreement. Quality Testing agrees to perform such services as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. All services performed by Quality Testing under this Agreement shall be conducted in a manner consistent with the level of care and skill ordinarily exercised by materials testing labs specially qualified to provide the services required by the Muskogee County.

2. **Description of Project.** The Materials Testing Services contract will encompass project-related materials including but not limited to Soil, Asphalt, Concrete, etc. This project will include work on approximately 2.7 miles of road including; Clearing and grubbing, stabilize sub-grade, raise road bed with aggregate fill, install drainage pipes, low water structures, replace wooden deck bridge, install asphalt overlay, roadway striping, re- install fencing. Proper ditches and drainage will be reestablished on both sides of the road, in order to direct storm water off the road and to the drainage outlets. Replace two bridges, and apply an asphalt overlay on the entire road along with roadway striping. This project is estimated to take 12 months to complete.

In addition, as a part of its Basic Services, the Quality Testing shall assist the Muskogee County in evaluating claims, disputes and other matters in question between the contractor and Muskogee County relating to Quality Testing's work, including but not limited to claims made against Muskogee County as a result of Quality Testing's alleged or claimed errors or omissions, and shall in all instances provide such truthful testimonial assistance as may be required by Muskogee County at no cost to the Muskogee County.

Quality Testing shall confer and cooperate with Muskogee County's other consultants. Quality Testing shall take precautions to minimize any damage due to testing activities. Quality Testing shall be responsible and liable for any damage Quality Testing causes through its wrongful acts or omissions.

During the construction phase, Quality Testing shall visit the Project site when requested by Muskogee County to observe conditions encountered by the contractor and to assess the progress and quality of contractor's work. Quality Testing shall participate in job site meetings as requested by Muskogee County.

If Quality Testing determines contractor is not meeting the requirements of Quality Testing's reports, recommendations or the plans and specifications for such work, Quality Testing shall immediately bring that information to Muskogee County's attention.

Quality Testing shall retain all samples for 120 days.

3. **Additional Services.** Any services not included in this Agreement shall be considered "Additional Services." Compensation for additional services shall be a fee to be agreed upon by the parties in writing prior to performance of such services by Quality Testing. Quality Testing shall keep complete records showing all hours worked and all costs and charges incurred for Additional Services. Muskogee County shall be given reasonable access to those records for audit purposes.

4. **Payment.** For all "Basic Services" satisfactorily performed, compensation shall be as described in this Agreement. Basic and Additional Services satisfactorily performed shall be billed monthly via properly documented and submitted invoices. Invoices that are not disputed by Muskogee County shall be paid within Thirty (30) days of Muskogee County's receipt of the invoice. Quality Testing shall comply with any applicable prevailing wage law.

5. **Insurance.** Quality Testing shall purchase and maintain insurance that will protect Quality Testing from the claims set forth below that may arise out of or result from the Quality Testing's performance of services or failure to perform services required by this Agreement:

- a. Claims under Workers' Compensation, disability benefits, and other similar employee benefits acts that are applicable to the work performed;
- b. Claims for damages because of bodily injury, occupational sickness or disease or death of Quality Testing's employees, agents, or invitees;
- c. Claims for damages because of bodily injury or death of any person;
- d. Claims for damages insured by usual personal injury liability coverage that are sustained (1) by any person, as a result of an offense directly related to the employment of such person by the Quality Testing or (2) by any other person;
- e. Claims for damages, other than to the work itself because of injury to or destruction of tangible property, including loss of use therefrom; or
- f. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.



6. **Hazardous Materials.** In the event the Muskogee County or Quality Testing becomes aware of the presence of, or exposure of persons to, any toxic or hazardous contaminants, materials, air pollutants or water pollutants at the Project, or the substantial risk thereof, each shall have a duty immediately to notify the other in writing.

7. **Compliance with Laws.** Quality Testing shall be familiar with and shall comply with all State and Federal laws and regulations applicable to the Project or lawfully imposed upon the Project by agencies having jurisdiction over the Project.

8. **Termination.**

a. Muskogee County may unilaterally terminate this Agreement for any reason, in its absolute discretion, by giving Quality Testing seven (7) days written notice of termination.

b. This Agreement may also be terminated by either Party upon seven (7) days written notice should the other Party fail substantially to perform their duties or for any material breach under this Agreement.

c. In the event of termination, Quality Testing shall be compensated for all services satisfactorily performed to the termination date and, if terminated under subparagraph (a) above, any costs incurred by reason of such termination; but less any amounts the Muskogee County is entitled to withhold under law or this Agreement.

9. **Independent Contractor Status.** Quality Testing and any and all agents and employees of Quality Testing shall perform the services required pursuant to this Agreement as an independent contractor, not as officers, employees, or agents of the Muskogee County. In providing the services contemplated by this Agreement, Quality Testing shall maintain a professional working relationship with the Muskogee County, the Contractor, the Inspector and the Engineer. Nothing contained in this Agreement shall be deemed to create any contractual relationship between Quality Testing and the Engineer, Inspector or the Contractor for the Project, nor shall anything contained in this Agreement be deemed to give any third party any claim or right of action against the Muskogee County or the Quality Testing which does not otherwise exist.

10. **Indemnity.** Quality Testing shall indemnify, defend and save the Muskogee County, its Board of Commissioners, officers, agents, and employees harmless from any and all claims damages, losses, causes of action and demands, including reasonable attorney's fees and costs, incurred in connection with or in any manner arising out of Quality Testing's performance of or failure to perform any of the duties contemplated by this Agreement or for any tax liability arising out of this Agreement.

11. **Successors and Assigns.** The Muskogee County and Quality Testing, respectively, bind themselves, their successors, assigns, and representatives to the other Party to this Agreement, and to the partners, successors, assigns, and legal representatives of such other Party with respect to all terms of this Agreement. Neither Muskogee County nor Quality Testing shall assign or transfer any interest in this Agreement without the written consent of the other.

12. **Notices.** All payments and any notices or communications under this Agreement shall be in writing and shall be deemed to be duly given if served personally on the Party to whom it is directed or shall be deemed served when deposited in the United States Mail, certified or registered mail, return receipt requested, postage prepaid, and addressed in the case of:

Quality Testing: 1486 E. Poplar Street  
Fort Gibson, OK. 74434

Muskogee County: 400 W. Broadway  
Muskogee, OK. 74401  
Attn: Chairman Muskogee Co, BOCC

13. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

14. **Amendment.** This Agreement cannot be changed or supplemented orally and may be modified or superseded only by written instrument executed by all parties.

15. **Compliance with Law.** While performing the services contemplated by this Agreement, Quality Testing agrees to comply with all applicable laws and regulations.

16. **Requests.** Quality Testing agrees to timely and properly complete all reports requested by the Muskogee County or as required by law. In addition, Quality Testing agrees that Muskogee County has a right to a copy of all reports and other records created or maintained by Quality Testing.

17. **Counterparts.** This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

18. **Interpretation.** The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against either Party.

19. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties, and supersedes any prior agreement or understanding. There are no understandings, agreements, representations or warranties, expressed or implied, not specified in this Agreement. Quality Testing, by the execution of this Agreement, acknowledges that Quality Testing has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

20. **Warranty of Authority.** The persons signing this Agreement warrant that they are legally authorized to do so on behalf of the respective Parties, and by their signatures to bind the respective Parties to this Agreement.

21. **Attorneys' Fees.** If a party to this Agreement commences a legal action against the other party to enforce a provision of this Agreement or seek damages related to the services provided under this Agreement, the prevailing party in the legal action will be entitled to recover from the other party all of its reasonable litigation expense, costs, and fees actually incurred, including reasonable attorneys' and experts' fees.

**QUALITY TESTING**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**MUSKOGEE COUNTY**

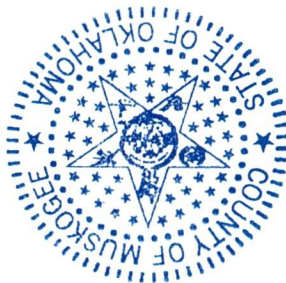
By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_



17 day of Nov 2025  
Chairman [Signature]  
Member [Signature]  
Member [Signature]  
Attest [Signature] County Clerk