

## **North Peoria Avenue Lighting Contract**

This agreement made as of the \_\_\_\_\_ day of May, 2017, by and between:

The Tulsa Development Authority

And

Third Generation Electrical, Inc.  
(The Contractor)

### **RECITALS**

- A. The Tulsa Development Authority (TDA) is entering into a contract for all labor and material required for the installation of street lighting for the North Peoria Street Lighting Project (the "Project") to be located on North Peoria Avenue, between Pine and Apache.
- B. All work shall be done by Contractor in accordance with the bid plans and specifications for the Project issued by the City of Tulsa and TDA. No change shall be allowed in the scope of work, plans, materials or specifications for the Project without a revision or amendment to this contract approved by a majority vote of the Board of Commissioners of TDA.
- C. The Contractor shall acquire and pay for all permits and inspections for the work required to complete the Project in accordance with the bid plans and specifications. The City of Tulsa Electrical Department shall review and sign off on the electrical work as required. The general construction inspection and the determination of suitability of the work for compliance with the bid plans and specifications shall be performed by D.W. Gates Engineering Services (the "Project Engineer"). Final acceptance of performance by Contractor shall be determined by a majority vote of the Board of Commissioners of TDA.
- D. The Contractor, as an independent electrical contractor engaged in the business of electrical construction, represents that he and/or it is in a position to provide the required work and shall only use qualified people in the work on this project.
- E. All material used by Contractor on the Project shall be new (no exceptions). No material shall be ordered by Contractor prior to receipt of written approval from the Project Engineer. Contractor shall submit to the Project Engineer for approval materials conforming to the bid plans and specifications.

In consideration of the mutual covenants set forth in this contract, the parties agree as follows:

**SECTION ONE**  
**TERM**

This contract is effective upon execution by the parties and shall continue until the completion of construction of the Project by Contractor in conformity with the bid plans and specifications and payment therefor by TDA, subject to prior termination as provided herein.

**SECTION TWO**  
**DESCRIPTION OF WORK**

- A. Contractor agrees to provide labor, equipment and material to install street lighting for the North Peoria Street Lighting Project (the "Project") to be located on North Peoria Avenue, between Pine and Apache, in accordance with and in conformity to the bid plans and specifications, within 300 days from the issuance of a notice to proceed by TDA.
- B. This shall be a turn-key project, and miscellaneous items required to complete this job shall be included with bid price for the associated pay item. If field conditions or project changes require additional materials, Contractor shall be reimbursed at the bid price rate shown in their quote for such material(s).
- C. Contractor shall, at all times, keep a safe worksite that provides minimal risk to the public. When traffic is impacted, proper traffic control (per ODOT and City of Tulsa standards) shall be provided. Any blockage of the street or lane closures shall not proceed without coordination and approval from the City of Tulsa Traffic Engineering Department.
- D. Contractor is aware of and acknowledges that there are existing, buried conduits containing active utility lines in the work area of the Project. Contractor shall locate and mark these conduits and utility lines before excavation in the work area. Contractor is also aware of and acknowledges that there are wires and conduits in the planters feeding holiday lighting. Contractor shall be responsible for payment or reimbursement of the cost of repairing any damaged circuits at Contractor's sole expense.
- E. TDA has hired its own inspector to coordinate the construction work. The inspector (D.W. Gates) shall review submittals, attend project meetings, approve pay request and answer contractor design questions

and interface between TDA, the contractor and the City of Tulsa. The City of Tulsa electrical department may assign an inspector to review the electrical work to insure compliance with the city of Tulsa electric code.

- F. In the event that Contractor received questions from property owners about service removal or reconnection, the location of poles in front of their property and other issues, Contractor shall contact Project Engineer Derek Gates at (918) 583-6905.
- G. No work shall commence until the Contractor has provided documents, reasonably acceptable to the Project Engineer and TDA, showing a 100% performance bond in place payable to TDA to secure the completion of all work covered in this contract, as provided in the bid documents.

### **SECTION THREE SUPERVISION AND INSPECTION**

- A. Contractor shall cause work under this contract to receive constant supervision by a capable, experienced and reliable project superintendent and be performed by such skilled workmen as required for completion of the job.
- B. Acceptance of work by TDA shall not preclude the subsequent rejection of such work if such work is thereafter found to be unsuitable by TDA or the Project Engineer. Work deemed to be unsuitable shall be remedied by and at the expense of Contractor.

### **SECTION FOUR PRICE AND PAYMENT**

- A. The Tulsa Development Authority shall pay Contractor for the work performed in completion of the Project in according to the unit prices for items identified in the bid documents and in a total amount not to exceed the Maximum Contract Price of Three Hundred Eighty-One Thousand Six Hundred Eleven and 43/100 Dollars (\$381,611.43) established by the bid of Contractor for the Project accepted by TDA. Expenses incurred by Contractor for miscellaneous parts and labor for connection and testing to be included in the maximum contract amount.
- B. Contractor shall submit invoices requesting payment for work completed not later than the 15th of each month. If the completion of the work invoiced is determined and evidenced in writing by the Project Engineer to be satisfactory and recommended for payment, the Tulsa Development Authority shall endeavor to pay the invoice within 30 days following receipt of the Project Engineer's recommendation for payment. Any invoice containing a request for

payment of work or materials supplied by a subcontractor shall separately identify the subcontractor(s), the work performed or materials furnished and the amount thereof. The final invoice shall be accompanied by a release of materialman's lien by all subcontractor(s), laborers and materialmen..

- C. In the event that there is a dispute as to whether the work set out on an invoice has been completed, payment shall not be made until the parties are in agreement that the work has been properly completed;

## **SECTION FIVE PROTECTION OF PERSONS AND PROPERTY**

Contractor shall at all times take all reasonable precautions for the safety of its employees and the public and shall comply with all applicable provisions of federal, state and municipal safety laws and construction codes, as well as the safety rules and policies of The State of Oklahoma. All machinery, equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of the Associated General Contractors of America unless such instructions are incompatible with federal, state or municipal laws or regulations.

In furtherance of and not in limitation of the above general statement, Contractor shall also be subject to the following specifics;

- A. Contractor shall so conduct work under this Contract so as to cause the least possible obstruction of public walkways, bicycle paths, streets and highways.
- B. Contractor shall provide and maintain all such guard lights and other protection for the public as may be required by applicable statutes, ordinances and regulations or by local conditions. Contractor shall comply with all applicable statutes, ordinances, rules and regulations pertaining to the work.
- C. Where the right-of-way and work areas traverses public buildings and spaces, Contractor shall limit the movement of its crews and equipment so as to cause as little inconvenience as possible to employees, shoppers, travelers by vehicles or bikes and pedestrians. Any open ditches or trenches shall be fenced off and preferably filled. No open holes or trenches are to be left accessible to vehicular, bike or pedestrian traffic prior to or after work hours.
- D. The Contractor shall defend, indemnify, and hold harmless the Tulsa Development Authority (TDA), its officers, commissioners, employees, agents and contractors from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) or personal loss, injury, or death to persons (including but not limited to Contractor's employees) and loss, damage to or destruction of city property or the property of any other person or entity (including but not limited to Contractor's property) in any

manner arising out of or connected with the contract, or the materials or equipment supplied or services performed by Contractor, its subcontractors and suppliers of any tier. Nothing herein shall be construed as making Contractor liable for any injury, death, loss, damage or destruction caused by the sole negligence of others.

- E. To the maximum extent permitted by law, Contractor shall defend, indemnify, and hold harmless the Tulsa Development Authority (TDA) and its commissioners, officers, employees, agents and contractors from all liens and claims filed or asserted against the TDA, and or its commissioners, officers, employees, agents and contractors, or the property or facilities of any entity or person so indemnified, for services performed or materials or equipment furnished by Contractor, its officers, employees, agents, subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Contractor shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify the TDA promptly when Contractor has done so. If Contractor does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, the TDA shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Contractor. Contractor shall provide, to the TDA's satisfaction, evidence of Contractor's ability to comply with the indemnification provisions above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company and as defined in the bid documents.

## **SECTION SIX INSURANCE**

Contractor shall take out and maintain throughout the period of the contract, the following minimum amounts of insurance;

- A. Workers compensation and employer's liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor under the contract. If any employer or employee is not subject to worker's compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee and employee coverage to the same extent as though the employer or employee were subject to the worker's compensation laws.
- B. Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than \$1 million each occurrence, limits for property damage of not less than \$1 million each occurrence, and \$1 million aggregate for accidents during the policy period. A single limit of \$1 million of bodily injury and property damage is acceptable. This required insurance may be

in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

- C. Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, non-owned, or hired, shall have limits for bodily injury or death of not less than \$1 million per person and \$1 million each occurrence and property damage limits of \$1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.
  
- D. The Tulsa Development Authority shall be named as Additional Insured on all policies of insurance required in subsections B and C of this Section. The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Tulsa Development Authority (TDA). Contractor shall furnish a certificate evidencing compliance with the foregoing requirements, which shall provide not less than 30 days prior written notice to the Tulsa Development Authority (TDA) of any cancellation or material change in the insurance. Wording in the contract must be typed (no cross outs) and shall state definitively the 30 day notice of cancellation.

## **SECTION SEVEN DEFAULT**

If default shall be made by Contractor or by any subcontractor in the performance of any of the terms of this contract, the TDA, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon contractor, a written notice requiring Contractor to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon Contractor, such default shall be corrected or arrangements for the correction thereof satisfactory to TDA shall be made, the TDA may take over the work and prosecute the same to completion by contract or otherwise for the account and at the expense of contractor, and contractor shall be liable to the TDA for any cost or expense in excess of the contract price occasioned thereby. In such event the TDA may take possession of and utilize, in completing the work, any materials, tools, supplies, equipment, appliance and plant belonging to contractor or any of its subcontractors, which may be situated at the site of the work. The TDA in such event, may exercise any rights, claims, or demands which Contractor may have against third persons in connection with this contract and for such purpose Contractor does hereby assign, transfer, and set over unto TDA all such rights, claims, and demands.

## **SECTION EIGHT NON-ASSIGNABLE**

Contractor shall not assign this contract or any part thereof or enter into any contract with any person, firm or corporation for the performance of contractor's obligations there

under, or any part thereof, without the approval of the Tulsa Development Authority in writing.

**SECTION NINE  
NOTICE**

Any notice required under this contract shall be in writing and shall be deemed to have been duly served upon placement in the U.S. Mail if sent registered or certified mail to Contractor at the following address:

Daniel J. Stefanoff, President  
Third Generation Electrical, Inc.  
8620 S. 33<sup>rd</sup> West Ave.  
Tulsa, OK 74132

**SECTION TEN  
PARTIAL INVALIDITY OF CONTRACT**

If any provision of this contract shall contravene, or be invalid, under Federal or State of Oklahoma laws, rules or regulations, such contravention or invalidity shall not invalidate the entire contract, but it shall be construed as if not containing the particular provisions held to be invalid, and the rights and obligations of the parties shall be construed and enforced accordingly.

**SECTION ELEVEN  
LAW GOVERNING**

This contract shall be governed by the laws of the State of Oklahoma.

**SECTION TWELVE  
PARTIES BOUND BY CONTRACT**

This contract is binding upon the successors and assigns of the parties.

**SECTION THIRTEEN  
HEADINGS**

Headings used in this contract are inserted only for the convenience of the parties and shall not affect the interpretations or construction of this contract.

SECTION FOURTEEN  
EXECUTION

This Contract may be executed in multiple counterparts each of which so executed shall be deemed to be an original and shall be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed on the date indicated.

**TULSA DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Roy Peters, Jr., Chairman

“TDA”

Date: \_\_\_\_\_

**THIRD GENERATION ELECTRICAL, INC.**

By: \_\_\_\_\_  
Daniel J. Stefanoff, President

“Contractor”

Date: \_\_\_\_\_