

MAY 01 2014

OKLAHOMA SECRETARY  
OF STATE**AGREEMENT BETWEEN THE QUAPAW TRIBE OF OKLAHOMA AND THE STATE  
OF OKLAHOMA FOR REMEDIATION OF CONTAMINATED PROPERTIES AT THE  
TAR CREEK SUPERFUND SITE**

The Parties to this Agreement, the Quapaw Tribe of Oklahoma (Tribe) and the State of Oklahoma, hereby agree that the Tribe will remediate certain contaminated properties pursuant to the Environmental Protection Agency's (EPA) OU4 Tar Creek Record of Decision (ROD). The State enters into this Agreement under the authority of Oklahoma Statutes, Title 27A §§ 2-3-201 and 2-3-202 and other relevant statutes.

**ARTICLE 1**

**DESCRIPTION OF PROJECT:** Landowners within the OU4 boundaries are being given an opportunity to have their property sampled and remediated if necessary. Attachment A is the statement of work which defines the work to be done.

**ARTICLE 2**

**COSTS FOR REMEDIATION OF CONTAMINATED PROPERTIES:** Oklahoma Department of Environmental Quality (DEQ) has requested approximately \$2 million dollars in funding from EPA to characterize and remediate properties that are part of the Tar Creek OU4 Superfund Site as defined in the ROD. Negotiated site specific costs will be attached as Attachment B.

**ARTICLE 3**

**DURATION OF AGREEMENT:** The Agreement begins May 1, 2014, and terminates April 30, 2015. This Agreement may be renewed annually. It is understood, acknowledged and agreed by and between the parties hereto that this Agreement is funded with federal dollars under a Cooperative Agreement between EPA and DEQ. If said funding is terminated or reduced for any reason, this Agreement shall also and necessarily be terminated or reduced accordingly and the respective obligations and duties of the DEQ and Tribe shall thereupon cease or be modified accordingly as of the effective date of such termination or failure to receive funding. Within 30 days of learning that the federal funding shall cease or be reduced, the DEQ shall notify the Tribe in writing of any such termination or reduction in funding.

**ARTICLE 4**

**PAYMENT:** The Tribe shall submit invoices for payment to DEQ within sixty (60) days of the end of the month in which the work was performed and accepted by DEQ. Each invoice must include an itemized statement of work performed and any additional information as requested by the DEQ. DEQ will confirm and accept performance of the itemized work in each invoice and provide payment to the Tribe within forty five (45) days thereof in accordance with Attachment A. The original amount of this Agreement is for \$2 million dollars. This amount may change depending on the addition of future projects through Agreement amendments and will be documented in a purchase order prepared by the DEQ.

## ARTICLE 5

AUDIT: Authorized personnel of the DEQ or the State Auditor and Inspector shall have right of access to any and all documents, books, papers, accounting procedures, practices or any other items relevant to this Agreement.

## ARTICLE 6

RECORDS: Tribe agrees to maintain all supporting documentation and required records for ten (10) years in accordance with generally accepted audit standards. All information generated by virtue of this Agreement shall become the property of the State of Oklahoma and, unless otherwise allowed by law and agreed in writing, shall be subject to public access.

## ARTICLE 7

GOVERNING LAWS: This Agreement shall be governed by the laws of the State of Oklahoma with respect to all contractual disputes, and jurisdiction and venue for such matters shall be in any state or federal court with jurisdiction.

## ARTICLE 8

AMENDMENT AND TERMINATION: This Agreement may be modified, changed or amended only by an instrument in writing, signed and dated by the parties and appended hereto. No statements or promises made by any party or its representatives that are not contained in this Agreement shall be valid or binding.

This contract is subject to termination upon thirty (30) days advance written notice by either party in whole or in part when it is determined that either party has failed to comply with any of the conditions of this Agreement or may be terminated in whole or in part in writing for convenience . Notice of termination shall be made by Certified Mail to the business address of record.

The address for DEQ is:

Legal: Martha Penisten	Technical: Angela Hughes
(405) 702-7100	(405) 702-5100
Oklahoma Department of Environmental Quality	
P.O. Box 1677, Oklahoma City, OK 73101-1677	
707 N. Robinson, Oklahoma city, OK 73102	

Address for the Tribe:

Tim Kent, Environmental Director  
Quapaw Tribe of Oklahoma Environmental Office  
P.O. Box 765  
Quapaw, Oklahoma 74363 Phone: (918) 542-1853

with a copy to:  
Stephen R. Ward, Conner & Winters, LLP  
4000 One Williams Center, Tulsa, Oklahoma, 74172-0148  
(918) 586-8978

## ARTICLE 9

### DUTIES AND RESPONSIBILITIES:

- A. The Parties agree that the Tribe will:
1. Assume all responsibility for work, workmanship, materials, labor, equipment, supplies, pollution prevention, cleanup, complaints, re-performance, maintenance, and all other associated work, including sampling and analysis.
  2. Provide all services, labor, materials, equipment, subcontractors, supplies and insurance required to perform the remediation in accordance with the approved statement of work (SOW), including schedule, unit price cost estimate, maps, storm water control plan, maintenance plan and reports, attached hereto and incorporated herein as part of this Agreement.
  3. Prepare and submit monthly progress reports no later than 5 working days from the end of the monthly reporting period to the DEQ detailing the status of activities, including progress, problems, delays and anticipated activities for the following month. Update and submit a project schedule that describes where and when work will start and end.
  4. Submit any proposed revisions of the SOW, including a schedule and cost estimates, to the DEQ for approval within 45 days prior to conducting work inconsistent with the original, approved SOW.
  5. The contaminated material removed will be field verified by a weight ticket for tracking purposes.
- B. The Parties agree that the DEQ will:
1. Any sampling or remediation of the contaminated property is contingent upon the obtaining written access from the property owner that includes access for the Tribe, DEQ, and EPA.
  2. Approve, in conjunction with EPA, a repository for contaminated material excavated during this remediation effort.
  3. Provide technical oversight, as needed.
  4. Provide other analysis, as needed.
  5. Provide assistance to the Tribe with community involvement activities as requested.
  6. Confirm project completion within 90 days of notification by the Tribe that the project is complete.

Nothing in this Agreement binds the DEQ to the manner, schedule, and suitability of materials or workmanship performed by the Tribe.

IN WITNESS WHEREOF, the STATE OF OKLAHOMA and the QUAPAW TRIBE OF OKLAHOMA have caused this Agreement to be executed and effective on the date of the last signature.

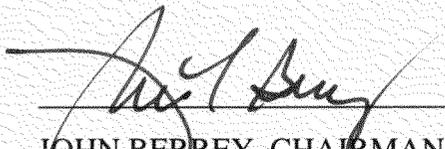
**STATE OF OKLAHOMA**

  
\_\_\_\_\_  
MARY FALLIN, GOVERNOR

05/01/2014  
\_\_\_\_\_  
DATE



**QUAPAW TRIBE OF OKLAHOMA**

  
\_\_\_\_\_  
JOHN BERREY, CHAIRMAN

4/22/14  
\_\_\_\_\_  
DATE