



City of Claremore, Oklahoma

MAY 25, 2024 TORNADO
City of Claremore, Oklahoma
REQUEST FOR PROPOSALS
FOR
DISASTER UTILITY DEBRIS
REMOVAL AND DISPOSAL
OF DAMAGED DISTRIBUTION
LINES
RFP# 2024-2

Prepared By:

Del Sol Consulting



101 Brookside Drive, Mandeville, LA

70471

June 16, 2024

Notice to Bidders

City of Claremore, Oklahoma

Emailed Bids will be received until the hour of **12:00 p.m. (Noon), on June 28, 2024** by email to Grady.Lemons@claremore.com, and reviewed at 12 pm, for furnishing all supervision, labor, materials, equipment, etc., and performing all work necessary for: The City of Claremore, Oklahoma Disaster Recovery Distribution, Removal and Disposal of Damaged Utility Poles, Static Wire, Conduction and all Associated Assets .

To be a valid delivery, Bids must be submitted electronically to email to Grady.Lemons@claremore.com.

Bids sent to any other email or location will not be considered.

This project consists of furnishing all supervision, labor, material and equipment necessary to Disaster Debris Removal and Disposal of Damaged Distribution of the City of Claremore Power Grid Line utility poles, static wire, conductor and all associated assets.

Electronic drawings and specifications are on file and can be secured from the City of Claremore via email – Grady.Lemons@claremore.com.

The City of Claremore, Oklahoma is an Equal Opportunity Employer. The City also encourages all small and minority-owned firms and women's business enterprises (DBE's, including MBE's, WBE's and SBE's) to apply.

Qualifications:

Provide information and past projects indicative of experience directly relating to the proposed services in this Request for Proposal. Provide three (3) specific projects, including client, project cost, project dates and detailed description of operations, within the last eight (8) years where Proposer removed, managed and disposed of debris in excess of fifty thousand (50,000) cubic yards. Provide an expanded list of past projects within the last ten (10) years which documents the successful and reliable services offered. The expanded list should include client, project cost, project dates and a brief narrative of operations. Each of the three (3) past projects should include contact information and reference to demonstrate the Proposer's Long-term commitment and investment in the emergency disaster services field.

TABLE OF CONTENTS

PART I: OVERVIEW	
1.1 Background	
1.2 Definitions.....	
1.3 Schedule of Events.....	
1.4 Bid Submittal	
PART II: SCOPE OF WORK/SERVICES.....	
2.1 Scope of work/Services	
2.2 Period of Agreement.....	
2.3 Price Schedule	
2.4 Deliverables.....	
2.5 Licensing Required	
PART III: EVALUATION	
PART IV: PERFORMANCE STANDARDS.....	
4.1 Performance Requirements	
4.1.1 Shop drawings, Brochures and Samples.....	
4.1.2 Record Drawings	
4.1.3 Progress of Work	
4.1.4 The Owner's Right to Proceed with Portions of the Work.....	
4.1.5 Time of Completion	
4.1.6 Extensions of Time for Change Orders.....	
4.1.7 Liquidated Damages	
4.1.8 Labor, Materials, Equipment, Supervision, Permits and Taxes	
4.1.9 Quantities of Estimate, Changes in Quantities, Extra Work.....	
4.1.10 Injuries to Persons and Property	
4.1.11 Sanitary Provisions	
4.1.12 Rights of Way	
4.1.13 Protection and Restoration of Property and Landscape	
4.1.14 Contractor's Responsibility for Work.....	
4.1.15 Tests and Inspections; Correction and Removal of Defective Work	
4.1.16 Subsurface Conditions	
4.1.17 Removal and Disposal of Structures and Obstructions	
4.1.18 The Owner's Right to Occupancy	
4.1.19 Survey Horizontal and Vertical Control	
4.2 Compliance With Applicable Laws	
4.3 Site Visitation.....	
PART V: GENERAL PROVISIONS	
5.1 Legibility/Clarity.....	
5.2 Confidential Information, Trade Secrets, and Proprietary Information	
5.3 Bid Clarifications Prior to Submittal	
5.3.1 Pre-Bid Conference.....	
5.3.2 Respondent Inquiry Periods	
5.4 Errors and Omissions in Bid.....	
5.5 Changes, Addenda, Withdrawals	
5.6 Withdrawal of Bid.....	
5.7 Material in the Bid Request	

5.8	Waiver of Administrative Informalities.....	
5.9	Bid Rejection	
5.10	Ownership of Bid	
5.11	Cost of Offer Preparation	
5.12	Non-negotiable Contract Terms	
5.13	Taxes	
5.14	Bid Validity.....	
5.15	Prime Contractor Responsibilities	
5.16	Use of Subcontractors	
5.17	Written or Oral Discussions/Presentations	
5.18	Acceptance of Bid Content.....	
5.19	Evaluation and Selection	
5.20	Contract Award and Execution.....	
5.21	Notice of Intent to Award.....	
5.22	Affidavits.....	
5.23	Insurance Requirements	
5.24	Subcontractor Insurance	
5.25	Indemnification and Limitation of Liability	
5.26	Payment	
5.26.1	Payment for Services	
5.26.2	Acceptance and Final Payment(s).....	
5.26.3	Unit of Measure Quantity Calculation(s)	
5.27	Termination.....	
5.27.1	Termination of the Contract for Cause.....	
5.27.2	Termination of the Contract for Convenience.....	
5.27.3	Termination for Non-Appropriation of Funds.....	
5.27.4	Effects of Termination	
5.28	Assignment.....	
5.29	No Guarantee of Quantities	
5.30	Audit of Records	
5.31	Civil Rights Compliance	
5.32	Record Retention.....	
5.33	Record Ownership	
5.34	Content of Contract/ Order of Precedence	
5.35	Contract Changes.....	
5.36	Substitution of Personnel	
5.37	Governing Law	
5.38	Anti-Kickback Clause	
5.39	Clean Air Act.....	
5.40	Energy Policy and Conservation Act	
5.41	Clean Water Act.....	
5.42	Byrd Anti-Lobbying Act	
5.43	Debarment and Suspension Act	
5.44	Procurement of Recovered Materials.....	
5.45	Contract Work Hours and Safety Standards Act	
5.46	Bonding Requirements	
5.47	Bonding Capacity Information	

Attachment List:

Attachment "A" – Unit Bid Form

Attachment "B" – Sealed RFP Label

Attachment "C" – Cover Letter Example

Attachment "D" – Certification as a MOB or WOB

Attachment "E" – RFP Affidavit of Singal Submittal

Attachment "F" – RFP Affidavit of Solvency

Attachment "G" – Conflict of Interest Certification

Attachment "H" – Drug Free Workplace Form

Attachment "I" – Non-Collusion Affidavit of Vendor

Attachment "J" – Byrd Anti-Lobbying Amendment Certification

Attachment "K" – Certification Regarding Debarment, Suspension, and other Responsibility matters

Attachment "L" – Contractor Questionnaire Attachment "M" – Bid Bond

Attachment "N" – Addenda Acknowledgement Form Attachment "O" – Indemnification Form

Attachment "P" – W9

REQUEST FOR PROPOSALS

City of Claremore, Oklahoma DISASTER DEBRIS REMOVAL AND DISPOSAL OF DAMAGED DISTRIBUTION LINES

RFP# 2024-2

PART I: OVERVIEW

1.1 Background

The City of Claremore, Oklahoma suffered catastrophic damage to the Power Grid caused by the tornado on May 25, 2024. The Owner, City of Claremore, requires a Contractor to remove and dispose of the damaged utility poles, static wire, conductor, transformers and all associated assets.

1.2 Definitions

- A. Shall – The term “shall” denote mandatory requirements.
- B. Must - The term “must” denotes mandatory requirements.
- C. May - The term “may” denotes an advisory or permissible action.
- D. Should – The term “should” denotes a desirable action.
- E. Contractor – A Respondent who contracts with the Owner.
- F. Owner – City of Claremore, Oklahoma
- G. Discussions- For the purposes of this Bid, a formal, structured means of conducting written or oral communications/presentations with responsible Respondents who submit bids in response to this Bid Request.
- H. Bid– The and any attachments and amendments thereto.

- I. Respondent – Person or entity responding to this Bid Request.
- J. Agreement – A contract between the Contractor and the Owner.

1.3 Schedule of Events

	<u>Date</u>	<u>Time (CT)</u>
Advertise RFP	June 16, 2024 to June 23, 2024	
Questions due to City	June 25, 2024	
Responses to submitted questions posted online	June 27, 2024	
Bid Due Date	June 28, 2024 12:00 PM (Noon)	
Contract Initiation	TBD	

NOTE: The Owner reserves the right to revise this schedule. Any such revision will be formalized by the issuance of an addendum to the Bid Request.

1.4 Bid Submittal

All Bids shall be in writing and shall be received by the City of Claremore **no later than the date and time shown in the Schedule of Events.**

Bids may only be sent via email submission to:

Grady.Lemons@claremore.com

Respondent is solely responsible for the timely delivery of its proposal. Failure to meet the Bid Due Date shall result in rejection of the Bid.

In the event that Contractor is a member of a corporation, partnership, L.L.C., L.L.P., or any other juridical entity, as an additional provision, Contractor should supply a certified copy of a corporate resolution or other written evidence of authority of person signing the Bid/proposal. <https://claremore.com/bids/>

BIDS SHALL BE CONSIDERED AT THE TIME OF DEADLINE

PART II: SCOPE OF WORK/SERVICES

2.1 Scope of work/Services

The SOW will include complete distribution, removal and disposal of the damaged power grid of City of Claremore lines and assets.

The work shall be executed using suitable equipment and all work to be performed in a manner to prevent damages to the City of Claremore Right of Way (ROW).

Contractor must provide all labor, materials, tools, and equipment to remove all assets associated with this line.

The time period of completion is 90 calendar days from Notice to Proceed issued by the Owner.

Any work that may be reasonably inferred from the specifications or drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described herein which so applied to this project are covered by a well-known technical meaning or specification shall be deemed to be governed by such recognized standards unless specifically excluded.

Clarifications:

- Contractor is responsible to ensure that all City of Claremore damaged poles, pulling poles, static wire, conductor and assets in the Electrical Right of Way are removed from the entire City of Claremore system included in Attachment ""
- Contractor is responsible for Dumping / "Tipping" Fees / Cost. contractor shall provide evidence of proper disposal of materials (manifest)
- The intent is to completely remove the poles and anchors
- Transformer and regulator Designated disposal facility are to be at City of Claremore designated yard. Coordinates: (36.42459 N, 95.60777 W)
- Conductor and wire will become the property of the contractor and shall also show evidence of the final destination.
- Care shall be taken to minimize ground disturbance. Utilization of low ground pressure equipment is required to perform the work in farms and wetlands that the Electric Line traverses.
- City of Claremore will perform periodic inspection of the work within the Right of Way to ensure that ground disturbing activities are not causing irreparable damage to the ground.
- The pay quantity for each item will be calculated by the **ACTUAL** # of units as outlined in the Proposal Form. The quantities that are listed in the proposal form are an **ESTIMATED** quantity. The actual amount of debris will be based upon the % full of the actual container size of the load that is delivered and disposed of, the Removal and Disposal of the Transformers, Regulators, Coil Reclosures and Capacitors will be measured by the number of units delivered to the designated locations as provided, the quantity of select backfill will be calculated by the cubic yard delivered and installed,

and the electronic waste will be measured by the ton of material delivered and disposed of.

- If required, viewing towers for the monitors at the disposal facility shall be the responsibility of the contractor.
- Reference Bid Item #1 shall include the preparation, removal and disposal of damaged power poles, crossarms, insulators, hardware and incidental City of Claremore damaged assets for the roadway Right of Way (ROW). The electrical hardware and crossarms shall be cut from the utility pole and the utility pole shall be cut into eight-foot lengths prior to loading and hauling the material to the disposal facility.
- Reference Bid Item #2 shall include wrecking, removal, preparation, and disposal of damaged power poles, crossarms, insulators, hardware and incidental City of Claremore damaged assets for the City of Claremore Powerline Right of Way (ROW). The electrical hardware and crossarms shall be cut from the utility pole and the utility pole shall be cut into eight-foot lengths prior to loading and hauling the material to the disposal facility.

2.2 Period of Agreement

The term of any contract resulting from this solicitation shall begin on the date of the Owner's signature or approval in writing by the Owner or designee. The contract shall terminate pursuant to the terms and conditions of section 5.30 herein, the terms and conditions of the contract, operation of law, as agreed between the parties, or upon satisfactory completion of all services and obligations described in the contract.

2.3 Price Schedule

Prices Bid by the Respondent shall be firm for the term of the contract.

2.4 Deliverables

The deliverables listed in this section are the minimum desired from the successful Respondent. Every Respondent should describe what deliverables will be provided per their Bid and how the proposed deliverables will be provided.

2.5 Licensing Required

Only a Contractor licensed by the State to do the type of work indicated in Section 2.1) may submit a Bid. The Respondent's signature on the Bid certifies that he holds an active license in the State of Oklahoma. Failure to be properly licensed constitutes authority for the Owner to reject the Bid.

PART III: EVALUATION

The Bids will be evaluated in light of the material and the substantiating evidence presented to the Owner, not on the basis of what may be inferred.

The lowest monetary Bid in compliance with the Bid Request will be awarded the contract. Only for the purpose of interpretation of the Bid, when applicable, written words shall govern if a conflict exists between words and numerals.

PART IV: PERFORMANCE STANDARDS

4.1 Performance Requirements

4.1.1 Shop drawings, Brochures and Samples – N/A

After checking and verifying all field measurements, Contractor shall submit to the Owner for approval, five copies (or at the Owner's option, one reproducible copy) of all shop drawings, which shall have been checked by and stamped with the approval of Contractor and identified as the Owner may require. The data shown on the shop drawings will be complete with respect to dimensions, design criteria, materials of construction and the like to enable the Owner to review the information as required.

Contractor shall also submit to the Owner, for review with such promptness as to cause no delay in work, all samples as required by the contract documents. All samples will have been checked by and stamped with the approval of Contractor identified clearly as to material, manufacturer, any pertinent catalog numbers and the use for which intended. At the time of each submission, Contractor shall in writing call the Owner's attention to any deviations that the shop drawings or samples may have from the requirements of the contract documents.

The Owner will review with reasonable promptness shop drawings and samples, but its review shall be only for conformance with the design concept of the project and for compliance with the information given in the contract documents. The review of a separate item as such will not indicate approval of the assembly in which the item functions. Contractor shall make any corrections required by the Owner and shall return the required number of corrected copies of shop drawings and resubmit new samples for review. Contractor shall direct specific attention in writing or on resubmitted shop drawings to revisions other than the corrections called for by the Owner on previous submissions. Contractor's stamp of approval on any shop drawing or sample shall constitute a representation to the Owner that Contractor has determined and verified all quantities, dimensions, field construction criteria, materials catalog numbers and similar data and thereafter assumes full responsibility for doing so, and that it has reviewed or coordinated each shop drawing or sample with the requirements of the work and the contract documents.

Where a shop drawing or sample submission is required by the specifications, no related work shall be commenced until the submission has been reviewed by the Owner. A copy of each reviewed shop drawing and each inspected sample shall be kept in good order by Contractor at the site and shall be available to the Owner.

The Owner's review of shop drawings or samples shall not relieve Contractor from its responsibility for any deviations from the requirements of the contract documents unless Contractor has in writing called the Owner's attention to such deviation at the time of submission and the Owner has given written approval to the specific deviation, nor shall any review by the Owner relieve Contractor from responsibility for errors or omissions in the shop drawings. The mere submittal of shop drawings which contain deviations from the requirements of plans, specifications and/or previous submittals in itself does not satisfy this requirement.

4.1.2 Record Drawings

The Contractor shall keep an accurate record in a manner approved by the Owner of all changes in the contract documents during construction. In work concerning underground utilities, the Contractor shall keep an accurate record in a manner approved by the Owner of all valves, fittings, etc. Before the work is accepted by the Owner, and said acceptance is recorded, the Contractor shall furnish the Owner a copy of this record.

Contractor shall keep an accurate drawing measured in the field to the nearest 0.1' of the location of all sewer house connections. The location shown shall be the end of the connection at the property line measured along the main line of pipe from a manhole.

Contractor shall keep an accurate drawing of the storm water drainage collection system. Inverts to the nearest 0.01' and top of castings shall be shown as well as location of all structures to the nearest 0.1'. Upon completion of the work, the plan will be given to the Owner.

4.1.3 Progress of Work

Contractor shall conduct the work in such a professional manner and with sufficient materials, equipment and labor as is considered necessary to ensure its completion within the time limit specified.

The Owner shall issue a Notice to Proceed to the Contractor within twenty (20) calendar days from the date of execution of the contract. Upon mutual consent by both parties, the Notice to Proceed may be extended. The Contractor is to commence work under the contract within forty-eight (48) hours (2 calendar days) from the date the Notice to Proceed is issued by the Owner.

The Contractor, immediately after being awarded the contract, shall prepare and submit for the Owner's approval an estimated progress schedule for the work to be performed, as well as a construction signing layout for all roads within the project area. The Contractor shall not start work or request partial payment until the work schedule has been submitted to the Owner for approval.

Revisions to the original schedule will be made based on extension of days granted for inclement weather or change orders issued under the contract. No other revision shall be made which affects the original completion or updated completion date, whichever is applicable.

Failure of the Contractor to submit an estimated progress schedule or to complete timely and on schedule the work shown on the progress schedule negates any and all causes or claims by the Contractor for accelerated completion damages. These accelerated damage claims shall be deemed forfeited.

Meetings will be held as often as necessary to expedite the progress of the job. Meetings will be held during normal working hours at the jobsite and shall be mandatory for the Contractor and all

subcontractors working on the project. Meetings may be requested by the Owner at any time and at the discretion of the Owner.

4.1.4 The Owner's Right to Proceed with Portions of the Work

Upon failure of the Contractor to comply with any notice given in accordance with the provisions hereof, the Owner shall have the alternative right, instead of assuming charge of the entire work, to place additional forces, tools, equipment and materials on parts of the work. The cost incurred by the Owner in carrying on such parts of the work shall be payable by the Contractor. Such work shall be deemed to be carried on by the Owner on account of the Contractor. The Owner may retain all amounts of the cost of such work from any sum due Contractor or those funds that may become due to Contractor under the contract.

The Owner may perform additional work related to the project by itself or it may let any other direct contract which may contain similar general conditions. Contractor shall afford the other Contractors who are parties to such different contracts (or the Owner, if it is performing the additional work itself) reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate its work with the subsequent work.

If any part of Contractor's work depends upon proper execution or results upon the work of any such other Contractor (or the Owner), Contractor shall inspect and promptly report to the Owner in writing any defects or deficiencies in such work that render it unsuitable for such proper execution and results. Failure to so report shall constitute an acceptance of the other work as fit and proper for the relationship of its work except as to defects and deficiencies which may appear in the other work after the execution of its work.

Whatever work is being done by the Owner, other Contractors or by this Contractor, the parties shall respect the various interests of the other parties at all times. The Owner may, at its sole discretion, establish additional rules and regulations concerning such orderly respect of the rights of various interests.

Contractor shall do all cutting, fitting and patching of its work that may be required to integrate its several parts properly and fit to receive or be received by such other work. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering work and will only alter work with the written consent of the Owner and of the other Contractors whose work will be affected.

If the performance of additional work by other Contractors or the Owner is not noted in the contract documents, written notice thereof shall be given to Contractor prior to starting any such additional work. If Contractor believes that the performance of such additional work by the Owner or others may cause additional expense or entitles an extension of the contract time, the Contractor may make a claim therefor. The claim must be in writing to the Owner within thirty (30) calendar days of receipt of notice from the Owner of the planned additional work by others.

4.1.5 Time of Completion

The Notice to Proceed will stipulate the date on which the Contractor shall begin work. That date shall be the beginning of the contract time charges.

Contractor shall notify the Owner through its duly authorized representative, in advance, of where Contractor's work shall commence each day. A daily log shall be maintained by Contractor to establish dates, times, persons contacted, and location of work. Specific notice shall be made to the Owner if the Contractor plans to work on Saturday, Sunday, or an Owner approved holiday. If notice is not received, no consideration will be given for inclement weather and same shall be considered a valid work day.

The work covered by the plans, specifications and contract documents must be completed sufficiently for acceptance within the number of calendar days specified in the Bid and/or the contract, commencing from the date specified in the Notice to Proceed. It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the time of completion is an essential condition of the contract, and it is further mutually understood and agreed that if the Contractor shall neglect, fail or refuse to complete the work within the time specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as partial consideration for the awarding of the contract, to pay the Owner \$2,500.00 per day as specified in the contract, not as a penalty, but as liquidated damages for such breach of contract for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work. It is specifically understood that the Owner shall also be entitled to receive a reasonable attorney fee and all costs in the event that Contractor fails to adhere to this agreement and the contract is referred to counsel for any reason whatsoever. Reasonable attorney fees shall be the prevailing hourly rate of the private sector, and in no event shall the hourly rate be less than \$175.00 per hour. All attorney fees shall be paid to the operating budget of the Office of the Owner.

Prior to final payment, the Contractor may, in writing to the Owner, certify that the entire project is substantially complete and request that the Owner or its agent issue a certificate of Substantial Completion.

The Owner may grant an extension(s) of time to the Contractor for unusual circumstances which are beyond the control of the Contractor and could not reasonably be foreseen by the Contractor prior to submission of its Bid. Any such request must be made in writing to the Owner within seven (7) calendar days following the event occasioning the delay. The Owner shall have the exclusive and unilateral authority to determine, grant, and/or deny the validity of any such claim.

Extensions of time for inclement weather shall be processed as follows:

Commencing on the start date of each job, the Owner Inspector assigned to same shall keep a weekly log, indicating on each day whether inclement weather has prohibited the Contractor from working on any project within the specific job, based upon the following:

1. Should the Contractor prepare to begin work on any day in which inclement weather, or the conditions resulting from the weather, prevent work from beginning at the usual starting time, and the crew is dismissed as a result, the Contractor will not be charged for a working day whether or not conditions change during the day and the rest of the day becomes suitable for work.
2. If weather conditions on the previous day prevent Contractor from performing work scheduled, provided that no other work can be performed on any project within the package. The Owner Inspector shall determine if it is financially reasonable to require the Contractor to deviate from the schedule and relocate to another location.

3. If the Contractor is unable to work at least 60% of the normal work day due to inclement weather, provided that a normal working force is engaged on the job.

Any dispute of weather conditions as related to a specific job shall be settled by records of the National Weather Service.

4.1.6 Extensions of Time for Change Orders

When a change order is issued, the Owner and Contractor will agree on a reasonable time extension, if any, to implement such change. Consideration shall be given for, but not limited to, the following:

- If material has to be ordered;
- Remobilization and or relocation of equipment to perform task; and
- Reasonable time frame to complete additional work.

Time extensions for change orders shall be reflected on the official document signed by the Owner and Contractor.

At the end of each month, the Owner or its agent will furnish to the Contractor a monthly statement which reflects the number of approved days added to the contract. The Contractor will be allowed fourteen (14) calendar days in which to file a written protest setting forth in what respect the monthly statement is incorrect; otherwise, the statement shall be considered accepted by the Contractor as correct.

Apart from extension of time for unavoidable delays, no payment or allowance of any kind shall be made to the Contractor as compensation for damages because of hindrance or delay for any cause in the progress of the work, whether such delay be avoidable or unavoidable.

4.1.7 Liquidated Damages

In case the work is not completed in every respect within the time that may be extended, it is understood and agreed that per diem deductions of the sum of \$2,500.00 for liquidated damages, as stipulated in the Bid and/or contract, shall be made from the total contract price for each and every calendar day after and exclusive of the day on which completion was required, and up to the completion of the work and acceptance thereof by the Owner. It is understood and agreed that time is of the essence to the contract, and the above sum being specifically herein agreed upon in advance as the measure of damages to the Owner on account of such delay in the completion of the work. It is further agreed that the expiration of the term herein assigned or as may be extended for performing the work shall, ipso facto, constitute a putting in default, the Contractor hereby waiving any and all notice of default. The Contractor agrees and consents that the contract price, reduced by the aggregate of the entire damages so deducted, shall be accepted in full satisfaction of all work executed under the contract. It is further understood and agreed that Contractor shall be liable for a reasonable attorney fee and all costs associated with any breach of this agreement, including but not limited to this subsection. In the event that any dispute or breach herein causes referrals to counsel, then Contractor agrees to pay a reasonable attorney fee at the prevailing hourly rate of the private sector. In no event shall the hourly rate be less than \$175.00 per hour.

4.1.8 Labor, Materials, Equipment, Supervision, Permits and Taxes

The Contractor shall provide and pay for all labor, materials, equipment, supervision, subcontracting, transportation, tools, fuel, power, water, sanitary facilities and all incidentals necessary for the completion of the work in substantial conformance with the contract documents.

The Contractor shall provide competent, suitably qualified personnel to survey and lay out the work and perform construction as required by the contract documents. It shall at all times maintain good discipline and order at the site.

Unless otherwise specifically provided for in the specifications, all workmanship, equipment, materials, and articles incorporated in the work covered by the contract are to be new and of the best grade of their respective kinds for the purpose intended. Samples of materials furnished under the contract shall be submitted for approval to the Owner when and as directed.

Whenever a material or article required is specified or shown on the plans by using the name of a proprietary product or of a particular manufacturer or vendor, any material or article which shall perform adequately the duties imposed by the general design will be considered equal, and satisfactory, providing the material or article so proposed is of equal substance and function and that all technical data concerning the proposed substitution be approved by the Owner prior to the submission of a Bid. The Owner shall have the exclusive and unilateral discretion to determine quality and suitability.

Materials shall be properly and securely stored so as to ensure the preservation of quality and fitness for the work, and in a manner that leaves the material accessible to inspection. Materials or equipment may not be stored on the site in a manner such that it will interfere with the continued operation of streets and driveways or other Contractors working on the site.

The Contractor, by entering into the contract for this work, sets itself forth as an expert in the field of construction and it shall supervise and direct the work efficiently and with its best skill and attention. It shall be solely responsible for the means, methods, techniques, sequences and procedures of construction.

Contractor shall keep on the work, at all times during its progress, a competent resident superintendent, who shall not be replaced without written notice to the Owner except under extraordinary circumstances. The superintendent will be Contractor's representative at the site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. The Owner specifically reserves the right to approve and/or disapprove the retention of a new superintendent, all to not be unreasonably withheld.

Any foreman or workman employed on this project who disregards orders or instructions, does not perform his work in a proper and skillful manner, or is otherwise objectionable, shall, at the written request of the Owner, be removed from the work and shall be replaced by a suitable foreman or workman.

The Contractor and/or its assigned representative shall personally ensure that all subcontracts and divisions of the work are executed in a proper and workmanlike manner, on scheduled time, and with due and proper cooperation.

Failure of the Contractor to keep the necessary qualified personnel on the work shall be considered cause for termination of the contract by the Owner.

Only equipment in good working order and suitable for the type of work involved shall be brought onto the job and used by the Contractor. The Contractor is solely responsible for the proper maintenance and use of its equipment and shall hold the Owner harmless from any damages or suits for damages arising out of the improper selection or use of equipment. No piece of equipment necessary for the completion of the work shall be removed from the job site without approval of the Owner.

All Federal, State and local taxes due or payable during the time of contract on materials, equipment, labor or transportation, in connection with this work, must be included in the amount bid by the Contractor and shall be paid to proper authorities before acceptance. The Contractor shall furnish all necessary permits and certificates and comply with all laws and ordinances applicable to the locality of the work. The cost of all inspection fees levied by any governmental entity whatsoever shall be paid for by the Contractor.

During the period that the contract is in force, neither party to the contract shall solicit for employment or employ an employee of the other.

4.1.9 Quantities of Estimate, Changes in Quantities, Extra Work

Without invalidating the contract, the Owner may order extra work or make changes by altering, adding to, or deducting from the work, the contract sum being adjusted accordingly. The consent of the surety must first be obtained when necessary or desirable, all at the exclusive discretion of the Owner. All the work of the kind bid upon shall be paid for at the price stipulated in the Bid, and no claims for any extra work or material shall be allowed unless the work is ordered in writing by the Owner.

Extra work for which there is no price or quantity included in the contract shall be paid for at a unit price or lump sum to be agreed upon in advance in writing by the Owner and Contractor. Where such price and sum cannot be agreed upon by both parties, or where this method of payment is impracticable, the Owner may, at its exclusive and unilateral discretion, order the Contractor to do such work on a force account basis.

In computing the price of extra work on a force account basis, the Contractor shall be paid for all foremen and labor actually engaged on the specific work at the current local rate of wage for each and every hour that said foremen and labor are engaged in such work, plus ten percent (10%) of the total for superintendence, use of tools, overhead, direct & indirect costs/expenses, pro-rata applicable payroll taxes, pro-rata applicable workman compensation benefits, pro-rata insurance premiums and pro-rata reasonable profit. The Contractor shall furnish satisfactory evidence of the rate or rates of such insurance and tax. The Contractor will not be able to collect any contribution to any retirement plans or programs.

For all material used, the Contractor shall receive the actual cost of such material delivered at the site of the work, as shown by original receipted bill, to which shall be added five percent (10%). There will be absolutely no additional surcharges or additional fees attached hereto with respect

to this subsection.

For any equipment used that is owned by the Contractor, the Contractor shall be allowed a rental based upon the latest prevailing rental price, but not to exceed a rental price as determined by the Associated Equipment Distributors (A.E.D. Green Book)

The Contractor shall also be paid the actual costs of transportation for any equipment which it owns and which it has to transport to the project for the extra work. There will be absolutely no additional surcharges or additional fees attached hereto with respect to this subsection.

If the Contractor is required to rent equipment for extra work, but not required for contract items, it will be paid the actual cost of rental and transportation of such equipment to which no percent shall be added. The basis upon which rental cost is to be charged shall be agreed upon in writing before the work is started. Actual rental and transportation costs shall be obtained from receipted invoices and freight bills.

No compensation for expenses, fees or costs incurred in executing extra work, other than herein specifically mentioned herein above, will be allowed.

A record of extra work on force account basis shall be submitted to the Owner on the day following the execution of the work, and no less than three copies of such record shall be made on suitable forms and signed by both the Owner or its representative on the project and the Contractor. All bids for materials used on extra work shall be submitted to the Owner by the Contractor upon certified statements to which will be attached original bills covering the costs of such materials.

Payment for extra work of any kind will not be allowed unless the same has been ordered in writing by the Owner.

4.1.10 Injuries to Persons and Property

The Contractor shall be held solely and exclusively responsible for all injuries to persons and for all damages to the property of the Owner or others caused by or resulting from the negligence of itself, its employees or its agents, during the progress of or in connection with the work, whether within the limits of the work or elsewhere under the contract proper or as extra work. This requirement will apply continuously and not be limited to normal working hours or days. The Owner's construction review is for the purpose of checking the work product produced and does not include review of the methods employed by the Contractor or to the Contractor's compliance with safety measures of any nature whatsoever. The Contractor agrees to pay a reasonable attorney fee and other reasonable attendant costs of the Owner in the event it becomes necessary for the Owner to employ an attorney to enforce this section or to protect itself against suit over the Contractor's responsibilities. Attorney fees shall be at the prevailing hourly rate of the private sector. The attorney fee hourly rate shall not be less than \$175.00 per hour. All attorney fees collected shall be paid to the operating budget of the Office of the Owner President.

The Contractor must protect and support all utility infrastructures or other properties which are liable to be damaged during the execution of its work. It shall take all reasonable and proper precautions to protect persons, animals and vehicles or the public from the injury, and wherever necessary, shall erect and maintain a fence or railing around any excavation, and place a sufficient number of lights about the work and keep same burning from twilight until sunrise, and shall employ one or more watchmen as an additional security whenever needed. The Contractor understands and agrees that the Owner may request that security be placed on the premises to ensure and secure same. The Owner shall have exclusive authority to request placement of such security. Contractor agrees to retain and place security as requested, all at the sole expense of Contractor. Additional security shall not be considered a change order or reason for additional payment by the Owner. The Contractor must, as far as practicable and consistent with good construction, permit access to private and public property and leave fire hydrants, catch basins,

streets, etc., free from encumbrances. The Contractor must restore at its own expense all injured or damaged property caused by any negligent act of omission or commission on its part or on the part of its employees or subcontractors, including, but not limited to, sidewalks, curbing, sodding, pipes conduits, sewers, buildings, fences, bridges, retaining walls, tanks, power lines, levees or any other building or property whatsoever to a like condition as existed prior to such damage or injury.

In case of failure on the part of the Contractor to restore such property or make good such damage, the Owner may upon forty-eight (48) hours' notice proceed to repair or otherwise restore such property as may be deemed necessary, and the cost thereof will be deducted from any monies due or which may become due under its contract.

Contractor agrees to protect, defend, indemnify, save, and hold harmless the City of Claremore, its officials, departments, agencies, boards and commissions, their officers, agents servants, employees, including volunteers, from and against any and all claims, demands, expense and liability arising out of injury or death to any person or the damage, loss or destruction of any property to the extent caused by any negligent act or omission or willful misconduct of Contractor, its agents, servants, employees, and subcontractors, or any and all costs, expense and/or attorney fees incurred by City of Claremore as a result of any claim, demands, and/or causes of action that results from the negligent performance or non-performance by Contractor, its agents, servants, employees, and subcontractors of the contract. Contractor agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto caused by any negligent act or omission or willful misconduct of Contractor, its agents, servants, employees, and subcontractors.

As to any and all claims against the Owner, its agents, assigns, representatives or employees by any employee of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts as may be liable, the indemnification obligation shall not be limited in any way or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor under workmen's compensation acts, disability benefit acts or other employee benefit acts.

No road shall be closed by the Contractor to the public except by written permission of the Owner. If so closed, the Contractor shall maintain traffic over, through and around the work included in his contract, with the maximum practical convenience, for the full twenty-four hours of each day of the contract, whether or not work has ceased temporarily. The Contractor shall notify the Owner at the earliest possible date after the contract has been executed and, in any case, before commencement of any construction that might in any way inconvenience or endanger traffic, in order that necessary and suitable arrangements may be determined. Any and all security, maintenance, labor or costs associated with traffic control herein shall be at the sole expense of Contractor. This expense shall be paid directly by the Contractor. This expense shall not be considered as a change order nor shall it allow the Contractor any additional cost reimbursement whatsoever. All traffic deviations herein shall be coordinated with the appropriate law enforcement officials of the Owner.

The convenience of the general public and residents along the works shall be provided for in a reasonable, adequate and satisfactory manner. Where existing roads are not available as detours, and unless otherwise provided, all traffic shall be permitted to pass through the work. In all such cases, the public shall have precedence over Contractor's vehicles insofar as the traveling public's vehicles shall not be unduly delayed for the convenience of the Contractor. In order that

all unnecessary delay to the traveling public may be avoided, the Contractor shall provide and station competent flagmen whose sole duties shall consist of directing and controlling the movement of public traffic either through or around the work. Any and all security, maintenance, labor or costs associated with traffic control herein shall be at the sole expense of Contractor. This expense shall be paid directly by the Contractor. This expense shall not be considered as a change order nor shall it allow the Contractor any additional cost reimbursement whatsoever. All traffic deviations herein shall be coordinated with the appropriate law enforcement officials of the Owner.

The Contractor shall arrange its work so that no undue or prolonged blocking of business establishments will occur.

Material and equipment stored on the right of way or work site shall be so placed and the work at times shall be so conducted as to ensure minimum danger and obstruction to the traveling public.

During grading operations when traffic is being permitted to pass through construction, the Contractor shall provide a smooth, even surface that will provide a satisfactory passageway for use of traffic. The road bed shall be sprinkled with water if necessary to prevent a dust nuisance, provided the dust nuisance is a result of the work.

Fire hydrants shall be accessible at all times to the Fire Department. No material or other obstructions shall be placed closer to a fire hydrant than permitted by ordinances, rules or regulations or within fifteen (15) feet of a fire hydrant, in the absence of such ordinance, rules or regulations.

The Contractor shall not, without the written permission of the Owner, do work for a resident or property Owner abutting the work at the time that this work is in progress.

The Contractor, shall, without extra compensation, provide, erect, paint and maintain all necessary barricades. Also, without extra compensation, the Contractor shall provide suitable and sufficient lights, torches, reflectors or other warning or danger signals and signs, provide a sufficient number of watchmen and flagmen and take all the necessary precautions for the protection of the work and safety of the public.

The Contractor shall erect warning signs beyond the limits of the project, in advance of any place on the project where operations interfere with the use of the road by traffic, including all intermediate points where the new work crosses or coincides with the existing road. All barricades and obstructions shall be kept well painted and suitable warning signs shall be placed thereon. All barricades and obstructions shall be illuminated at night and all lights or devices for this purpose shall be kept burning from sunset to sunrise.

Whenever traffic is maintained through or over any part of the project, the Contractor shall clearly mark all traffic hazards. No direct payment will be made for barricades, signs and illumination therefore or for watchmen or flagmen.

The Contractor will be solely and completely responsible for conditions on the job site, including safety of all persons and property during performance of the work. This requirement will apply continuously and not be limited to normal working hours. The duty of the Owner to conduct construction review of the Contractor's performance is not intended to include review of the adequacy of the Contractor's safety measures, in, or near the construction site.

4.1.11 Sanitary Provisions

The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of its employees as may be necessary to comply with the rules and regulations of the State Health Agency or of the other authorities having jurisdiction and shall permit no public nuisance.

4.1.12 Rights of Way

The Owner will furnish the Contractor with all necessary rights-of-way for the prosecution of the work. The rights of way herein referred to shall be taken to mean only permission to use or pass through the locations or space in any street, highway, public or private property in which the Contractor is to prosecute the work.

It is possible that all lands and rights of way may not be obtained as herein contemplated before construction begins, in which event the Contractor shall begin its work upon such land and rights of way as the Owner may have previously acquired. Any delay in furnishing these lands by the Owner can be deemed proper cause for adjustment in the contract amount and/or in the time of completion.

4.1.13 Protection and Restoration of Property and Landscape

The Contractor shall not enter upon private property for any purpose without first obtaining permission from the Owner, as well as the private property owner and/or private property lessees. The Contractor shall use every precaution necessary for the preservation of all public and private property, monuments, highway signs, telephone lines, other utilities, etc., along and adjacent to the work; the Contractor shall use every precaution necessary to prevent damage to pipes, conduits, and other underground structures; and shall protect carefully from disturbance or damage all land monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed. The street and highway signs and markers that are to be affected by the work shall be carefully removed when the work begins and stored in a manner to keep them clean and dry. The Contractor must obtain all necessary information in regard to existing utilities and shall give notice in writing to the owners or the proper authorities in charge of streets, gas, water, pipes, electric, sewers and other

underground structures, including conduits, railways, poles and pole lines, manholes, catch basins, fixtures, appurtenances, and all other property that may be affected by the Contractor's operations, at least forty-eight (48) hours before its operations will affect such property. The Contractor shall not hinder or interfere with any person in the protection of such work or with the operation of utilities at any time. When property, the operation of railways, or other public utilities are endangered, the Contractor shall at its own expense, maintain flagmen or watchmen and any other necessary precautions to avoid interruption of service or damage to life or property, and it shall promptly repair, restore, or make good any injury or damage caused by its negligent operations in an acceptable manner. The Contractor must also obtain all necessary information in regard to the installation of new cables, conduits, and transformers, and make proper provisions and give proper notifications, in order that same can be installed at the proper time without delay to the Contractor or unnecessary inconvenience to the owner.

The Contractor shall not remove, cut or destroy trees, shrubs, plants, or grass that are to remain in the streets or those which are privately owned, without the proper authority. Unless otherwise provided, the Contractor shall replace and replant all plants, shrubs, grass and restore the grounds back to its original good condition to the satisfaction of the Owner and/or the property owner. The Contractor shall assume the responsibility of replanting and guarantee that plants, shrubs, grass will be watered, fertilized and cultivated until they are in a growing condition. No direct payment will be made for removing and replanting of trees, shrubs, plants or grass unless such items are set forth in the Bid.

When or where direct damage or injury is done to public or private property by or on account of any negligent act, omission, neglect or otherwise of the Contractor, it shall make good such damage or injury in an acceptable manner.

4.1.14 Contractor's Responsibility for Work

Until final acceptance of the work by the Owner as evidence by approval of the final estimate, the work shall be in the custody and under the charge and care of the Contractor and it shall take every necessary precaution against injury or damage to any part thereof by the action of the elements or from the non-execution of the work; unless otherwise provided for elsewhere in the specifications or contract. The Contractor shall rebuild, repair, restore and make good, without extra compensation, all injuries or damages to any portion of the work occasioned by any of the above causes before its completion and acceptance, and shall bear the expenses thereof. In case of suspension of the work from any cause whatever, the Contractor shall be responsible for all materials and shall properly and securely store same, and if necessary, shall provide suitable shelter from damage and shall erect temporary structures where necessary. If in the exclusive discretion of the Owner, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of its subcontractors to so protect the work, such materials shall be removed and replaced at the sole expense of the Contractor. Such amount shall be deducted from any sum due or to be due Contractor.

The Contractor shall give all notice and comply with all Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work, and all such orders and decrees as exist, or may be enacted by bodies or tribunals having any jurisdiction or authority over the work, and shall indemnify and hold harmless the Owner against any claim or liability arising from, or based on, the violation of any such law, ordinance, regulation, order or decree, whether by itself, its employees or subcontractors.

4.1.15 Tests and Inspections; Correction and Removal of Defective Work

Contractor warrants and guarantees to the Owner that all materials and equipment will be new unless otherwise specified and that all work will be of good quality and free from faults or defects and in accordance with the requirements of the contract documents. All unsatisfactory work, all faulty or defective work and all work not conforming to the requirements of the contract documents at the time of acceptance shall be considered defective. Prompt and reasonable notice of all defects shall be given to the Contractor.

If the contract documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any work to specifically be inspected, tested or approved by some public body, Contractor shall assume full responsibility therefor, pay all costs in connection therewith and furnish the Owner the required certificates of inspection, testing or approval. All other inspections, tests and approval required by the contract documents shall be performed by organizations acceptable to the Owner and Contractor and the costs thereof shall be borne by the Contractor unless otherwise specified.

Contractor shall give the Owner timely notice of readiness of the work for all inspections, tests or approvals. If any such work required to be inspected, tested or approved is covered without written approval of the Owner, it must, if requested by the Owner, be uncovered for observation, and such uncovering shall be at Contractor's expense unless Contractor has given the Owner timely notice of its intention to cover such work and the Owner has not acted with reasonable promptness in response to such notice.

Neither observations by the Owner nor inspections, tests or approvals shall relieve Contractor from its obligations to perform the work in accordance with the requirements of the contract document.

The Owner and its representatives will at reasonable times have access to the work. Contractor shall provide proper and safe facilities for such access and observation of the work and also for any inspection or testing thereof by others.

If any work is covered contrary to the written request of the Owner, it must, be uncovered for the Owner's observation and replaced at Contractor's expense. If any work has been covered which the Owner has not specifically requested to observe prior to its being covered, or if the Owner considers it necessary or advisable that covered work be inspected or tested by others, the Contractor, at the Owner's request, shall uncover, expose or otherwise make available for observations, inspections or testing as the Owner may require, that portion of the work in question, furnishing all necessary labor, material and equipment. If it is found that such work is defective, Contractor shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such work is not found to be defective, Contractor shall be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

If the work is defective, or Contractor fails to supply sufficient skilled workmen or suitable materials or equipment, or if the Contractor fails to make prompt payments to subcontractors or for labor, materials or equipment, the Owner may order Contractor to stop the work, or any portion thereof, until the cause of such order has been eliminated; however, this right of the Owner to stop the

work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of Contractor or any other party.

Prior to approval of final payment, Contractor shall promptly, without cost to the Owner and as specified by the Owner, either correct any defective work, whether or not fabricated, installed or completed, or if the work has been rejected by the Owner, remove it from the site and replace it with non-defective work. If Contractor does not correct such defective work or remove and replace such rejected work within a reasonable time, all as specified in a written notice from the Owner, the Owner may have the deficiency corrected or the rejected work removed and replaced. All direct or indirect costs of such correction or removal and replacement including compensation for additional professional services shall be paid by Contractor, and an appropriate deductive Change Order shall be issued. Contractor shall also bear the expense of making good all work of others destroyed or damaged by its correction, removal or replacement of its defective work.

If, after the approval of final payment and prior to the expiration of one year after the date of substantial completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the contract documents, any work is found to be defective, Contractor shall promptly, without cost to the Owner and in accordance with the Owner's written instructions, either correct such defective work or if it has been rejected by the Owner, remove it from the site and replace it with non-defective work. If Contractor does not promptly comply with the terms of such instructions, the Owner may have the defective work corrected or the rejected work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by Contractor. The Contractor agrees to pay a reasonable attorney fee and other reasonable attendant costs of the Owner in the event it becomes necessary for the Owner to employ an attorney to enforce this section or to protect itself against suit over the Contractor's responsibilities. Attorney fees shall be at the prevailing hourly rate of the private sector. The attorney fee hourly rate shall not be less than \$175.00 per hour. All attorney fees collected shall be paid to the operating budget of the Office of the Owner President.

If, instead of requiring correction or removal and replacement of defective work, the Owner (and prior to approval of final payment) prefers to accept it, the Owner may do so. In such case, if acceptance occurs prior to approval of final payment, a Change Order shall be issued incorporating the necessary revisions in the contract documents, including appropriate reduction in the contract price, or, if the acceptance occurs after approval of final payment, an appropriate amount shall be paid by Contractor to the Owner.

If Contractor should fail to progress the work in accordance with the contract documents, including any requirements of the progress schedule, the Owner, after seven (7) days written notice to Contractor, may, without prejudice to any other remedy the Owner may have, make good such deficiencies and the cost thereof including compensation for additional professional services shall be charged against Contractor. In such cases, a Change Order shall be issued incorporating the necessary revisions in the contract documents including an appropriate reduction in the contract price. If the payments then or thereafter due Contractor are not sufficient to cover such amount, Contractor shall pay the difference to the Owner.

The Owner may appoint representatives to make periodic visits to the site and observe the progress and quality of the executed work. These representatives shall be governed by the same restrictions placed on the Owner by these specifications. The governing body of the Federal, State or local government exercising authority in the area of the work may appoint representatives to

observe the progress and quality of the work. Contractor shall cooperate with and assist these representatives in the performance of their duties.

The Contractor shall be responsible for the faithful execution of its contract and the presence or absence of the Owner's or Government's Representative is in no way or manner to be presumed or assumed to relieve in any degree the responsibility or obligation of the Contractor.

The Contractor shall notify the Owner and its representatives having jurisdiction as to the exact time at which it is proposed to begin work so the Owner may provide for inspection of all materials, foundations, excavations, equipment, etc., and all or any part of the work and to the preparation or manufacture of materials to be used whether within the limits of the work or at any other place.

The Owner or its representatives shall have free access to all parts of the work and to all places where any part of the materials to be used are procured, manufactured or prepared. The Contractor shall furnish the Owner all information relating to the work and the material therefore, which may be deemed necessary or pertinent, and with such samples of materials as may be required. The Contractor, at its own expense, shall supply such labor and assistance as may be necessary in the handling of materials for proper inspection or for inspection of any work done by it.

No verbal instructions given to the Contractor by the Owner, project representative or any of their agents shall change or modify the written contract. Contractors shall make no claims for additional payments or time based upon verbal instructions.

4.1.16 Subsurface Conditions

It is understood and agreed that the Contractor is familiar with the subsurface conditions that will be encountered and its price bid for the work includes all of the costs involved for work in these conditions and it is furthermore agreed that it has taken into consideration, prior to its Bid and acceptance by the Owner, all of the subsurface conditions normal or unusual that might be encountered in the location of the work.

Should the Contractor encounter during the progress of the work subsurface conditions at the site materially differing from those shown on the drawings or indicated in the specifications, the attention of the Owner shall be directed to such conditions before the conditions are disturbed. If the Owner finds that the conditions materially differ from those shown on the drawings or indicated in the specifications, it shall at once make such changes in the drawings or specifications as it may find necessary, and any increase or decrease in cost or extension of time resulting from such changes shall be adjusted in the same manner as provided for changes for extra work. The Contractor shall submit breakdowns of all costs in a manner as instructed and approved by the Owner.

4.1.17 Removal and Disposal of Structures and Obstructions

Respondent shall thoroughly examine the site of the work and shall include in its Bid the cost of removing all structures and obstructions in the way of the work.

The Contractor shall remove any existing structures or part of structures, fence, building or other encumbrances or obstructions that interfere in any way with the work. Compensations for the

removal of any structure shall be made only if the item(s) to be removed was/were listed as pay item(s) on the Bid.

If called for in the special conditions, all privately and publicly owned materials and structures removed shall be salvaged without damage and shall be piled neatly and in an acceptable manner upon the premises if it belongs to an abutting property owner, otherwise at accessible points along the improvements. Materials in structures which are the property of the Owner or property of any public body, private body or individual which is fit for use elsewhere, shall remain property of the original owner. It shall be carefully removed without damage, in sections which may be readily transported; same shall be stored on or beyond the right of way. The Contractor will be held responsible for the care and preservation for a period of ten (10) days following the day the last or final portion of the materials stored at a particular location are placed thereon. When privately owned materials are stored beyond the right of way, the Contractor will be held responsible for such care and preservation for a period of ten (10) days responsibility period for care and preservation of the materials begins. The Contractor must furnish the Owner with evidence satisfactory that the proper owner of the materials has been duly notified by the Contractor that the said owner must assume responsibility for its materials on the date following the Contractor's ten (10) day responsibility.

4.1.18 The Owner's Right to Occupancy

The Owner shall have the right to use, at any time, any and all portions of the work that have reached such a stage of completion as to permit such occupancy, provided such occupancy does not hamper the Contractor or prevent its efficient completion of the contract or be construed as constituting an acceptance of any part of the work.

The Owner shall have the right to start the construction of houses, structures or any other building concurrent with the Contractor's work.

4.1.19 Survey Horizontal and Vertical Control

The Owner shall provide surveys for construction to establish reference points which in its judgment are necessary to enable Contractor to layout and proceed with its work. Contractor shall be responsible for surveying and laying out the work and shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of the Owner. Contractor shall report to the Owner whenever any reference point is lost or destroyed and the Owner shall decide if the reference point shall be replaced by its or the Contractor's forces.

The Contractor shall establish lines and grades with its own forces in sufficient number and location for the proper execution of the work.

If the Contractor, during the construction, damages the established property corners and/or other markers and thereafter requests the Owner to re-stake same in order to complete the project, this expense will be borne solely by the Contractor.

4.2 Compliance With Applicable Laws

Respondents shall familiarize themselves with and shall comply with all applicable Federal and State laws, municipal ordinances and rules and regulations of all authorities having jurisdiction over construction of the project, which may directly or indirectly affect the work or its prosecution. These laws, rules, regulations, and/or ordinances will be deemed to be included in the contract, as though herein written in full.

4.3 Site Visitation

Each Respondent shall visit the site of the proposed work and fully acquaint itself with all surface and subsurface conditions as they may exist so that it may fully understand this Bid Request. Respondent shall also thoroughly examine and be familiar with drawings, specifications, and contract documents. The failure or omission of any Respondent to receive or examine any form, instrument, drawing or document or to visit the site and acquaint itself with existing conditions shall in no way relieve any Respondent from any obligation with respect to its Bid and obligations under the contract.

PART V: GENERAL PROVISIONS

5.1 Legibility/Clarity

Responses to the requirements of this Bid Request in the formats requested are desirable. Bids prepared simply and economically, providing a straightforward, concise description of the Respondent's ability to meet the requirements of the Bid Request is also desired. Each Respondent is solely responsible for the accuracy and completeness of its Bid.

5.2 Confidential Information, Trade Secrets, and Proprietary Information

The designation of certain information as trade secrets and/or privileged or confidential proprietary information shall only apply to the technical portion of the Bid. The cost Bid will not be considered confidential under any circumstance. Any Bid copyrighted or marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.

For the purposes of this procurement, the provisions of the Oklahoma Open Records Act will be in effect. Pursuant to this Act, all proceedings, records, contracts, and other public documents relating to this procurement shall be open to public inspection. Respondents are reminded that while trade secrets and other proprietary information they submit in conjunction with this procurement may not be subject to public disclosure, protections must be claimed by the Respondent at the time of submission of its Technical Proposal. Respondents should refer to the Oklahoma Open Records Act for further clarification.

The Respondent must clearly designate the part of the Bid that contains a trade secret and/or privileged or confidential proprietary information as "confidential" in order to claim protection, if any, from disclosure. The Respondent shall mark the cover sheet of the Bid with the following legend, specifying the specific section(s) of his Bid sought to be restricted in accordance with the conditions of the legend:

“The data contained in pages _ of the Bid have been submitted in confidence and contain trade secrets and/or privileged or confidential information and such data shall only be disclosed for evaluation purposes, provided that if a contract is awarded to this Respondent as a result of or in connection with the submission of this Bid, the Owner shall have the right to use or disclose the data therein to the extent provided in the contract. This restriction does not limit the Owner’s right to use or disclose data obtained from any source, including the Respondent, without restrictions.”

Further, to protect such data, each page containing such data shall be specifically identified and marked “CONFIDENTIAL”.

Respondents must be prepared to defend the reasons why the material should be held confidential. If a competing respondent or other person seeks review or copies of another respondent's confidential data, the Owner will notify the Owner of the asserted data of the request. If the Owner of the asserted data does not want the information disclosed, it must agree to indemnify the Owner and hold the Owner harmless against all actions or court proceedings that may ensue (including attorney's fees), which seek to order the Owner to disclose the information. If the Owner of the asserted data refuses to indemnify and hold the state harmless, the Owner may disclose the information.

The Owner reserves the right to make any Bid, including proprietary information contained therein, available to Owner personnel, or other Owner and state agencies or organizations for the sole purpose of assisting the Owner in its evaluation of the Bid. The Owner shall require said individuals to protect the confidentiality of any specifically identified proprietary information or privileged business information obtained as a result of their participation in these evaluations.

If your Bid contains confidential information, you should also submit a redacted copy along with your Bid. If you do not submit the redacted copy, you will be required to submit this copy within 48 hours of notification from City of Claremore. When submitting your redacted copy, you should clearly mark the cover as such - “REDACTED COPY” - to avoid having this copy reviewed by an evaluation committee member. The redacted copy should also state which sections or information have been removed.

5.3 Bid Clarifications Prior to Submittal

5.3.1 Pre-Bid Conference

N/A

5.3.2 Respondent Inquiry Periods

The Owner shall not and cannot permit an open-ended inquiry period, as this creates an unwarranted delay in the procurement cycle and Owner operations. The Owner reasonably expects and requires *responsible and interested* Respondents to conduct their in-depth Bid review and submit inquiries in a timely manner.

An inquiry period is hereby firmly set for all interested Respondents to perform a detailed review of the Bid documents and to submit any written inquiries relative thereto. *Without exception,*

all inquiries MUST be submitted in writing by an authorized representative of the Respondent, clearly cross-referenced to the relevant solicitation section. All inquiries must be received by the Inquiry Deadline date and time set forth in Section 1.3 Schedule of Events of this Bid Request. Only those inquiries received by the established deadline shall be considered by the Owner. Inquiries received after the established deadline shall not be entertained.

Inquiries concerning this solicitation may be delivered by e-mail to:

City of Claremore
Attn: Grady Lemons E-Mail:
Grady.Lemons@claremore.com

An addendum will be issued and emailed to all respondents to address all inquiries received and any other changes or clarifications to the solicitation. Thereafter, all Bid documents, including but not limited to the specifications, terms, conditions, plans, etc., will stand as written and/or amended by any addendum. No negotiations, decisions, or actions shall be executed by any Respondent as a result of any oral discussions with any Owner employee or Owner consultant.

5.4 Errors and Omissions in Bid

The Owner will not be liable for any error in the Bid. Respondent will not be allowed to alter Bid documents after the deadline for Bid submission, except under the following condition: the Owner reserves the right to make corrections or clarifications due to patent errors identified in Bids by the Owner or the Respondent. The Owner, at its option, has the right to request clarification or additional information from the Respondent.

5.5 Changes, Addenda, Withdrawals

The Owner reserves the right to change the Schedule of Events or issue Addenda to the Bid Request at any time. The Owner also reserves the right to cancel or reissue the Bid Request.

If the Respondent needs to submit changes or addenda, such shall be submitted in writing, signed by an authorized representative of the Respondent, cross-referenced clearly to the relevant Bid section, prior to the Bid opening. Such shall meet all requirements for the Bid.

5.6 Withdrawal of Bid

A Respondent may withdraw a Bid that has been submitted at any time up to the Bid closing date and time. To accomplish this, a written request signed by the authorized representative of the Respondent must be submitted to the Procurement Department

5.7 Material in the Bid Request

Bids shall be based only on the material contained in this Bid Request. The Bid Request includes official responses to questions, addenda, and other material, which may be provided by the Owner pursuant to the Bid Request.

5.8 Waiver of Administrative Informalities

The Owner reserves the right, at its sole discretion, to waive administrative informalities contained in any Bid.

5.9 Bid Rejection

Issuance of this Bid Request in no way constitutes a commitment by the Owner to award a contract. The Owner reserves the right to accept or reject any or all Bids submitted or to cancel this Bid Request if it is in the best interest of the Owner to do so.

5.10 Ownership of Bid

All materials (paper content only) submitted in response to this request become the property of the Owner. Selection or rejection of a Bid does not affect this right. All Bids submitted will be retained by the Owner and not returned to Respondents. Any copyrighted materials in the Bids are not transferred to the Owner.

5.11 Cost of Offer Preparation

The Owner is not liable for any costs incurred by prospective Respondents or Contractors prior to issuance of or entering into a contract. Costs associated with developing the Bid, preparing for oral presentations, and any other expenses incurred by the Respondent in responding to the Bid

Request are entirely the responsibility of the Respondent, and shall not be reimbursed in any manner by the Owner.

5.12 Non-negotiable Contract Terms

Non-negotiable contract terms include but are not limited to taxes, assignment of contract, audit of records, EEOC and ADA compliance, record retention, content of contract/order of precedence, contract changes, governing law, claims or controversies, and termination based on contingency of appropriation of funds.

5.13 Taxes

All Federal, State and local taxes due or payable during the time of contract on materials, equipment, labor or transportation, in connection with this work, must be included in the amount bid by the Contractor and shall be paid to proper authorities before acceptance.

5.14 Bid Validity

All Bids shall be considered valid for acceptance until such time an award is made, unless the Respondent provides for a different time period within its Bid. However, the Owner reserves the right to reject a Bid if the Respondent's acceptance period is unacceptable and the Respondent is unwilling to extend the validity of its Bid.

5.15 Prime Contractor Responsibilities

The selected Respondent shall be required to assume responsibility for all items and services offered in his Bid whether or not he produces or provides them. The Owner shall consider the selected Respondent to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

5.16 Use of Subcontractors

Each Contractor shall serve as the single prime Contractor for all work performed pursuant to its contract. That prime Contractor shall be responsible for all deliverables referenced in this Bid Request. This general requirement notwithstanding, Respondents may enter into subcontractor arrangements. Respondents may submit a Bid in response to this Bid Request, which identifies subcontract(s) with others, provided that the prime Contractor acknowledges total responsibility for the entire contract.

If it becomes necessary for the prime Contractor to use subcontractors, the Owner urges the prime Contractor to use Oklahoma vendors, including small and emerging businesses, a small entrepreneurship or a veteran or service-connected disabled veteran-owned small entrepreneurship, if practical. In all events, any subcontractor used by the prime should be identified to the Owner.

Information required of the prime Contractor under the terms of this Bid Request, is also required for each subcontractor and the subcontractors must agree to be bound by the terms of the contract. The prime Contractor shall assume total responsibility for compliance. Nothing in the contract documents shall create any contractual relationship between the Owner and any subcontractor or other person or organization having a direct contract with the Contractor, nor shall it create any obligation on the part of the Owner to pay or to see to the payment of any monies due any subcontractor.

The Contractor shall indemnify and hold harmless the Owner and its agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the Contractor's failure to bind every subcontractor and Contractor's surety to all of the applicable terms and conditions of the contract documents.

5.17 Written or Oral Discussions/Presentations

Written or oral discussions may be conducted with Respondents who submit Bids determined to be reasonably susceptible of being selected for award; however, the Owner reserves the right

to enter into an Agreement without further discussion of the Bid submitted based on the initial offers received. Any such written or oral discussion shall be initiated by the Owner.

Any commitments or representations made during these discussions, if conducted, may become formally recorded in the final contract.

Written or oral discussions/presentations for clarification may be conducted to enhance the Owner's understanding of any or all of the Bids submitted. Any such written or oral discussions/presentations shall be initiated by the Owner. Bids may be accepted without such discussions.

5.18 Acceptance of Bid Content

The mandatory Bid Request requirements shall become contractual obligations if a contract ensues. Failure of the successful Respondent to accept these obligations shall result in the rejection of the Bid.

5.19 Evaluation and Selection

All responses received as a result of this Bid Request are subject to evaluation for the purpose of selecting the Respondent with whom the Owner shall contract.

The Owner may reject all Bids if none is considered in the best interest of the Owner.

5.20 Contract Award and Execution

The Owner reserves the right to enter into a contract without further discussion of the Bid submitted based on the initial offers received.

The Bid Request, including any addenda, and the Bid of the selected Contractor will become part of any contract initiated by the Owner.

Respondents shall not submit their own standard terms and conditions with their bid proposal.

The Owner intends to award to a single Respondent.

5.21 Notice of Intent to Award

Upon review and approval of the issuing department's recommendation for award, the Procurement Department will issue a "Notice of Intent to Award" letter to the apparent successful Respondent. A contract shall be completed and signed by all parties concerned on or before the date indicated in the "Schedule of Events." If this date is not met, through no fault of the Owner, the Owner may elect to cancel the "Notice of Intent to Award" letter and make the award to the next most advantageous Respondent.

The Procurement Department will also notify all unsuccessful Respondent as to the outcome of the procurement process.

5.22 Affidavits

Awarded Contractor shall execute affidavits attesting compliance with Oklahoma State Law, each as amended, and other affidavits as required by law, concurrent with execution of the contract. Such affidavits are attached hereto as Attachment "F".

5.23 Insurance Requirements

The Contractor shall comply with all insurance requirements of the Owner as contained in this bid package. The cost of such insurance shall be paid by the Contractor and shall be included in the Respondent's Bid. All policies of insurance shall meet the requirements of the Owner prior to the commencing of any work. The Owner has the right, but not the duty, to approve all insurance policies prior to the commencing of any work. Contractor shall furnish the Owner with certificates of insurance effecting coverage(s) required by the Bid Request. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be received and approved by the Owner before work commences. If the Contractor fails to furnish the Owner with the insurance protection required and begins work without first furnishing the Owner with a currently dated certificate of insurance, the Owner has the right to obtain the insurance protection required and deduct the cost of insurance from the first payment due the Contractor. Further deductions are permitted from future payments as are needed to protect the interests of the Owner including, but not limited to, renewals of all policies. The Owner reserves the right to require complete certified copies of all required policies, at any time.

The insurance companies issuing the policy or policies shall have no recourse against the Owner for payment of any premiums or for assessments under any form of policy.

Any and all deductibles in the described insurance policies shall be assumed by and be at the sole risk of the Contractor.

All insurance companies must be authorized to do business in the State of Oklahoma

Policy coverages and limits must be evidenced by Certificates of Insurance issued by Contractor's carrier to the Owner and shall reflect:

Date of Issue: Certificate must have current date.

Named Insured: The legal name of Contractor under contract with the Owner and its principal place of business shall be shown as the named insured on all Certificates of Liability Insurance.

Name of Certificate Holder(s): City of Claremore, Oklahoma

Project Description: A brief project description, including Project Name, Project Number and/or contract Number, and Location.

Endorsements and Certificate Reference: All policies must be endorsed to provide, and certificates of insurance must evidence the following:

Waiver of Subrogation: The Contractor's insurers will have no right of recovery or subrogation against the Owner – City of Claremore, it being the intention of the parties that all insurance policy(is) so affected shall protect both parties and be the primary coverage for any and all losses covered by the below described insurance. *Policy endorsements required for all coverages.*

Additional Insured: The Owner shall be named as additional named insured with respect to general liability, marine liability, pollution/environmental liability, automobile liability and excess liability coverages. *Policy endorsements required.*

Hold Harmless: Contractor's liability insurers shall evidence their cognizance of the Hold Harmless and Indemnification in favor of City of Claremore, Owner by referencing same on the face of the Certificate(s) of Insurance.

Cancellation Notice: Producer shall provide thirty (30) days prior written notice to the Owner of policy cancellation or substantive policy change.

The types of insurance coverage the Contractor is required to obtain and maintain throughout the duration of the contract, include, but is not limited to:

- (a) Worker's compensation as required by law, and employer's liability insurance of at least \$1,000,000 each occurrence and \$1,000,000 aggregate with bodily Injury by disease of at least \$500,000 for each employee. Such policies are to be covering all their employees who perform any of the obligations of CONTRACTOR. 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 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 Agreement shall have limits for bodily injury or death of not less than \$1,000,000.00 each occurrence, limits for property damage of not less than \$1,000,000.00 each occurrence, and \$1,000,000.00 aggregate for accidents during the policy period. A single limit of \$1,000,000.00 for 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 Agreement, whether owned, non-owned, or hired, shall have limits for bodily injury or death of not less than \$1,000,000.00 per person and \$1,000,000.00 each occurrence, and property damage limits of \$1,000,000.00 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) General Liability coverage shall include Premises and operations; explosion; collapse, underground; products and/or completed operations; contractual liability, personal injury; broad form property damage, if applicable

The City of Claremore shall be named as Additional Insured and a Waiver of Subrogation shall be included on all policies of insurance required in subsections "b" and "c" of this Section to the extent of the insurable risks and liabilities assumed by CONTRACTOR under the defense and indemnity provisions of this Agreement.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to City of Claremore shall furnish City of Claremore a certificate evidencing compliance with the foregoing requirements which shall provide not less than thirty (30) days prior written notice to City of Claremore of any cancellation or material change in the insurance.

All policies of insurance shall meet the requirements of the Owner prior to the commencing of any work. The Owner has the right, but not the duty, to approve all insurance policies prior to commencing of any work. If at any time, it becomes known that any of the said policies shall be or becomes unsatisfactory to the Owner as to form or substance; or if a company issuing any such policy shall be or become unsatisfactory to the Owner, the Contractor shall promptly obtain a new policy, timely submit same to the Owner for approval and submit a certificate thereof as provided above. The Owner agrees to not unreasonably withhold approval of any insurance carrier selected by Contractor. In the event that Owner cannot agree or otherwise authorize said carrier, Contractor shall have the option of selecting and submitting new insurance carrier within 30 days of said notice by the Owner. In the event that the second submission is insufficient or is not approved, then the Owner shall have the unilateral opportunity to thereafter select a responsive and responsible insurance carrier all at the cost of Contractor and thereafter deduct from Contractor's fee the cost of such insurance.

Upon failure of Contractor to furnish, deliver and/or maintain such insurance as above provided, the contract, at the election of the Owner, may be forthwith declared suspended, discontinued or terminated. Failure of the Contractor to maintain insurance shall not relieve the Contractor from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligation of the Contractor concerning indemnification.

Contractor shall maintain a current copy of all annual insurance policies and provide same to the Owner as may be reasonably requested.

It shall be the responsibility of Contractor to require that these insurance requirements are met by all contractors and sub-contractors performing work for and on behalf of Contractor. Contractor shall further ensure the Owner is named as additional insured on all insurance policies provided by said contractor and/or sub-contractor throughout the duration of the project, and that renewal certificates for any policies expiring prior to the Owner's final acceptance of the project shall be furnished to the City of Claremore, Oklahoma, Office of Risk Management, without prompting.

Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from its operations under the contract

5.24 Subcontractor Insurance

The Contractor shall include all subcontractors as insured's under its policies or shall insure that all subcontractors satisfy the same insurance requirements stated herein for the Contractor.

5.25 Indemnification and Limitation of Liability

Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under the contract.

Contractor shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the Owner from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by Contractor, its agents, employees, partners or subcontractors in the performance of the contract, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the Owner. In connection therewith, the Contractor shall execute the Hold Harmless Agreement furnished by the Owner (Attachment "E"). Work may not commence until such Hold Harmless Agreement is executed by the Contractor and received by the Owner.

Contractor will indemnify, defend and hold the Owner harmless, **without limitation**, from and against any and all damages, expenses (including reasonable attorneys' fees), claims judgments, liabilities and costs which may be finally assessed against the Owner in any action for infringement of a United States Letter Patent with respect to the Products, Materials, or Services furnished, or of any copyright, trademark, trade secret or intellectual property right, provided that the Owner shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the Owner may require Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Owner shall require.

The Contractor shall not be obligated to indemnify that portion of a claim or dispute based upon:

(i) Owner's unauthorized modification or alteration of a Product, Material, or Service; (ii) Owner's use of the Product, Material, or Service in combination with other products, materials, or services not furnished by Contractor; (iii) Owner's use in other than the specified operating conditions and environment.

In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion as the Owner's exclusive remedy to take action in the following order

of precedence: (i) to procure for the Owner the right to continue using such item(s) or part(s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the Owner up to the dollar amount of the contract.

The Owner may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.

5.26 Payment

5.26.1 Payment for Services

Monthly certificates for partial payment, in a form approved by the Owner, shall be transmitted to the Owner upon receipt from the Contractor and acceptance by the Owner. When the contract price is more than five hundred thousand dollars (\$500,000), these certificates shall be equal to ninety percent (95%) of both the work performed and materials stored at the site. Partial payment certificates shall include only work, materials and equipment that are included in an official work order and which meet the requirements of plans, specifications and contract documents. These monthly estimates shall show the amount of the original estimate for each item, the amount due on each item, the gross total, the retained percentage, the amount previously paid and the net amount of payment due.

After final completion and acceptance by the Owner of the entire work, the Owner shall issue to the Contractor a Certificate of Payment in a sum sufficient to increase total payments to ninety percent (95%) of the contract price.

The final payment certificate of the remaining ten percent (5%) of the contract price, minus any deduction for deficient or defective Work or other applicable deductions, will be issued by the Owner forty-five (45) days after filing acceptance in the Mortgage Office of the County and a Clear Liens and Privilege Certificate has been secured. Before issuance of the final payment certificate, the Contractor shall deposit with the Owner a certificate from the Clerk of Court and Ex-Officio Recorder of Mortgages from the County in which the work is performed to the effect that no liens have been registered against contract work.

When, in the opinion of the Contractor, the work provided for and contemplated by the contract documents has been substantially completed, the Contractor shall notify the Owner in writing that the work is substantially complete and request a final inspection. The Owner shall proceed to perform such final inspection accompanied by the Contractor. Any and all work found by this inspection to be defective or otherwise not in accordance with the plans and specifications shall be corrected to the entire satisfaction of the Owner and at the sole expense of the Contractor. If the contract is found to be incomplete in any of its details, the Contractor shall at once remedy such defects, and payments shall be withheld and formal acceptance delayed until such work has been satisfactorily completed.

If payment is requested on the basis of materials and equipment not incorporated in the work, but delivered and suitably stored and protected from damage and theft at the site, the Request for

Payment shall also be accompanied by such data, satisfactory to the Owner, as will establish Owner's title to the material and equipment and protect its interest therein, including applicable insurance.

Each subsequent Request for Payment shall include an affidavit of Contractor stating that all previous progress payments received on account of the work have been applied to discharge in full all of Contractor's obligations reflected in prior Request for Payment.

Each subsequent request for payment shall include an affidavit by Contractor that Contractor, all subcontractors, agents, material suppliers and all other persons supplying material to the project upon which State of Oklahoma and/or County sales taxes are lawfully due have paid these taxes and that all supplies and materials purchased for this project and for which Contractor has been paid have had all lawfully due State and/or County sales taxes paid.

The Bid Request (with the Respondent's Bid), unless otherwise modified in writing, and the contract constitute the complete project. The contract prices constitute the total compensation payable to Contractor and the cost of all of the work and materials, taxes, permits and incidentals must be included into the Bid submitted by the Contractor and included into those items listed on the Bid Request.

Any additional supporting data required by the Owner in order to substantiate Contractor's request for payment shall be furnished by Contractor at no cost to the Owner.

The Owner may withhold from payment to Contractor as may be necessary to protect itself from loss on account of:

- (1) Defective and/or inferior work;
- (2) Damage to the property of the Owner or others caused by Contractor;
- (3) Failure by Contractor to make payments properly to subcontractors or to pay for labor, materials or equipment used on this project;
- (4) Failure by Contractor to pay taxes due on materials used on this project;
- (5) Damage by Contractor to another Contractor;
- (6) Insolvency;
- (7) Bankruptcy, voluntary or involuntary;
- (8) Revocation of corporate status;
- (9) Failure to follow corporate formalities;
- (10) Unprofessional activities;
- (11) Unworkmanlike performance; and/or
- (12) Fraud and/or misrepresentation of any kind.

5.26.2 Unit of Measure Quantity Calculation(s)

The owner will provide Monitors to quantify the volume and weight of all materials wrecked and removed from the 138kV Electric Transmission Line.

A four-part load ticket will be issued by a Claremore monitor prior to transport of the debris from the loading site. The entire four-part load ticket is given to the vehicle operator. Upon arrival at the dumpsite, the vehicle operator will give the entire four-part load ticket to the City monitor. The City monitor will verify the hauler and equipment and establish a percent of truck capacity of the eligible cubic yardage of debris load. After documenting percentage to the nearest 5%, the

City monitor will calculate the actual cubic yardage of the load. The actual cubic yard will be recorded on the load ticket by the City monitor to the nearest cubic yard. The City monitor will document the data on the load ticket. The City monitor will give one copy to the vehicle operator. One copy is then given to the contractor, the original is kept by the City and the fourth for any other entity that may need a copy. The load tickets shall be submitted with the daily operational report.

The contractor will be provided copies of tickets that will contain the following information.

- Ticket Number
- Contract Number
- Contractor Name
- Date
- Truck or Roll-off Number
- Truck Capacity
- Point of Debris Collection
- Loading Departure Time
- Dump Arrival Time
- Percent of Load
- Actual Debris Volume
- Debris Eligibility (Y/N)
- Type of Debris

5.26.3 Acceptance and Final Payment(s)

Upon receipt of written notice from Contractor that the work is substantially complete and usable by the Owner in a suitable manner, the Owner and the Contractor shall jointly inspect the work.

If the Owner by inspection determines that the work is not substantially complete in a suitable manner for its use, then the Owner shall so notify the Contractor in writing stating such reason. All reasons need not be disclosed unless actually known. The Owner is afforded an opportunity to amend said notices as are reasonably possible.

If the Owner by its inspection determines that the work is substantially complete, it shall prepare a list of all items not satisfactorily completed and shall notify the Contractor in writing that the work is substantially complete and subject to satisfactory resolution of those items on the list (punch list). Punch lists may be amended from time to time by the Owner in the event that additional deficiencies are discovered. Any punch list generated during a construction project shall include the cost estimates for the particular items of work the design professional has developed based on the mobilization, labor, material, and equipment costs of correcting each punch list item. The design professional shall retain his working papers used to determine the punch list items cost estimates should the matter be disputed later. The contract agency shall not withhold from payment more than the value of the punch list. Punch list items completed shall be paid upon the expiration of the forty-five (45) day lien period.

Upon determination of substantial completeness with the punch list, the contract time is interrupted and the Contractor is given a reasonable time not to exceed thirty (30) consecutive calendar days to effect final completion by correcting or completing all of those items listed on the punch list. If the items on the punch list are not completed in a satisfactory manner within the thirty-day period, then the contract time will begin to run again and will include for purposes of determining liquidated damages the thirty-day period the grace period being withdrawn.

Upon receipt by the Owner of written determination that all work embraced by the contract has been completed in a satisfactory manner, the Owner shall provide a written acceptance to the Contractor who shall record the Owner's written acceptance with the recorder of Mortgages, City Owner. The Contractor shall properly prepare, submit and pay for all costs associated with said acceptance. The Contractor is also responsible for preparation, re-submission and payment of any and all updated certificates.

Retainage monies, minus those funds deducted in accordance to the requirements of this agreement, shall be due Contractor not earlier than forty-six (46) calendar days after recordation of certificate of the Owner's acceptance provided the following:

Contractor shall prepare, secure, pay for and submit clear lien and privilege certificate, signed and sealed by Clerk of Court or Recorder of Mortgages, Owner of City and dated at least forty-six (46) days after recordation of certificate of acceptance;

Ensure that the official representative of the Owner has accepted as per LSA-R.S. 38:2241.1, et seq. and that all following subsections have been properly satisfied as per law;

Ensure that all signatures are affixed and that there exists the requisite authority for all signatures;

Ensure accurate and proper legal descriptions;

Properly identify all parties and/or signatories;

Properly identify all mailing addresses;

Correctly set for the amount of the contract, together with all change orders;

Set out a brief description of the work performed;

Reference to any previously recorded contract, lien or judgment inscription that may affect the property;

Certification that substantial completion has occurred, together with any applicable date(s);

Certification that no party is in default and/or that the project has been abandoned.

After securing the clear lien and privilege certificate the Contractor shall prepare its final application for payment and submit to the Owner. The Owner shall approve application for payment, or state its objections in writing and forward to Contractor for resolution.

5.27 Termination

5.27.1 Termination of the Contract for Cause

The Owner may terminate the contract for cause based upon the failure of the Contractor to comply with the terms and/or conditions of the contract, or failure to fulfill its performance obligations pursuant to the contract, provided that the Owner shall give the Contractor written notice specifying the Contractor's failure. If within thirty (30) days after receipt of such notice, the Contractor shall not have corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct such failure and thereafter proceeded diligently to complete such correction, then the Owner may, at its option, place the Contractor in default and the contract shall terminate on the date specified in such notice.

The Contractor may exercise any rights available to it under Oklahoma law to terminate for cause upon the failure of the Owner to comply with the terms and conditions of the contract, provided that the Contractor shall give the Owner written notice specifying the Owner's failure and a reasonable opportunity for the Owner to cure the defect.

5.27.2 Termination of the Contract for Convenience

The Owner may terminate the contract at any time by giving thirty (30) days written notice to the Contractor of such termination or negotiating with the Contractor an effective date.

The Contractor shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily.

5.27.3 Termination for Non-Appropriation of Funds

The continuance of the contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Owner. If the Owner fails to appropriate sufficient monies to provide for the continuation of the contract, or if such appropriation is reduced for any lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

5.27.4 Effects of Termination

Upon receipt of notice from the Owner that the contract has been terminated, the Contractor shall immediately discontinue all operations. The Owner may then proceed with the work in any lawful manner that it may elect until the work is finally completed.

The exclusive right is reserved to the Owner to take possession of any machinery, implements, tools or materials of any description that shall be found upon the work, to account for said equipment and materials, and to use same to complete the project. When the work is finally completed, the total cost of same will be computed. If the total cost is less than the contract price, the difference will not be paid to the Contractor or its surety.

In case of termination, all expenses incident to ascertaining and collecting losses under the bond, including legal services, shall be assessed against the bond.

If the work should be stopped under any order of any court or public authority for period of sixty (60) calendar days, through no act or fault of the Contractor or anyone employed by it, or if the Owner shall fail to pay the Contractor within a reasonable time any sum certified by the Owner, then the Contractor may, upon thirty (30) calendar days written notice to the Owner, stop work or terminate the contract and recover from the Owner payment for all work properly and professionally executed in a workmanlike manner. This loss specifically includes actual cost of materials and equipment, together with all wages inclusive of all federal, state, and local tax obligations. This loss specifically includes reimbursement of all insurances on a pro-rata basis from the date of termination to date of policy period. This loss excludes and specifically does not include recovery by the Contractor for lost profit, indirect & direct expenses, overhead, and the like.

5.28 Assignment

The Contractor shall not assign any interest in the contract by assignment, transfer, or novation, without prior written consent of the Owner. This provision shall not be construed to prohibit the Contractor from assigning his bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the Owner.

5.29 No Guarantee of Quantities

The quantities referenced in the Bid Request are estimated to be the amount needed. In the event a greater or lesser quantity is needed, the right is reserved by the Owner to increase or decrease the amount, at the unit price stated in the Bid.

The Owner does not obligate itself to contract for or accept more than its actual requirements during the period of the contract, as determined by actual needs and availability of appropriated funds.

5.30 Audit of Records

The Owner Auditor, state auditors, federal auditors or others so designated by the Owner, shall have the option to audit all accounts directly pertaining to the resulting contract for a period of five (5) years after Project acceptance or as required by applicable State and Federal law. Records shall be made available during normal working hours for this purpose.

5.31 Civil Rights Compliance

The Contractor agrees to abide by the requirements of the following as applicable: Title VI and Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Act of 1975, and Contractor agrees to abide by the requirements of the Americans with Disabilities Act of 1990. Contractor agrees not to discriminate in its employment practices, and will render services under the contract and any contract without regard to race, color, religion, sex, national origin, veteran status, political affiliation, or disabilities. Any act of discrimination committed by Contractor, or failure to comply with these statutory obligations when applicable shall be grounds for termination of the contract.

5.32 Record Retention

The Contractor shall maintain all records in relation to the contract for a period of at least Three (3) years after final payment.

5.33 Record Ownership

All records, reports, documents, or other material related to any contract resulting from this Bid Request and/or obtained or prepared by Contractor in connection with the performance of the services contracted for herein shall become the property of the Owner and shall, upon request, be returned by Contractor to the Owner, at Contractor's expense, at termination or expiration of the contract.

5.34 Content of Contract/ Order of Precedence

In the event of an inconsistency between the contract, the Bid Request and/or the Contractor's Bid, the inconsistency shall be resolved by giving precedence first to the final contract, then to the Bid Request and subsequent addenda (if any) and finally, the Contractor's Bid.

5.35 Contract Changes

No additional changes, enhancements, or modifications to any contract resulting from this Bid Request shall be made without the prior written approval of the Owner. If any additional work is

performed by the Contractor without such written approval, the cost of the work will be borne solely by the Contractor and will not be reimbursed by the Owner.

Changes to the contract include any change in: compensation; beginning/ ending date of the contract; scope of work; and/or Contractor change through the Assignment of contract process. Any such changes, once approved, will result in the issuance of an amendment to the contract and/or change order.

5.36 Substitution of Personnel

The Owner intends to include in any contract resulting from this Bid Request the following condition:

Substitution of Personnel: If, during the term of the contract, the Contractor or subcontractor cannot provide the personnel as proposed and requests a substitution, that substitution shall meet or exceed the requirements stated herein. A detailed resume of qualifications and justification is to be submitted to the Owner for approval prior to any personnel substitution. It shall be acknowledged by the Contractor that every reasonable attempt shall be made to assign the personnel listed in the Contractor's Bid.

5.37 Governing Law

All activities associated with this Bid Request process shall be interpreted under Oklahoma Law. All proposals and contracts submitted are subject to provisions of the laws of the State of Oklahoma and specifications listed in this Bid Request. Jurisdiction and venue for any suit filed in connection with this Bid Request process and contract shall be exclusive to the 12th Judicial District Court for Rogers County, State of Oklahoma.

5.38 Anti-Kickback Clause

The Contractor hereby agrees to adhere to the mandate dictated by the Copeland "Anti-Kickback" Act which provides that each Contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the completion of work, to give up any part of the compensation to which he is otherwise entitled.

5.39 Clean Air Act

The Contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA list of Violating Facilities.

5.40 Energy Policy and Conservation Act

The Contractor hereby recognizes the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

5.41 Clean Water Act

The Contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders, or requirements issued under Section 508 of the Clean Water Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities.

5.42 Byrd Anti-Lobbying and Debarment Act

The Contractor will be expected to comply with Federal statutes required in the Byrd Anti-Lobbying Act.

Contractor must certify that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. See attached Byrd Anti-Lobbying Amendment Certification

5.43 Debarment and Suspension Act.

Contractor shall be registered and maintain an active registration throughout the entire period of performance of this contract with in the federal System for Award Management (SAM) in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension.

Sam.gov website is a national database for all recipients of federal funds. The website for SAM system is at www.sam.gov. The Owner will verify contractor eligibility of award of contract

5.44 Procurement of Recovered Materials

Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

5.45 Contract Work Hours and Safety Standards Act

Contractor must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

5.46 Bonding Requirements

Each Proposer shall be accompanied by a bid bond or guarantee of 5% of the bid which shall be a certified check, cash escrow or a bid bond payable to the City in accordance with Oklahoma state law. The sureties of all bonds shall be of such surety company or companies as are approved by the State and are authorized to transact business in the State of Oklahoma. Such bid bond or check shall be submitted with the understanding that it shall guarantee that the Proposer will not withdraw such bid during the period of 90 days following the opening of proposals; that if such Proposer is accepted, the Proposer will accept and perform under the terms of the contract and Task Order(s). The bid guarantee will be returned upon award of contract.

No later than forty-eight (48) hours following the Notice to Proceed and prior to beginning work for the City, the Contractor shall execute and furnish the City with performance and payment bonds in the estimated amount of the Task Order. All bonds shall be provided by a surety company authorized to do business in the State of Oklahoma and solely for the protection of the City. To document the Proposer's ability to execute and furnish performance and payment bonds, the Proposer is required to submit a current letter from a surety company or bonding agent authorized to do business in the State of Oklahoma in their proposal attesting to their respective bonding capacity of at least \$5,000,000. Failure to provide this letter, written on surety company letterhead, will constitute non-compliance and Proposer will not be considered for award.

5.47 Bonding Capacity Information

Proposer shall submit a letter from a surety company licensed to do business in Oklahoma stating its ability to provide bonds no less than five million (5,000,000) dollars. The Surety, which issues the bonding letter bond, must be listed on the U.S. Treasury, Fiscal Service, Bureau of Government Financial Operations, (latest review) entitled "Companies Holding Certificates of Authority as Acceptable Surety on Federal Bond and as Acceptable Reinsuring Companies."

**ATTACHMENT A:
OKLAHOMA PUBLIC WORK BID FORM**

TO: City of Claremore
104 Muskogee Ave.
Claremore, Oklahoma 74017

BID FOR: City of Claremore
Disaster Utility Debris Removal and Disposal of Damaged Distribution

The undersigned bidder hereby declares and represents that she/he: a) has carefully examined and understands the Bidding Documents, b) has not received, relied on, or based his bid on any verbal instructions contrary to the Bidding Documents or any addenda, c) has personally inspected and is familiar with the project site, and hereby proposes to provide all labor, materials, tools, appliances and facilities as required to perform, in a workmanlike manner, all work and services for the construction and completion of the referenced project, all in strict accordance with the Bidding Documents.

Bidders must acknowledge all addenda. The Bidder acknowledges receipt of the following **ADDENDA:** (Enter the number the Designer has assigned to each of the addenda that the Bidder is acknowledging) _____

TOTAL BASE BID: For all work required by the Bidding Documents (including any and all unit prices designated "Base Bid" * but not alternates) the sum of:

_____ Dollars (\$ _____)

ALTERNATES: For any and all work required by the Bidding Documents for Alternates including any and all unit prices designated as alternates in the unit price description.

Alternate No. 1 (NA) for the additional sum of:

_____ Dollars (\$ _____)

Alternate No. 2 (NA) for the additional sum of:

_____ Dollars (\$ _____ N/A _____)

Alternate No. 3 (Owner to provide description of alternate and state whether add or deduct) for the lump sum of:

N/A _____ Dollars (\$ _____ N/A _____)

NAME OF BIDDER: _____

ADDRESS OF BIDDER: _____

OKLAHOMA CONTRACTOR'S LICENSE NUMBER: _____

NAME OF AUTHORIZED SIGNATORY OF BIDDER: _____

TITLE OF AUTHORIZED SIGNATORY OF BIDDER: _____

SIGNATURE OF AUTHORIZED SIGNATORY OF BIDDER **: _____

DATE: _____

THE FOLLOWING ITEMS ARE TO BE INCLUDED WITH THE SUBMISSION OF THIS OKLAHOMA PUBLIC WORK BID FORM:

* The Unit Price Form shall be used if the contract includes unit prices. Otherwise it is not required and need not be included with the form. The number of unit prices that may be included is not limited and additional sheets may be included if needed.

** **A CORPORATE RESOLUTION OR WRITTEN EVIDENCE** of the authority of the person signing the bid for the public work.

BID SECURITY in the form of a bid bond, certified check or cashier's check as prescribed by Oklahoma State Law attached to and made a part of this bid.

OKLAHOMA PUBLIC WORK BID FORM

UNIT PRICE FORM

TO: City of Claremore
 104 Muskogee Ave.
 Claremore, Oklahoma 74017

BID FOR: City of Claremore Disaster Utility Debris Removal and Disposal of Damaged Distribution

UNIT PRICES: This form shall be used for any and all work required by the Bidding Documents and described as unit prices. Amounts shall be stated in figures and only in figures.

DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.# ____ Removal and Disposal of eligible power poles, cross arms, insulators, hardware and incidental City of Claremore damaged assets from roadway Right of Way (ROW)			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (<i>Quantity times Unit Price</i>)
1	500	Cubic Yard		

DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.# ____ Removal and Disposal of eligible power poles, cross arms, insulators, hardware and incidental damaged assets from City of Claremore Electrical Line Right of Way (ROW)			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (<i>Quantity times Unit Price</i>)
2	500	Cubic Yard		

DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.# ____ Removal and Delivery to a designated facility all transformers, regulators, coil reclosures and capacitors			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (<i>Quantity times Unit Price</i>)
3	150	Each		

DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.# ____ Supply & Place select backfill materials as required for utility pole removal and rut repair			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (<i>Quantity times Unit Price</i>)
4	25	Cubic Yard		

DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.# ____ Loading, Hauling & Disposal of Electronic Waste (Conductor, Static Wire & Guy Wire)			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (<i>Quantity times Unit Price</i>)
5	30	Ton		

Wording for "DESCRIPTION" is to be provided by the Owner.

All quantities are estimated. The contractor will be paid based upon actual quantities as verified by the Owner.

ATTACHMENT B: SEALED RFP LABEL

Cut along the outer border and affix this label to your sealed bid envelope to identify it as a "Sealed RFP"

SEALED RFP DO NOT OPEN

SEALED RFP# 2024-2

**RFP TITLE: DISASTER UTILITY DEBRIS REMOVAL AND
DISPOSAL OF DAMAGED DISTRIBUTION**

DUE: June 28, 2024 AT 12:00 PM

COMPANY NAME: _____

COMPANY ADDRESS: _____

COMPANY CITY/STATE: _____

Deliver to:

City of Claremore
Attn: City Finance Director
Grady Lemons
104 Muskogee Ave.
Claremore, Oklahoma 74017

ATTACHMENT C: COVER LETTER EXAMPLE

REQUEST FOR PROPOSALS (RFP) NUMBER: RFP# 2024-2
DISASTER UTILITY DEBRIS REMOVAL AND DISPOSAL OF
DAMAGED DISTRIBUTION

COMPANY NAME
COMPANY ADDRESS

DATE

DELIVERED TO:

City of Claremore
Attn: City Asst Finance Director
Grady Lemons
104 Muskogee Ave.
Claremore, Oklahoma 74017

ATTACHMENT D

Instructions: If the Respondent is a Minority Owned Business (MOB) or Women Owned Business (WOB) or qualifies as a Section 3 business, the Respondent completes Form F.1. If the Respondent intends to utilize a MOB/WOB or Section 3 business in the performance of the proposed contract, the respondent completes Form F.2

C.1. CERTIFICATION AS A MINORITY OWNED, WOMEN OWNED OR SECTION 3 BUSINESS

I, _____ certify that _____ is a Minority Owned, Women Owned or Section 3 Business.

Business Registered Name	
Business Registered Address 1	
Business Registered Address 2	
State of Registration	
Certificate or Registration Number	
Certifying Agency	

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. The City reserves the right to withdraw or terminate the proposed contract should the representation of fact be false.

Signature	
Printed Name	
Position	
Date	

D.2: STATEMENT OF INTENT OF MOB/WOB/SECTION 3 UTILIZATION

I, _____ certify that _____ will utilize Minority Owned Business (MOB) or Women Owned Business (WOB) as subcontractor(s), vendor(s), supplier(s), or professional service(s). The estimated **dollar value** of the amount that we plan to pay the MOB or WOB subcontractor(s), vendor(s), supplier(s), or professional service(s) is \$ _____

Description of Work	MOB Amount	WOB Amount	Section 3 Amount	Name of MOB/WOB/Section 3

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. The City reserves the right to withdraw or terminate the proposed contract should the representation of fact be false.

Signature	
Printed Name	
Position	
Date	

ATTACHMENT E: RFP AFFIDAVIT OF SINGLE SUBMITTAL

RFP# 2024-2 Disaster Utility Debris Removal and Disposal of Damaged Distribution

Affidavit

To: City of Claremore
Oklahoma

At the time the proposal is submitted, the Respondent shall attach to their proposal a sworn statement.

The sworn statement shall be an affidavit in the following form, executed by an officer of the firm, association, or corporation submitting the proposal and shall be sworn to before a person who is authorized by law to administer oaths.

STATE OF _____ CITY OF _____, before me, the undersigned authority, personally appeared _____ who. Being duly sworn, despises and says they are _____ (Title) of _____ (firm) the respondent submitting the attached proposal for the services covered by the RFP document for RFP# 2024-2 Disaster Recovery Consultant Services.

The affiant further states that no more than one proposal for the above referenced project will be submitting from the individual, their firm, association nor corporation under the same or different name and that such respondent has no financial interest in the firm of another respondent for the same work, that neither they, their firm, association nor corporation has either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this firm's proposal on the above described project. Furthermore, neither the firm nor any of its officers are debarred from participating in public contract lettings in any other state.

Proposer

Title

STATE OF _____)
COUNTY OF _____)

Subscribed and sworn before me this ____ day of ____, 2024 by _____ who personally appeared before me at the time of notarization, and who is personally known to me or who has produced identification.

Notary Public

My commission expires

ATTACHMENT F: RFP AFFIDAVIT OF SOLVENCY

RFP# 2024-2 Disaster Utility Debris Removal and Disposal of Damaged Distribution

Affidavit of Solvency

Pertaining to the solvency of _____ (Entity Name), being of lawful age and being duly sworn I, _____ (Affiant Name), as _____ (Title) hereby certify under penalty of perjury that:

1. have reviewed and am familiar with the financial status of above stated entity.
2. The above stated entity possesses adequate capital in relation to its business operations or any contemplated or undertaken transaction to timely pay its debts and liabilities (including, but not limited to, unliquidated liabilities, unmatured liabilities and contingent liabilities) as they become absolute and due.
3. The above-stated entity has not, nor intends to, incur any debts and/or liabilities beyond its ability to timely pay such debts and/or liabilities as they become due.
4. I fully understand failure to make truthful disclosure of any fact or item of information contained herein may result in denial of the application, revocation of the Certificate of Public Necessity if granted and/or other action authorized by law.

The undersigned has executed this Affidavit of Solvency, in his/her capacity as a duly authorized representative of the above stated entity, and not individually, as of this ____ day of _____-2024.

Signature of Affiant

STATE OF _____)
COUNTY OF _____)

Subscribed and sworn before me this ____ day of ____, 2024 by _____ who personally appeared before me at the time of notarization, and who is personally known to me or who has produced identification.

Notary Public

My commission expires

ATTACHMENT G: CONFLICT OF INTEREST CERTIFICATION

In accordance with 2 CFR 200.318(c)(1) the Bidder certifies that no member, officer, or employee of the City or its designees or agents, no member of the governing body of The City of Claremore in which the program is situated, and no other public official of the City who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, has any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the program assisted under the Agreement. The Bidder shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest pursuant to the purposes of Section 2 CFR 200.318(c)(1).

This certification is a material representation of the fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering this transaction imposed by section 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Bidder Name	
Signature	
Printed Name	
Position	
Date	

ATTACHMENT H: DRUG FREE WORKPLACE FORM

Company Name:

City of Claremore Drug-Free Workplace Form

The undersigned firm hereby certifies that _____ does:
(Name of Firm)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the danger of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the contractual services that are described in the City's request for proposals to provide bond underwriter services, a copy of the statement specified in paragraph 1.
4. In the statement specified in paragraph 1, notify the employees that, as a condition of working on the contractual services described in paragraph 3, the employee will abide by the terms of the statement and will notify the employer of any conviction of or plea of guilty or no contest to, any violation of the State of Oklahoma, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction or plea.
5. Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.
6. Consistent with applicable provisions with State or Federal law, rule, or regulation, make a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1 through 5.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

Signature

Date

ATTACHMENT I: NON-COLLUSION AFFIDAVIT OF VENDOR

The following affidavit **MUST** accompany your response to this proposal.

COUNTY OF _____) SS.
STATE OF _____)

AFFIDAVIT

I, _____, declare under oath, under penalty of perjury, that I am lawfully qualified and acting officer and/or agent of _____ (Firm's Name) and that:

1. That the affiant has not been party to any collusion among proponents in restraint of freedom of competition by agreement to propose at a fixed price or to refrain from making a proposal; or with any official of the state or political subdivision of the State, including The City of Claremore, as to quantity, quality, or price in the matter of the attached proposal, or any other terms of said prospective contract; or in any discussions between proponents and any official of the state, including The City of Claremore, concerning the exchange of money or other thing of value for special consideration in the letting of a contract and,
2. _____ (Firm's Name) has not pled guilty to or been convicted of a felony charge for fraud, bribery, or corruption involving sale of real or personal property to any state or any political subdivision of a state.
3. That no person, firm, corporation subsidiary, parent, predecessor or other entity affiliated with or related to _____ (Firm's Name) has been convicted of a
 - a. felony charge for fraud, bribery, or corruption relating to the sale of real or personal property to any state or political subdivision of a state.

(Officer or Agent)

Subscribed and sworn to before me this _____ day of _____, _____.

(SEAL)

My Commission Expires

(Notary Public)

ATTACHMENT J: BYRD ANTI-LOBBYING AMENDMENT CERTIFICATION

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub- grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of the fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering this transaction imposed by section 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature	
Printed Name	
Position	
Date	

ATTACHMENT K: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

In accordance with 2 CFR Part 180 (OMB Guidance on Debarment and Suspension) the Respondent certifies, to the best of his or her knowledge and belief, that:

- (1) No employee of the Respondent who will materially participate in the Respondent's delivery of labor or work product under this RFP is currently suspended or debarred under the applicable laws or regulations in effect on the date of certification.
- (2) No sub-contractor, partner or other party who will materially participate in the Respondent's delivery of labor or work product under this RFP is currently suspended or debarred under the applicable laws or regulations in effect on the date of certification.
- (3) The undersigned Respondent shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of the fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering this transaction imposed by 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature	
Printed Name	
Position	
Date	

ATTACHMENT L: CONTRACTOR QUESTIONNAIRE

Contractor Information

Company Name: _____

Street Address: _____

County: _____ State: _____ Zip: _____

Telephone Number: _____ Facsimile Number: _____

Type of Organization (circle one): _____ FEIN: _____
Sole Proprietorship Partnership Joint Venture
Corporation, Limited Liability Company

G.C. License No.: _____ Years in Business: _____

No. of Full Time Employees: _____ No. of Part Time Employees: _____

Website Address: _____

Method of Contact

Name: _____ Title: _____

Telephone Number: _____ E-Mail: _____

Authorized Signatures/Negotiators

Name: _____ Title: _____

Telephone Number: _____ E-Mail: _____

Name: _____ Title: _____

Telephone Number: _____ E-Mail: _____

Name: _____ Title: _____

Telephone Number: _____ E-Mail: _____

ATTACHMENT M: BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____ as Principal, and _____ as Surety, are hereby held and firmly bound unto as Owner in the penal sum of **5% of the bid** (Bid Guarantee) for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed, this _____ day of _____, 2024.

The Condition of the above obligation is such that whereas the Principal has submitted to the Owner a Proposal attached hereto and hereby made a part hereof to enter into an Agreement in writing, for the EMERGENCY DEBRIS REMOVAL SERVICES CONTRACT.

NOW, THEREFORE, this Bid Bond shall guarantee that the Principal will not withdraw his Proposal during the period of 120 days following the opening of the bids; that if his Proposal is accepted, Principal will enter into a formal contract with the Owner in accordance with the Request for Proposal; that Principal will submit a properly executed and authorized Standard Performance Bond and a Standard Labor and Material Payment Bond in a form furnished by the Surety and approved by Owner; and that in the event of the withdrawal of the Offer within the said period, or failure to enter into a contract and give said bonds within ten days after Principal has received notice of acceptance of his Offer, Principal and Surety shall jointly and severally be liable to the Owner for the difference between the amount specified in the Offer and such larger amount for which the Owner may contract with another party to perform the work covered by the Owner, up to the amount of the Bid Guarantee. This amount represents the damage to the Owner on account of the default of the Principal in any particular thereof.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year set forth above.

Principal

Surety

By: _____
Attorney-in-Fact

ATTACHMENT N – ADDENDA ACKNOWLEDGEMENT FORM

The undersigned acknowledges receipt of the following addenda to the Bid/Request for Proposals (indicate number and date of each):

Addendum No.: _____ Dated: _____

Addendum No.: _____ Dated: _____

Addendum No.: _____ Dated: _____

Addendum No.: _____ Dated: _____

Addendum No.: _____ Dated: _____

Addendum No.: _____ Dated: _____

FAILURE TO SUBMIT ACKNOWLEDGEMENT OF ANY ADDENDUM THAT AFFECTS PRICING AND/OR SCOPE IS CONSIDERED A MAJOR IRREGULARITY AND MAY BE CAUSE FOR REJECTION OF ANY BID.

Acknowledgement: I certify that I have read and agree to the above terms and conditions and that I am authorized to sign for the Vendor/Contractor.

Company Name: _____ FEIN: _____

Authorized Signature: _____ Date: _____

Printed Name: _____ Title: _____



RFP-2024-2

Disaster Utility Debris Removal and Disposal of Damaged Distribution

Indemnification Form

The following indemnification agreement shall be, and is hereby a provision of any contract. Failure to submit this form with your proposal response shall result in your proposal being rejected as unresponsive.

The successful contractor agrees to indemnify, investigate, protect, defend and save harmless the City, its officials, officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers and any other person, firm, or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by the contractor in the performance of this contract. In any case, the foregoing provisions concerning indemnification shall not be construed to indemnify the City for damage arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City or its employees. This indemnification shall survive the expiration or early termination of this contract.

COMPANY _____

TAXPAYER IDENTIFICATION NUMBER _____

AUTHORIZED SIGNATURE _____

ADDRESS _____

TELEPHONE _____

TOLL-FREE NUMBER _____

FAX NUMBER _____

E-MAIL ADDRESS _____

CLAREMORE

FINANCE DEPARTMENT

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Go to www.irs.gov/FormW9 for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following boxes. <input type="checkbox"/> Individual/sole proprietor or single member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input checked="" type="checkbox"/> Limited liability company. Enter U.S. tax classification (C, S, S corporation, P, Partnership) _____ Note: Check the appropriate box for the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. estate tax purposes. Otherwise, a single member LLC that is disregarded from the owner should check the appropriate box for the tax classification of the owner. <input type="checkbox"/> Other (see instructions) _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption code from FATCA reporting (if any) _____ <small>To 11/15/14 Int. J. U.S. IRS Q. III U.S.J.</small>
5 Mailing address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number (if more than one)	

---1---1 Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number _____
or
Employer identification number _____

Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person _____ Date _____

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.