

PW4040

REQUEST FOR ACTION: CONTRACT

Version: 05/01/2002

AGENDA FOR: MAYOR COUNCIL AUTHORITY: DATE: June 8, 2009
Tulsa City Clerk's Office: 596-7513 or 596-7514

FOR INFORMATION CONTACT:

DEPARTMENT: PUBLIC WORKS	CONTACT NAME: PAUL D. ZACHARY <i>PB 6/8/09</i>	
ADDRESS: 2317 S. JACKSON AVE., RM S-200	TELEPHONE: 576-5679 (Dennis Whitaker)	
CONTRACT TYPE: LEASE AGREEMENT	CONTRACT #:	
CONT. DOC. TYPE: CONTRACT	AMOUNT:	
PROJECT TITLE: CENTENNIAL RED FORK DERRICK		
CONTRACTOR: SOUTHWEST TULSA CHAMBER OF COMMERCE, INC		
BID/TAC/PROJECT #:	EXTENSION DAYS:	COMMODITY CODE:
RENEWAL, AMENDMT, CHNG # of x PERCENT:	TOTAL PERCENT:	COUNCIL DIST:

SUMMARY:

Applicant: Southwest Tulsa Chamber of Commerce, Inc.
Location: 4981 South Union Avenue. Tulsa, OK 74107

Lessee has applied for the City to allow improvement consisting of Red Fork Centennial Derrick. In a location visible to the public, for the benefit and enjoyment of the public and for the enhancement of Lessee commercial district, said improvement to be funded and maintained solely from non-City funds. The location of the Derrick shall be mutually determined. Location of Derrick will be approximately as shown in Exhibit C.

Public Works offers no objection to the Lease Agreement.

BUDGET: FINANCE DIRECTOR APPROVAL:

CHECKLIST

FUNDING SOURCE(S):

- No Payments Involved
- Purchase Order
- Contract Encumbrance
- Affidavit Needed?

A

REQUEST FOR ACTION: All department items requiring Council approval must be submitted through Mayor's Office.

Recommend approval of application. Please return two executed copies to the Public Works Department, 2317 S. Jackson Ave., Rm S-200, Tulsa, OK 74107

Attachments

DEPARTMENT HEAD APPROVAL: *[Signature]*
 CITY ATTORNEY APPROVAL: *[Signature]* SWINNEY
 BOARD APPROVAL: _____
 MAYORAL APPROVAL: *[Signature]*
 OTHER: _____

DATE: 6/11/09
JUNE 8, 2009
JUN 15 2009

FOR CITY COUNCIL OFFICE USE ONLY: DATE RECEIVED: _____
 COMMITTEE: _____ COMMITTEE DATE(S): _____ FIRST AGENDA DATE: _____
 HEARING DATE: _____ SECOND AGENDA DATE: _____ APPROVED: _____

For City Clerk's Office Use Only (Agenda Date: MMDDYYYY; Sec #; Dept #, Item #, Sub-Item #, Status: S=Synopsis):

06 - 13 - 2009 3 20 11

Easement NO. 22952

**ROUTE 66 MEMORIAL SITE
LEASE AGREEMENT**

THIS AGREEMENT, entered into by and between the City of Tulsa, a municipal corporation, 200 Civic Center, Tulsa OK 74103 (the "City") and the Southwest Tulsa Chamber of Commerce, Inc. 4981 South Union Avenue, Tulsa OK 74107 (the "Lessee"),

WITNESSETH:

WHEREAS, City owns certain public property, to-wit:

A tract of land in the vicinity of 3816 & 3766 Southwest Boulevard, in the Southeast Quarter of Section 22, Township 19 North, Range 12 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, as more fully described on attached Exhibit "A" (herein, the "subject property"); and

WHEREAS, Lessee has a present need to use the subject property for the installation and display of a Red Fork Centennial Derrick, and

NOW, THEREFORE, City and Lessee have agreed to the lease of the above-described real property, upon the conditions, and according to the covenants, stated below:

WHEREAS, the City shall at all times during the term of this lease reserve the right to cause City personnel, contractors or equipment to enter upon the property, for any reason and for any public purpose.

1. TERM

The term of this lease shall be for a period of Ten (10) years, commencing on June 1, 2009, and terminating at 11:59 p.m. on May 31, 2019. This lease shall include two (2) noncompetitive five year renewal periods. This lease shall automatically renew itself from year to year on May 31 of each year thereafter, unless either party hereto shall give notice to the other party of its intention not to renew. Said notice must be given no later than three (3) months prior to the termination.

Upon notice of non-renewal, Lessee shall forthwith vacate the subject property, or City may use all means necessary to evict Lessee. Upon notice of non-renewal, Lessee shall, within ninety days of notice of non-renewal, remove Red Fork Centennial Derrick and all other improvements allowed during the term of this agreement or renewals.

Terms of this Paragraph do not apply to the conditions in Paragraph 12.

2. RENTAL

Easement NO. 22952

City shall charge lessee, and Lessee agrees to pay City, rent in the amount of Ten Dollars and No Cents (\$10.00) per year for every year of the existence of this lease, including any period of "holding over" after expiration or termination.

3. MAINTENANCE

Lessee shall assume maintenance duties on the subject property according to the attached minimum standards, and shall make no demand upon City for the furnishing of or payment for labor, materials, or equipment necessary so to maintain the property during the term of this lease. (See attached Exhibit B)

Separate License Agreement with the Save the Old Frisco Engine for Tulsa Committee, Inc. pertaining to the train and its maintenance shall remain in effect; provisions and terms of said license agreement remain the responsibility of Licensee.

Lessee shall be solely and exclusively responsible for the maintenance of the Red Fork Centennial Derrick, and for the maintenance of future improvements that are provided by Lessee in a functional, safe and attractive condition.

4. PLANS

Lessee agrees to lay-out and develop a Red Fork Centennial Derrick site upon the subject property, substantially in compliance with the plan therefor as set forth in "Site Plan", attached Exhibit C. Such site plan is to be approved by Public Works Department prior to permitting and installation. Lessee understands that said site must comply with the provisions of the Americans with Disabilities Act, and hereby agrees to design, construct and operate said site in full compliance with said Act.

5. RESTRICTED USE

Lessee shall not sublease the subject property, or use the subject property except as a Red Fork Centennial Derrick site, and shall not erect or permit or cause to be erected thereon any permanent fixture or improvement (including signs) unless Lessee shall have first submitted a written proposal for such permanent fixture to the Public Works or other appropriate department, board or authority and obtained from said department, board or authority written authorization to erect said fixture. Any said fixture or improvement shall be in compliance with all applicable Codes and Permitting.

6. PROHIBITED ACTS

Lessee shall not commit any act, or permit any act to be committed, on the subject property which violates any state or federal law or any City ordinance. At no time during the term of this lease shall Lessee perform or permit the cutting down or injury to any trees on the subject property, or the removal, excavation or relocation of any surface or subsurface of the subject property except with the permission in writing from the appropriate department, board or authority. In its

use of the subject property, Lessee covenants not to discriminate in its hiring, firing, membership, participation in events, charging of fees, or admission to Lessee's events, on the basis of race, creed, color or national origin, gender, age, status of handicap.

7. RESTORATION

In the event any fixture or improvement, as in paragraph 5 (above), or any cutting or relocation, as in paragraph 6 (above), is permitted by the department, board or authority, then upon termination of this lease, if requested in writing, Lessee agrees to remove said improvement, repair any damage or replace and restore any surface, so as to return the subject property to its pre-lease condition; provided that the City of Tulsa shall reserve the right to assume ownership, possession and control of said improvement upon such termination, without compensation to Lessee.

8. PUBLIC ACCESS

Although Lessee shall have the right to exclusive use of the subject property designated on Exhibit A, Lessee shall not deny or restrict the public's use of the subject property or the facilities thereon. Lessee shall, upon any reasonable request by the City or the Public Works Department, grant such entity the right to use the subject property and said facilities, for special functions which will be mutually agreed upon in writing. Nothing in this paragraph shall be construed to mean that Lessee is required to give up any previously scheduled use of the subject property, or that Lessee may not establish reasonable restrictions on the times or types of use by any requesting parties.

9. EXCLUSIVITY

This lease is exclusive to the Lessee, and Lessee is hereby granted the right to erect fences, gates, and/or signs, whose design and installation shall have been approved by with written authorization the Public Works Department and the City or appropriate authority, to keep third parties off the subject property. Lessee shall have the right to prevent uninvited entry onto the subject property, to request trespassers to leave the premises, and to participate in the prosecution of any trespass under Title 27 T.R.O. §§1800, 2106, etc. Nothing in this section shall be construed as permitting the discrimination, by Lessee, against any person because of race, color, creed, nationality, national origin, gender, age, or handicap.

10. INSURANCE

Lessee shall obtain, and shall maintain during the term of this lease, a policy of general liability insurance, underwritten by an insurer authorized to do business in the State of Oklahoma, and naming Lessee as insured and the City of Tulsa as additional insured. Said policy shall provide coverage for personal injury and property damage in the amount of one million dollars (\$1,000,000), or the statutory requirement, whichever is greater. In the event Lessee operates, permits or licenses a concession for the sale of food, beverage, or other items,

Lessee agrees to obtain insurance, in the same amount as above, which provides coverage for product liability. Lessee agrees that any such concession shall comply with all laws, regulations, and codes pertaining to public health, public access, food handling, vendors, taxes, licenses, etc. Lessee shall provide a certificate of insurance coverage (including renewals thereof) to City's Public Works Department.

11. INDEMNITY

Notwithstanding the provisions of paragraph 10 (above), Lessee agrees to indemnify and hold City harmless from and against all claims, suits, actions, appeals or damage brought by any party or member of the public, arising from any cause, including but not limited to: permitted and non-permitted use of the subject property, whether in programs and activities organized and supervised by Lessee or not, claims by third parties, bystanders, vendors, fans, invitees, concessionaires, licensees, City employees, trespassers and contractors, employees and agents of Lessee. City shall be liable for torts committed by City and City's employees acting within the scope of their employment, subject to the terms, conditions and exceptions contained in the Governmental Tort Claims Act, Title 51, Oklahoma Statutes, Sections 151 et seq.

12. TERMINATION, EVICTION

If Lessee shall fail or default in the observance of any of the terms, conditions or covenants of this Lease agreement, City shall have the option of immediately terminating the Lease, or notifying Lessee, in writing, of said failure and demanding correction thereof, which correction shall be accomplished by Lessee within fourteen (14) calendar days of said notification. If said correction is so made, City may waive its right to terminate the Lease. Upon termination of the Lease, Lessee shall forthwith vacate the subject property, or City may use all means necessary to evict Lessee. Upon eviction, Lessee shall remove Red Fork Centennial Derrick and all improvements allowed during the term of this agreement or renewals.

13. MANAGING DEPARTMENT

The department or entity responsible for the management of this lease and of the property shall be the Public Works Department.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the date below written.

THE CITY OF TULSA, OKLAHOMA

Mayor

JUN 15 2009

Date

ATTEST:

Anthony Mayhew
City Clerk **DEPUTY**



APPROVED:

Shirley Swiney
City Attorney

Debra Handt
Public Works Department

SOUTHWEST TULSA CHAMBER OF
COMMERCE, INC.

Richard Ryan
By

President
Title

5-28-09
Date

ATTEST

Brenda M. Burre
Corporate Secretary

EXHIBIT A
RED FORK CENTENNIAL DERRICK SITE

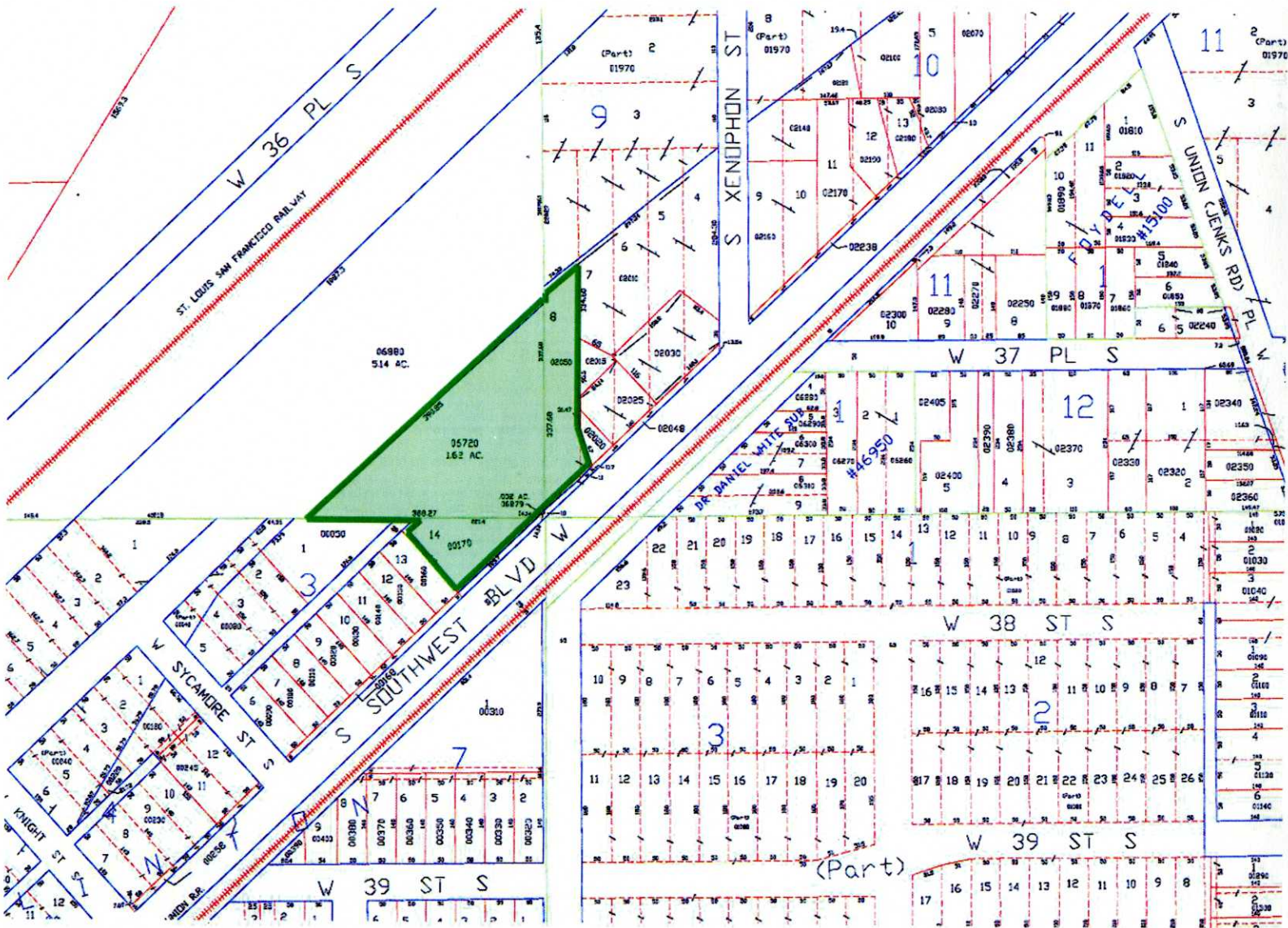


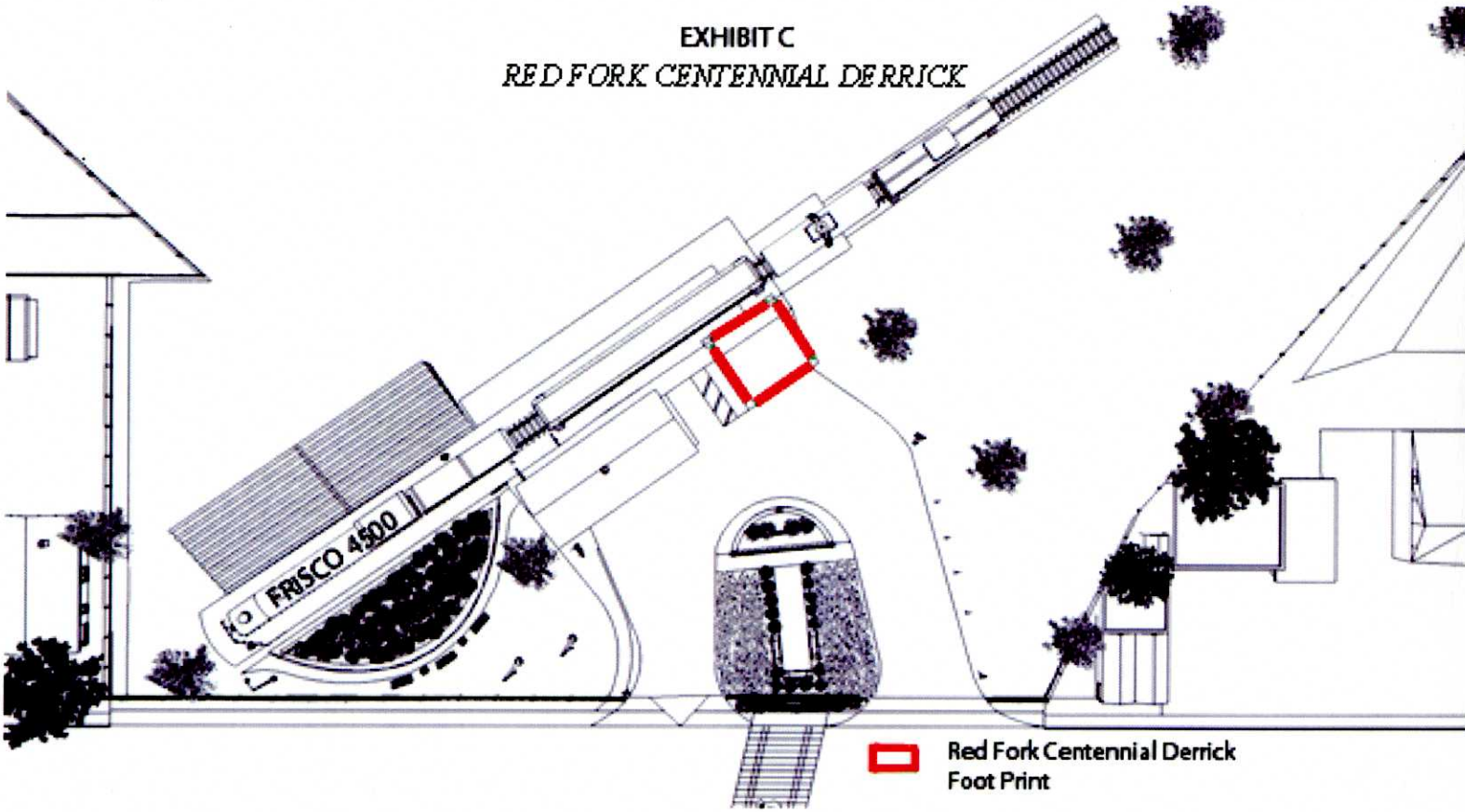
EXHIBIT "B"

Maintenance Requirements:

In accordance with these specifications and/or as directed by Public Works Department's representative, the Lessee shall be responsible for:

- A. Property Clean-Up: The property will be kept clean of litter, debris, dead limbs, etc.
- B. Grounds Mowing: All turf must be mowed every fourteen (14) days during the months of April through October, at a height of 1-1/2" to 2-1/4", with a fine cut mowing blade.
- C. Weeds/Grass Trimming: Remove or spray grass and weeds growing around trees, poles, sidewalks, trails, culverts, or bridges at least once every fourteen (14) days. Edging must be performed along curb lines and sidewalks every four (4) weeks unless needed more often. Turf clippings that are heavy or smothering after mowing are to be removed.
- D. Litter: All litter must be removed from the site before each mowing and at least once every fourteen (14) days. Litter receptacles are to be provided and emptied by the Lessee as needed. All grass and leaf clippings shall be swept and removed from sidewalks, street and maintenance trails after mowing as needed.
- E. Hazard Removal/Hazard Notification: Pick up and remove all broken glass from sidewalks and other hard surfaces and turf areas as needed, but at least once every fourteen (14) days, prior to mowing. Lessee must notify the Public Works Department representative of all hazards found within the mowing area. Hazards which may affect the safety of the public and need to be corrected by the City of Tulsa should be brought to the attention of the Public Works Department representative immediately.
- F. Damaged Property: The Public Works Department shall be notified of damaged plant materials resulting from mechanical injury or storm damage. Any hazardous conditions shall be reported to the City immediately. The Lessee will be responsible for repairs on all plant materials damaged by its employees or equipment during maintenance performance and be responsible for replacement of all trees, shrubs and groundcovers destroyed by Lessee's employees and equipment during performance of maintenance work. The City will determine the degree of damage. Lessee will confer with the Public Works Department representative before replacement of any dead or damaged materials to be planted. Turf damage will be corrected including reseeding of the damaged area at the Lessee's expense. The Lessee will be responsible for repairs to all damage to irrigation systems which occurs due to mowing operations.

EXHIBIT C
RED FORK CENTENNIAL DERRICK



CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

06/03/2009

PRODUCER GRAHAM - ROGERS, INC.

Dena Nicholas Ins Agency Inc.
5043 S. 33rd West Ave #101
Tulsa, OK 74107-7439

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY LETTER **A** Northfield Insurance Company

COMPANY LETTER **B**

COMPANY LETTER **C**

COMPANY LETTER **D**

COMPANY LETTER **E**

INSURED

Southwest Tulsa Community Chamber
PO Box 571292
Tulsa, OK 74157

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES, LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	WS042353	06/09/2009	06/09/2010	GENERAL AGGREGATE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				PRODUCTS-COMP/OP AGG.	\$ 1,000,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR.				PERSONAL & ADV. INJURY	\$ Excluded
	<input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT.				EACH OCCURRENCE	\$ 1,000,000
	<input type="checkbox"/>				FIRE DAMAGE (Any one fire)	\$ 100,000
					MED. EXPENSE (any one person)	\$ 5,000
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT	\$
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE	\$
	<input type="checkbox"/> HIRED AUTOS					
	<input type="checkbox"/> NON-OWNED AUTOS					
	<input type="checkbox"/> GARAGE LIABILITY					
	EXCESS LIABILITY				EACH OCCURRENCE	\$
	<input type="checkbox"/> UMBRELLA FORM				AGGREGATE	\$
	<input type="checkbox"/> OTHER THAN UMBRELLA FORM					
	WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS	
					EACH ACCIDENT	\$
					DISEASE - POLICY LIMIT	\$
					DISEASE - EACH EMPLOYEE	\$
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS Club & Park
\$500.00 PD deductible per claim.

Additional Insured:

City of Tulsa- Public Works
2317 S. Jackson Ave
Room 2008
Tulsa, OK 74107

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

