

This document has important legal consequences; consultation with an attorney is encouraged with respect to its completion or modification.

**STANDARD
FORM OF AGREEMENT
BETWEEN CITY OF LAWTON
AND INFRASTRUCTURE MANAGEMENT
SERVICES
FOR
PROFESSIONAL SERVICES**



Issued By
CITY ENGINEERING DIVISION
In conjunction with the
CITY'S LEGAL SERVICES DEPARTMENT

CITY HALL, 212 SW 9th Street

Lawton, Oklahoma

AGREEMENT

BETWEEN

CITY OF LAWTON AND INFRASTRUCTURE MANAGEMENT SERVICES

FOR

PROFESSIONAL SERVICES

FOR

City of Lawton Project Number: EN2103
LAWTON PAVEMENT MANAGEMENT PROGRAM

CITY OF LAWTON

COMANCHE COUNTY, OKLAHOMA

DATE: October 26, 2021

PREPARED BY:
City of Lawton
Engineering Division

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CONSULTANT SERVICES AGREEMENT

City of Lawton Project Number EN2103

This AGREEMENT, effective this _____ day of _____ 2021, is by and between:

City of Lawton, OK
212 SW 9th St.
Lawton, OK 73501

Hereinafter called CLIENT, and

IMS Infrastructure Management Services, L.L.C
8380 S Kyrene Rd, Ste 101
Tempe, AZ 85284

Hereinafter called CONSULTANT, who agree as follows:

PART I - RECITALS

CLIENT desires to engage CONSULTANT to provide professional consulting services to complete a comprehensive pavement condition survey for Lawton, OK as described in Section II – Scope of Services, and to render its services in the terms and conditions provided in this agreement.

Both CLIENT and CONSULTANT agree that execution of this AGREEMENT is a material element of the consideration to execute the Services. Additional terms and conditions may be added or changed only by written amendment to this AGREEMENT signed by both parties. In the event CLIENT uses a purchase order or other form of documentation to administer this AGREEMENT, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This AGREEMENT shall not be assigned by either party without prior written consent of the other party.

In consideration of the rights and obligations hereinafter specified, CLIENT and CONSULTANT agree as follows:

PART II - SCOPE OF SERVICES

The scope of CONSULTANT's services ("Services") and project deliverables are described in **Attachment A – Scope of Services**, the contents of which shall be incorporated into this AGREEMENT.

PART III - COMPENSATION

CLIENT shall pay compensation to CONSULTANT for the Services performed under this agreement according to the proposed budget, presented in **Attachment B – Project Fees**.

CONSULTANT may invoice CLIENT at least monthly, and payment is due upon receipt of invoice. The Invoice shall follow the fee schedule and be based on percentage complete or other agreed upon milestones. Documentation in the form of a project status spreadsheet shall be supplied in support of each invoice. No withholdings shall be made. CLIENT shall notify CONSULTANT, within 15-20 business days of the date of the invoice if CLIENT objects to any portion of the charges on the invoice and shall promptly pay the undisputed portion.

CLIENT shall make prompt monthly payments in response to CONSULTANT's monthly statements.

PART IV - PROVISIONS

1. **PERIOD OF SERVICE** - Work shall be initiated upon written authorization from CLIENT or execution of this agreement. The contract shall remain in force until the project is completed and notification of completion is submitted by CONSULTANT to CLIENT or December 31st, 2023 – whichever comes first. CONSULTANT estimates 12 – 16 months to complete project, but it is understood that completion is dependent upon client responsiveness, changes in scope, weather, and other external factors.
2. **WARRANTY** – CONSULTANT warrants to CLIENT that it will perform the services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. CONSULTANT MAKES NO OTHER WARRANTIES OR GUARANTEES, EXPRESSED OR IMPLIED, RELATING TO CONSULTANT'S SERVICES OR SOFTWARE PROVIDED BY OTHERS, AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
3. **CONSEQUENTIAL DAMAGES** – CONSULTANT SHALL NOT BE LIABLE TO CLIENT FOR LOSS OF PROFIT OR REVENUE, LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, OR SERVICES; COST OF CAPITAL OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.
4. **INDEMNIFICATION** – CONSULTANT shall defend, indemnify, and hold harmless CLIENT, their agents, officers, members and employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by CONSULTANT's negligent acts, errors, or omissions. The maximum amount of any claims, losses, damages, or expenses shall not exceed the value of the AGREEMENT. In the event such claims, losses, damages, or expenses are caused by the joint or concurrent negligence of CLIENT and CONSULTANT, they shall be borne by each party in proportion to its own negligence under comparative fault principles.
5. **INSURANCE** - CONSULTANT represents that it now carries, and will continue to carry the following minimum insurance applicable to the project.

Type of Insurance	Limits Of Liability
Commercial General Liability	\$1,000,000 (per occurrence)
Automobile Liability	\$1,000,000
Workers Compensation	As per applicable state law

6. **DISPUTES** – The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").
 - 6.1 **GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the laws of the State of Oklahoma.
 - 6.2 **NEGOTIATION.** Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within thirty (30) days from the Notice of Dispute, either Party may request mediation.

- 6.3 **MEDIATION.** If mediation is requested the parties will select an independent mediator within thirty (30) days of a notice to mediate from either Party ("Notice of Mediation"). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute. Unless mutually agreed otherwise by the parties, any mediation brought under this section will be held in Lawton, Oklahoma.
- 6.4 **LITIGATION, VENUE and JURISDICTION.** If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation or if mediation is not requested within forty-five (45) days of receipt of the Notice of Dispute, either Party may then submit the Dispute to a court of competent jurisdiction in the State of Oklahoma. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts in such state over any claim or matter arising under or in connection with this Agreement. Venue of any such action will be the Oklahoma District Court of Comanche County, Oklahoma, or the Federal Court for the Western District of Oklahoma, whichever is appropriate. Nothing herein shall prevent either party from proceeding to court earlier, if necessary to protect the public health and safety.
7. **SEVERABILITY** – Any provision of the AGREEMENT which may be rendered null and void shall not invalidate the remainder of this AGREEMENT to the extent the AGREEMENT is capable of execution.
8. **TERMINATION** - The CLIENT and CONSULTANT reserve the right to terminate the contract at any time, and if this project should be abandoned, or the processing of same indefinitely postponed, or contract terminated for any other reasons, the CONSULTANT shall be paid the reasonable value by the CLIENT for the data delivered or ready for delivery upon receipt thereof based upon availability of funds for this work, and such determination by the CLIENT shall be conclusive and binding. Prior to the award of the contract to the CONSULTANT, the CLIENT shall confirm to the CONSULTANT and provide satisfactory proof that funds for the amount of the contract have been authorized, allocated, and reserved for payment of the CONSULTANT's fee.
9. **CONFIDENTIALITY** - CLIENT and CONSULTANT agree not to disclose any confidential or proprietary information of the other to any person unless requested in writing from the other to do so, and to bind its employees, officers and agents to this same obligation.
10. **OWNERSHIP OF DOCUMENTS** – Work product, such as field data, analyses, calculations, notes and other records relating to the project prepared by CONSULTANT shall be co-owned by CONSULTANT and Client. The CLIENT shall have use of the work product and software for the sole benefit of CLIENT with no third party beneficiaries intended. Reliance upon the Services and any work product is not intended for third parties. Files shall be maintained for a period of three (3) years by CONSULTANT.
11. **SAFETY** - Safe practices are to be considered a priority requirement in the performance of this AGREEMENT. CONSULTANT will comply with the provisions of Federal, State and local health and safety requirements.
12. **NON-DISCRIMINATION IN EMPLOYMENT** - CONSULTANT agrees and hereby certifies that in providing the services hereunder, it shall not discriminate against any employee or applicant because of race, color, religion, age, sex, or national origin. CONSULTANT shall abide by provisions of all applicable governmental regulations pertaining to non-discrimination.
13. **NOTICES** – All notices hereunder materially changing this AGREEMENT must be in writing to the designated CLIENT contact and CONSULTANT project manager.

14. FORCE MAJEURE – Neither CLIENT nor CONSULTANT shall be considered in default in the performance of its obligations hereunder if such obligations were prevented or delayed by any cause beyond the reasonable control of the party which include, but are not limited to acts of God, labor disputes or civil unrest.
15. ADDITIONAL TERMS - None.

PART V - SIGNATURES

The parties have caused this AGREEMENT to be executed in duplicate counterparts, each of which shall be considered as an original by their duly authorized offices.

CLIENT: Lawton, OK

By:

_____	Signature	_____	Title
_____	Printed Name	_____	Date

CONSULTANT: IMS INFRASTRUCTURE MANAGEMENT SERVICES, LLC

By:

	Signature	Firm Principal	Title
Derek Turner, MBA			
_____	Printed Name	12/22/2021	Date

Attachment A: Scope of Work



To: Joseph Painter, Director of Engineering
From: Jeff Myers, M.S.A., Client Services Manager

Date: October 11, 2021
Project: RFP – Municipal Pavement Management Program

Subject: Project Scope of Work

Project No:

Thank you for selecting IMS to conduct the network wide pavement data collection assignment. As discussed, a scope of services has been developed from our recent discussions, as well as the request for proposals document. The subsequent pages of this document will highlight the project scope and will define the associated activities and deliverables. The associated fees will be provided in Attachment B: Project Fees.

Detailed Scope:

GIS / Network Inventory

Scope Details:

- *Project Initiation*
 - Confirm scope, extent, and content of surveys, set milestones, and confirm deliverables.
 - Confirm key contacts, roles and responsibilities, and project documentation.
 - Confirm communication cadence, including regular updates with details and narrative around progress and any expected delays.
 - Provide periodic progress reports on milestones and changes in anticipated schedule.
 - Identify location of key data elements such as traffic data, GIS, existing roadway inventories, and pavement management data.
 - Identify deficient data and the means to obtain it.
 - Confirm phases of the work and invoicing methodology.
- *Network Referencing & GIS Linkage*
 - Gather existing centerline topology for data collection preparation.
 - Obtain/confirm roadway attributes from GIS for functional class, traffic (if available), width, length, pavement type, etc. If not available, devise plan to obtain them.
 - Review existing segmentation, recommend updates. Review and audit the City's roadway inventory (PMS/GIS linkage, functional class, surface type, length, width, and number of lanes).
 - Split, combine, or add new sections as necessary.
 - Ensure each segment is linked to its appropriate parent GIS section.
 - Develop field survey maps and detailed network inventory for use by the RST and client review.

Deliverable Details:

- Completed survey map approved by the City.

Attachment A: Scope of Work



Pavement Assessment

Scope Details:

- *Data Collection (LCMS-2)*
 - Mobilize LCMS-2 RST testing equipment to project.
 - Demonstrate the equipment to City personnel.
 - Calibrate equipment.
 - Complete single lane testing on all residential roadways, and two-lane testing (outside lanes) on all collector, arterial, and divided roadways.
 - Collect data for approximately 800 test miles, based upon testing residential in one pass, and arterials/collectors in two passes.
 - Collect modified ASTM D6433 distresses and attributes delivered in block-to-block segmentation basis. Distresses to include: **Ashpalt** – transverse profile, transverse cracks, longitudinal cracks, alligator cracking, map cracking, edge cracking, distortions (bumps, sags, heaves, depressions, corrugations, shoving & swells), bleeding, raveling, patching/potholes. **Concrete** – transverse cracks, longitudinal cracks, divided/shattered slabs, corner breaks/durability cracking, joint spalling/sealant damage, faulting, polished aggregate, scaling/texture, patches/pop-outs.
 - Survey all residential roads with one pass, while surveying all arterial and collector roads in two passes.
 - Collect crossfall, radius of curvature and grade.
- *Data Collection (Dynalect)*
 - Mobilize Dynaflect testing equipment to project.
 - Demonstrate equipment to City personnel
 - Calibrate Equipment
 - Complete testing on 243 test miles of arterial and collector roadway.
 - Testing collected with multi-sensor deflection equipment at an average of 500 ft intervals.
 - Collect GPS and temperature
 - Shadow vehicle provided by City for traffic control
- *Provision of Digital Images*
 - Process one view of digital video at 15-20 ft intervals.
 - Deliver images as a personal geodatabase
- *Data Processing and QC*
 - Develop exceptions report for lengths that do not match GIS within 15% or 50 ft.
 - For each data stream (surface distress, roughness, GPS), aggregate and process the data at the segment level.
 - Develop individual index scores for surface distress, and roughness as appropriate.
 - Develop a pavement condition index for each section.
 - Produce shape files of the processed data.
 - Complete quality review of data.

Attachment A: Scope of Work



- *Sample Data Set*
 - A sample data set, including both condition data and ROW databases will be delivered to the City for review and internal QC.
 - Data collection will continue as the City assesses the data viability.
 - IMS will work with the City to determine the area for the sample data set.

Deliverable Details:

- External hard drive with personal geodatabase and archive of images collected from the network. Images provided at 15–20-foot intervals. One of the following image views will be provided (Left Front: LF; Right Front: RF; Rear Downward: DW; Left Rear: LR).
- Client Review Spreadsheet with segment level data and visual summarization for Client review.

Pavement Analysis, Budget Development and Results

- Review PCI thresholds, cost of deferment, strength indexes, functional classification, and all other weighted criteria.
- Program critical set points and maintenance activities.
- Develop operating parameters with City of Lawton cooperation and input.
- Present status and PCI report in Excel format c/w PCI charts and backlog.
- Fix all needs analysis and budget.
- Steady state (SS), do nothing, unlimited, SS plus 50%, SS minus 50%.
- Budget driven analysis (\$/yr estimate).
- Integrate City capital plans and “must do’s” (\$ to hit set PCI and backlog target).

Deliverable Details:

- Easy Street Analysis (ESA) interactive spreadsheet

Final Pavement Management Report

- After reviewing the analysis and finalizing the results, begin assembling a comprehensive report.
- The report shall include a summary of the network value, pavement condition, rehabilitation & maintenance treatments, budget scenarios, PCI definitions, analysis operating parameters, and the results of the survey.
- The written report shall be supplemented with appendix’s that contain segment level data.
- Deliver draft report to City and incorporate any modifications to the analysis or reporting methodology.

Deliverable Details

- Delivery of formal final report in City of Lawton designated format.

Attachment A: Scope of Work



Right-of-Way Asset Inventories

Scope Details:

- Develop ROW asset inventories for Signs/Supports, Traffic Signals, ADA Ramps, Curb/Gutter, Pavement Markings/Stripings, Sidewalks, Bridges
- Extract right-of-way assets from imagery.
- Match existing asset IDs as part of verification process for all asset categories
- See Master Asset List (MAL) attachment for details related to specific attributes for all inventories.

Deliverable Details:

- Final deliverable will be an ESRI GIS File Geodatabase with individual feature classes for each asset data deliverable.

Thank you for your interest and confidence in Infrastructure Management Services as your pavement and asset management specialists. We will strive to be an asset and extension of the City of Lawton staff and team. If any questions arise, please do not hesitate to contact me at (417) 372-7021 or jmyers@imsanalysis.com.

Regards,

IMS Infrastructure Management Services

A handwritten signature in black ink, appearing to read "Jeff Myers", is written over a faint, stylized graphic that resembles a large, abstract letter 'M' or a signature.

Jeff Myers, M.S.A.,
Central Region Manager of Client Services

Attachment B

Project Fees



IMS Infrastructure Management Services
8380 S Kyrene Rd, Ste 101, Tempe, AZ 85284
Phone: (480) 839-4347 Fax: (480) 839-4348
www.imsanalysis.com

To: Joseph Painter, Director of Engineering

Date: October 11, 2021

From: Jeff Myers, M.S.A., Client Services Manager

Project: RFP – Municipal Pavement Management Program

Subject: Project Fees

Project No: N/A

IMS Infrastructure Management Services is pleased to submit this fee schedule in reference to the 2021 Municipal Pavement Management assignment. As discussed, the project fees have been developed from our recent discussions, the request for qualifications document, and a budget has been provided below to match the services detailed in Attachment A: Scope of Work

Task	Activity	Quant	Units	Unit Rate	Total
Project Initiation					
1	Project Initiation	1	LS	\$3,000.00	\$3,000.00
2	Network Referencing & GIS Linkage	800	T-Mi	\$10.00	\$8,000.00
3	Network Inventory Checks & Survey Map Development	800	T-Mi	\$6.00	\$4,800.00
Field Surveys					
4	RST Mobilization/Calibration	1	LS	\$2,500.00	\$2,500.00
5	RST Field Data Collection - Pavements	800	T-Mi	\$90.00	\$72,000.00
6	Dynalect Mobilization	1	LS	\$2,500.00	\$2,500.00
	a. Deflection Testing (Arterials & Collectors)	243	T-Mi	\$160.00	\$38,880.00
	b. Traffic Control (provided by City of Lawton)	243	T-Mi	\$0.00	\$0.00
Data Management					
7	Data QA/QC, Processing, Format, & Supply (Excel; Shapefile; KML)	800	T-Mi	\$17.00	\$13,600.00
8	Condition Data Spreadsheet	1	LS	\$2,000.00	\$2,000.00
9	Pavement Analysis, Budget Development and Final Report	1	LS	\$7,000.00	\$7,000.00
	a. "ESA - Easy Street Analysis" Pavement Management Spreadsheet Software			Included in Analysis	
	b. Customizable Prioritization & Cost-Benefit Analysis			Included in Analysis	
	c. Online ESA Spreadsheet Training via WebEx			Included in Analysis	
	d. Analysis Maps			Included in Analysis	
10	Final Report (2 Bound Copies)	1	LS	\$2,500.00	\$2,500.00
11	Project Management	1	LS	\$3,136.00	\$3,136.00
	ROW Asset Data Collection (GPS and ROW Imagery)	800	T-Mi	\$12.00	\$9,600.00
	a. Sign & Support Database Development	800	T-Mi	\$90.00	\$72,000.00
	b. Traffic Signal Database Development	800	T-Mi	\$36.00	\$28,800.00
	c. ADA Ramp Database Development	800	T-Mi	\$54.00	\$43,200.00
	d. Curb & Gutter Database Development	800	T-Mi	\$45.00	\$36,000.00
	g. Markings & Striping Database Development	800	T-Mi	\$54.00	\$43,200.00
	h. Sidewalk Database Development	800	T-Mi	\$45.00	\$36,000.00
	g. Bridge Database Development	800	T-Mi	\$23.00	\$18,400.00
	Council Presentation	1	LS	\$3,500.00	\$3,500.00

Project Total: \$450,616.00