

# **SARPY COUNTY, NEBRASKA**

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## **REQUEST FOR PROPOSALS**

### **Sarpy County Landfill Site Tree Removal**

#### **NON-MANDATORY PRE-BID MEETING:**

**9:00P.M., THURSDAY, DECEMBER 1, 2016**

#### **PROPOSALS DUE:**

**2:00 P.M., THURSDAY, DECEMBER 8, 2016**

## General Information

### Notice to Vendors

Sarpy County is seeking proposals for tree removal and grinding of post closure procedures for the Sarpy County landfill in Springfield, Nebraska. The successful Vendor will enter into a Contract that incorporates both the RFP along with the submitted proposal.

**A non-mandatory Pre-bid meeting will be held at the Sarpy County Fairview Road Landfill Office in Springfield, Nebraska on December 1, 2016 at 9:00 a.m. to clarify questions and to discuss site conditions and coordination items. The work location is on the property of the active landfill and contractors are not allowed site visits at other times.**

Sealed bids will be received Monday through Friday 8:00 a.m. to 4:45 p.m. except holidays, until 2:00 p.m., Thursday, December 8, 2016. Bids shall be in a sealed envelope, clearly marked "Sealed Bid – Sarpy County Landfill Site Tree Removal" and shall have the name of the Vendor and the time and date of the bid opening. **Do not fax bids, only sealed bids will be accepted.**

**Requests for information and clarification questions must be received by 12:00 p.m. on December 2, 2016 in order for Sarpy County to have time to issue an addendum.**

Bidding criteria must be received from Beth Garber, Purchaser, 1210 Golden Gate Drive, Suite 1220, Papillion, NE 68046, (402) 593-4476, bgarber@sarpy.com or via the internet at www.sarpy.com.

Vendors that obtain specifications from internet sites are responsible for obtaining any addenda that may be added at a later time.

Bids must be sent to:

Deb Houghtaling  
Sarpy County Clerk's Office  
1210 Golden Gate Drive, Suite 1250  
Papillion, NE 68046

Bids not addressed and delivered to the above person will not be considered. Bids received after the above stated time and date will not be considered.

Bid opening will be a public opening to be held in the Sarpy County Administrative Conference Room at 1210 Golden Gate Drive, Papillion, NE. The bid opening will be at 2:00 p.m., Thursday, December 8, 2016.

All bids submitted shall be valid for a period of ninety (90) days following the final date for submission of bids.

Sarpy County will not be liable for costs incurred by Vendors for proposal preparation, printing, demonstration, or any other costs associated with or incurred in reliance on proposal creation. All such costs shall be the responsibility of the Vendor.

The bids shall include all charges and applicable taxes, F.O.B. Destination, freight prepaid, Sarpy County, Nebraska. The Vendor need not include sales tax in the bid. Sarpy County will, upon request, furnish the

successful Vendor with a completed State of Nebraska Tax Exempt Form 13 upon acceptance of the successful Vendor's proposal.

The Sarpy County Board of Commissioners reserves the right to reject any or all bids and to waive minor informalities.

In the event of conflict between unit price and extended price, unit price shall prevail.

### **Procedures for Evaluation and Awarding of Bid**

Evaluation will be done by Beth Garber, Sarpy County Purchaser along with personnel from the Sarpy County Division of Environmental Control and Thompson Dreesen & Dorner (TD2). After evaluation the Purchaser will make a recommendation to the County Board of Commissioners for award. This recommendation and pending award will be made at a public meeting of the Board of Commissioners. Agendas are available each Friday afternoon on our internet site [www.sarpy.com](http://www.sarpy.com). The Commissioners award the bid by majority vote.

The following factors will be used to consider the award of the bid, where applicable:

- a) Compliance with all requirements.
- b) Price.
- c) The ability, capability, and skills of the Vendor to perform.
- d) The character, integrity, reputation, judgment, experience, and efficiency of the Vendor.
- e) The quality of previous performance.
- f) Whether the Vendor can perform within the time specified.
- g) The previous and existing compliance of the supplier with laws.
- h) The life-cost of the personal property or services in relation to the purchase price and specified use.
- i) The performance of the personal property or service taking into consideration any commonly accepted tests and standards of product, service, usability and user requirements.
- j) The energy efficiency ratio as stated by the supplier.
- k) The life-cycle costs between alternatives for all classes of equipment, the evidence of expected life, the repair and maintenance costs, and the energy consumption on a per year basis.
- l) Such other information as may be secured having a bearing on the decision.

### **Terms and Conditions**

#### **1. Information, Discussion and Disclosures**

Any information provided by Sarpy County to any Vendor prior to the release of this Request for Proposal ("RFP"), verbally or in writing, is considered preliminary and is not binding on Sarpy County.

The Vendor must not make available nor discuss any cost information contained in the sealed copy of the proposal to or with any employee of Sarpy County from the date of issuance of this RFP until the contract award has been announced, unless allowed by the Sarpy County Purchasing Department in writing for the purpose of clarification or evaluation.

No interpretation of the meaning of the specifications, or other bidding documents, or correction of any ambiguity, inconsistency, or error therein will be made orally to any Vendor.

Every request for such interpretation or correction should be in writing, addressed to the Sarpy County Purchaser, Beth Garber, 1210 Golden Gate Drive, Suite 1220, Papillion, NE 68046 or bgarber@sarpy.com. **Requests must be received by 12:00 p.m., December 2, 2016 in order for Sarpy County to have time to issue an addendum. Requests received after deadline may not be considered.** In case Sarpy County finds it expedient to supplement, modify, or interpret any portion of the bidding documents prior to the proposed bid date, such procedure will be accomplished by the issuance of written addenda to the RFP which will be mailed or delivered to all prospective Vendors at the respective addresses furnished for such purpose.

## 2. Addenda

All addenda will become part of this RFP and must be responded to by each Vendor.

All addenda must be acknowledged in writing in the bid submitted by the Vendor.

This RFP, any subsequent addenda, and any written responses to questions take precedence over any information previously provided.

## 3. Confidentiality of Documents

Sarpy County considers all information, documentation and other materials requested to be submitted in response to this proposal to be of a non-confidential and/or non-proprietary nature and therefore shall be subject to public disclosure under Neb. Rev. Stat. § 84-712.05(3).

Vendors are hereby notified that Sarpy County strictly adheres to all statutes, court decisions, and opinions of the Nebraska Attorney General with respect to disclosure of RFP information.

Any “proprietary, trade secret, or confidential commercial or financial” information must be clearly identified, in a separate sealed envelope, at the time of bid/proposal submission. **Pricing information is not considered financial information and therefore is not considered Confidential.** Please note: even if Vendor believes pricing information is confidential and includes it in a separate, sealed envelope, such information will be read aloud and entered into record during the public bid opening. For all other appropriately identified proprietary, trade secret, or confidential commercial or financial information, the Vendor will be required to fully defend, in all forums, Sarpy County’s refusal to produce such information; otherwise, Sarpy County will make such information public, upon request.

## 4. Non-Discrimination Clause

Pursuant to Neb. Rev. Stat. §73-102, Vendor declares, promises, and warrants it has and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A. §1985, et seq.), and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §48-1101, et seq. (Reissue 2010), in that there shall be no discrimination against any employee who is employed in the performance of this Contract, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

## **5. Conflict of Interest Clause**

Pursuant to Neb Rev. Stat. §23-3113, the parties hereto declare and affirm that no officer, member, or employee of the County, and no member of its governing body, and no other public official of the County who exercises any functions or responsibilities in the review or approval of the undertaking described in this Contract, or the performing of services pursuant to this Contract, shall participate in any decision relating to this Contract which affects his or her personal interest, or any corporation, partnership, or association in which he or she is directly or indirectly interested; nor shall any employee of the County, nor any member of its governing body, have any interest, direct or indirect, in this Contract or the proceeds thereof.

## **6. Payment Terms**

The successful Vendor shall submit a monthly itemized invoice for payment. Sarpy County will make payment to the successful Vendor within thirty (30) days after receipt of invoice and satisfactory completion of the work.

## **7. Supplemental Terms and Conditions/Modifications**

Any supplemental terms, conditions, modifications, or waiver of these terms and conditions must be in writing and signed by the Sarpy County Board Chairman and the Vendor.

## **8. Termination**

Either party may terminate the Contract with ninety (90) days' written notice to the other.

## **9. Residency Verification**

The Vendor agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. The Vendor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Vendor is an individual or sole proprietorship, the following applies:

The Vendor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us).

- a) If the Vendor indicates on such attestation form that he or she is a qualified alien, the Vendor agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Vendor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

- b) The Vendor understands and agrees that lawful presence in the United States is required and the Vendor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. Sect. 4-108.

## 10. Breach

Should Vendor breach, violate, or abrogate any term, condition, clause or provision of this agreement, the County shall notify Vendor in writing that such an action has occurred. If satisfactory provision does not occur within ten (10) days from such written notice the County may, at its option, terminate this agreement and obtain an alternate provider to provide all required materials. This provision shall not preclude the pursuit of other remedies for breach of contract as allowed by law.

## 11. Insurance Requirements

**The Vendor shall not begin work under this Agreement until all insurance certificates have been filed with the Sarpy County Clerk.**

Vendor shall not commence work on this Contract until he/she has obtained all insurance required under this Section and such insurance has been approved by Sarpy County, nor shall Vendor allow any subcontractors to commence work on his/her subcontract until similar insurance required of the subcontractor has been so obtained and approved.

The following insurance coverages shall be kept in force during the life of the Contract and shall be primary with respect to any insurance or self-insurance programs covering the County, its commissioners/supervisors, officials, agents, representatives and employees. These insurance coverages shall specifically state, or be endorsed to state, that thirty (30) days' notice shall be given to the County in the event of cancellation of, or material change in, any of the coverages.

### Workers' Compensation and Employers Liability Insurance

The minimal acceptable limits shall be the statutory limits as required by the State of Nebraska for Coverage A, Workers' Compensation and \$500,000 each accident for Coverage B, Employers Liability.

### Commercial General Liability Insurance

Coverage should include broad form coverage written on a commercial general liability form and written on an occurrence basis. The coverage must protect against claims for damages resulting from bodily injury, including death, personal injury and property damage.

The minimum acceptable limits of liability shall be \$1,000,000 each occurrence. If the coverage contains a general aggregate, such limit shall not be less than \$2,000,000. The products/completed operations limit shall not be less than \$2,000,000. The County is to be named as an additional insured on the insurance coverage required under this section.

### Automobile Liability Insurance

Coverage shall be against claims for damages resulting from bodily injury, including death and property damage, which may arise from the operations of any owned, hired or non-owned automobile. The minimum acceptable limit of liability shall be \$1,000,000 Combined Single Limit for each accident. The County is to be named as an additional insured on the insurance coverage required under this section.

### Certificate of Insurance

The Vendor shall furnish the County with a certificate(s) of insurance evidencing the coverages required in this section. If the certificate(s) is shown to expire prior to completion of all the terms of this Contract, the Vendor shall furnish a certificate(s) of insurance evidencing renewal of its coverage to the County. The County is to be included as an additional insured on the Commercial General Liability and the Automobile Liability insurance coverage required under this section.

The Vendor shall require each and every Subcontractor performing work under this Contract to maintain the same coverages required of the Vendor in this Section, and upon the request of the County, shall furnish the County with a certificate(s) of insurance evidencing the Subcontractor's insurance coverages required in this section.

### Insurance Company

All insurance coverages herein required of the Vendor shall be written by an insurance company or companies transacting business as an admitted insurer in the State of Nebraska or under the Nebraska Surplus Lines Insurance Act. All insurance companies must possess a minimum A.M. Best Insurance Company rating of A-. Upon request by the County, the Vendor shall furnish evidence that the insurance company or companies being used by the Vendor meet the minimum requirements listed in this section.

Upon request by the County, the Vendor shall furnish the County with complete and accurate copies of the insurance policies required within this section. If at any time during the life of this Contract, the Vendor's insurance coverages and limits do not meet or exceed the minimum insurance requirements presented in this section, the Vendor is required to notify the County within thirty (30) days of any deviations from the minimum requirements presented in this section.

## **12. Assignment**

The Vendor may not assign this Contract without the prior written consent of the County.

## **13. Subcontracting**

Vendor may not subcontract the work to be performed, without prior written consent of the County. If such consent is granted, Vendor will retain responsibility for all work associated with the Contract. The Vendor must identify any subcontractors it intends to use in the execution of this Contract. The Vendor must identify subcontractors in writing within the proposal.

#### **14. Independent Contractor**

The Vendor shall in the performance of the Contract at all times be an independent contractor and not an employee or agent of the County. The Vendor, its officers, employees and agents shall at no time represent the Vendor to be other than an independent contractor or represent themselves to be other than employees of the Vendor.

#### **15. Indemnity**

The Vendor shall indemnify and save harmless Sarpy County, its officers, employees and agents from all loss, claims, suits or actions of every kind and character made upon or brought against Sarpy County, its officers, employees, or agents, for or sustained by any party or parties as a result of any act, error, omission or negligence of said Vendor or its servants, agents, and subcontractors; and also from all claims of damage in fulfilling this Contract.

#### **16. Deviations**

Once the bid has been accepted by Sarpy County, no deviations from the specifications will be accepted without prior written approval of Sarpy County.

#### **17. Exceptions**

These specifications are minimum acceptable specifications. You may bid other than what is specified if it is of higher specification than what is requested. Vendor must list any exceptions to the bid specifications on the bid form.

#### **18. Company Information**

Vendor will provide the following company information on the bid form:

- a. Years in business;
- b. Number of employees; and,
- c. Total sales for last three (3) years.

#### **19. References**

Each Vendor must include with its proposal a list of no less than three (3) current references that have purchased the specified product or service within the last two (2) years. The list must include the name of the company along with the name, phone number, and email of a contact person for each company.

#### **20. Tobacco Free Notice**

The use of tobacco is not permitted within the facilities or on the property of leased and owned Sarpy County buildings at any time including, but not limited to lawns, sidewalks, parking lots and vehicles on authorized County business.

## **Technical Specifications**

Technical Specifications prepared by Thompson Dreesen & Dorner (TD2) are provided in the following section of these contract documents.

### **1. Definition of Vendor**

For purposes of the Sarpy County Landfill Site Tree Removal project the selected Vendor will also be referred to as the General Contractor.

### **2. Work by Others**

Other site activities include ongoing governmental business and landfill / transfer station operation activities by Sarpy County. The Contractors shall cooperate with the Owner and other contractors on site to allow all work to proceed simultaneously.

COMPANY NAME: \_\_\_\_\_

**Sarpy County, Nebraska**  
**Sarpy County Landfill Site Tree Removal**  
**Bid Form**

The undersigned, having carefully examined the plans and specifications and contract documents prepared by Sarpy County and Thompson, Dreessen & Dorner, Inc., engineers for the completion of SARPY COUNTY LANDFILL SITE TREE REMOVAL in and for the Sarpy County Board of Commissioners of Sarpy County, Nebraska, and other such work as may be incidental thereto, and having carefully examined the site of the work, hereby proposed to furnish all labor, tools, materials, and equipment required for the performance of such work according to the following description herein set forth:

Equipment and personnel to remove the trees within the 20 acre parcel located in the NW portion of the site. In addition miscellaneous trees are proposed to be removed to allow for drainage improvements and to prepare the site for post closure.

**Total Lump Sum Bid:**    \$ \_\_\_\_\_

**Estimated Start Date:** \_\_\_\_\_

**Estimated Completion Date:** \_\_\_\_\_

**Company Information:**

Years in business: \_\_\_\_\_  
# of employees        \_\_\_\_\_  
Total sales last 3 years \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Exhibit "A"**  
**AGREEMENT**

This Agreement is entered into by and between the County of Sarpy, in the State of Nebraska, a body politic and corporate, and hereinafter "County", and \_\_\_\_\_, hereinafter "Vendor".

WHEREAS, County is desirous of contracting for Sarpy County Landfill Site Tree Removal for the Sarpy County Division of Environmental Control and,

WHEREAS, the Vendor has been awarded this Agreement as a result of the bid made by Vendor in response to the Specifications and Request for Proposals prepared by County;

NOW, THEREFORE, for and in consideration of the declarations and mutual promises and covenants contained herein, the County and Vendor agree as follows:

I. DUTIES OF VENDOR

- A. Services to be rendered by Vendor under this Agreement shall be all those services necessary and proper for the installation and materials for Sarpy County Landfill Site Tree Removal for the Sarpy County Division of Environmental Control in conformity with each and every term, condition, specification, and requirements of the Bid Specifications and the Bid submitted by the Vendor.
- B. All provisions of each document and item referred to in Paragraph A above shall be strictly complied with the same as if rewritten herein, and in the event of conflict among the provisions of said documents, the provisions most favorable to the County shall govern.
- C. Prior to the commencement of any work, Vendor will place on file with the Sarpy County Clerk, the required certificates of insurance, if applicable.
- D. The Vendor agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. The Vendor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Vendor is an individual or sole proprietorship, the following applies:

- 1. The Vendor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us).
- 2. If the Vendor indicates on such attestation form that he or she is a qualified alien, the Vendor agrees to provide the U.S. Citizenship and Immigration Services

documentation required to verify the Vendor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

3. The Vendor understands and agrees that lawful presence in the United States is required and the Vendor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. Sect. 4-108.
- E. Vendor will submit an invoice to County for work completed based on the amounts specified in Vendor's bid. Such invoices shall be submitted to:

Division of Environmental Control  
1210 Golden Gate Drive  
Papillion, NE 68046

- F. The County and Vendor hereto specifically acknowledge, stipulate and agree that each and every term of the Bid Specifications and the Vendor's bid constitutes an essential term of this Agreement, and that, therefore, any violation of any term, condition, provision, or requirement constitutes a material breach hereunder, for which County shall have every right under the law to terminate this Agreement, and obtain any and all relief necessary.

## II. DUTIES OF COUNTY

In return for full, faithful and diligent rendering of services set forth above, County agrees to pay to Vendor the amount specified in Vendor's bid upon submission of the required invoice and satisfactory completion of all required work.

## III. BREACH

Should Vendor breach, violate, or abrogate any term, condition, clause or provision of this agreement, the County shall notify Vendor in writing that such an action has occurred. If satisfactory provision does not occur within ten (10) days from such written notice, the County may, at its option, terminate this agreement and obtain an alternate provider to provide all required materials. This provision shall not preclude the pursuit of other remedies for breach of contract as allowed by law.

## IV. SAVINGS CLAUSE

This Agreement shall be interpreted, construed and enforced under the laws of the State of Nebraska. It is understood and agreed by the County and Vendor hereto that if any part, term, condition, or provision of this Agreement is held to be illegal or in conflict with any law of the State of Nebraska or of the United States, the validity of the remaining parts, terms, conditions, or provisions shall not be affected, and the rights and obligations of the County and Vendor shall be construed and enforced as if the Agreement did not contain the particular part, term, condition, or provision held to be invalid.

V. SCOPE OF AGREEMENT

This Agreement, along with the Bid Specifications, and Bid by Vendor contains the entire Agreement between the County and Vendor, and there are no other written or oral promises, contracts or warrants which may affect it. This Agreement cannot be amended except by written agreement of both the County and Vendor. Notice to the County and Vendor shall be given in writing to the agents for each party named below:

County: Ms. Debra Houghtaling  
Clerk of Sarpy County  
1210 Golden Gate Drive, Suite 1250  
Papillion, NE 68046

Vendor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, we the contracting parties, by our respective and duly authorized agents, hereto affix our signatures and seals in duplicate this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal) COUNTY OF SARPY, NEBRASKA,  
A body Politic and Corporate

ATTEST:

\_\_\_\_\_  
Sarpy County Clerk

\_\_\_\_\_  
Chairperson  
Sarpy County Board of Commissioners

Approved As To Form:

Vendor: \_\_\_\_\_

\_\_\_\_\_  
Deputy County Attorney

By: \_\_\_\_\_

Title: \_\_\_\_\_

TECHNICAL SPECIFICATIONS  
FOR  
SARPY COUNTY NEBRASKA  
SARPY COUNTY LANDFILL SITE TREE REMOVAL

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GENERAL CONDITIONS

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## 1. DEFINITIONS

1.1 Wherever used in the Contract Documents, the following terms shall have the meaning indicated which shall be applicable to both the singular and plural thereof:

- 1.1.1 ADDENDA - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, Drawings and Specifications by additions, deletions, clarifications or corrections.
- 1.1.2 BID - The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices of the work to be performed.
- 1.1.3 BIDDER - Any person, firm or corporation submitting a Bid for the work.
- 1.1.4 BONDS - Bid, Performance, Payment and Maintenance Bonds and other instruments of security, furnished by the Contractor and his surety in accordance with the Contract Documents.
- 1.1.5 CHANGE ORDER - A Written order to the Contractor authorizing an addition, deletion, or revision in the work within the general scope of the Contract Documents, or authorizing an adjustment in the contract price or contract time.
- 1.1.6 CONTRACT DOCUMENTS - The contract, including Advertising for Bids, Information for Bidders, Bid, Bid Bond, Agreement, Payment Bond, Performance Bond, Notice of Award, Notice to Proceed, Change Order, Drawings, Specifications and Addenda.
- 1.1.7 CONTRACT PRICE - The total monies payable to the Contractor under the terms and conditions of the Contract Documents.
- 1.1.8 CONTRACT TIME - The number of working days stated in the Contract Documents for the completion of the work.
- 1.1.9 CONTRACTOR - The person, firm or corporation with whom the Owner has executed the Agreement.
- 1.1.10 DRAWINGS - The part of the Contract Documents which show the characteristics and scope of the work to be performed and which have been prepared or approved by the Engineer.
- 1.1.11 ENGINEER - The person, firm or corporation named as such in the Contract Documents.
- 1.1.12 FIELD ORDER - A written order effecting a change in the work not involving an adjustment in the contract price or an extension of the contract time, issued by the Engineer to the Contractor during construction.
- 1.1.13 NOTICE OF AWARD - The written notice to the Bidder that the Engineer has recommended acceptance of the Bid to the Owner.
- 1.1.14 NOTICE TO PROCEED - Written communication issued by the Owner to the Contractor authorizing him to proceed with the work and establishing the date of commencement of the work.
- 1.1.15 OWNER - A public or quasi-public body or authority, corporation, association, partnership or individual for whom the work is to be performed.

- 1.1.16 PROJECT - The undertaking to be performed as provided in the Contract Documents.
- 1.1.17 RESIDENT PROJECT REPRESENTATIVE - The authorized representative of the Owner who is assigned to the project site or any part thereof.
- 1.1.18 SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier, or distributor, which illustrate how specific portions of the work shall be fabricated or installed.
- 1.1.19 SPECIAL PROVISIONS - That part of the Contract Documents that modify and supersede the Standard Specifications for a particular project.
- 1.1.20 SPECIFICATIONS - A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.
- 1.1.21 SUBCONTRACTOR - An individual, firm or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the work at the site.
- 1.1.22 SUBSTANTIAL COMPLETION - That date as certified by the Engineer when the construction of the project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the project or specified part can be utilized for the purposes for which it is intended.
- 1.1.23 SUPPLEMENTAL GENERAL CONDITIONS - Modifications to General Conditions required by a Federal Agency for participation in the project and approved by the agency in writing prior to inclusion in the Contract Documents.
- 1.1.24 SUPPLIERS - Any person, supplier or organization who supplies materials or equipment for the work, including that fabricated to a special design, but who does not perform labor at the site.
- 1.1.25 WORK - All labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in the project.
- 1.1.26 WRITTEN NOTICE - Any notice to any party of the Agreement relative to any part of this Agreement shall be in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address, or delivered in person to said party or his authorized representative on the work.

## **2. ADDITIONAL INSTRUCTIONS AND DETAILED DRAWINGS**

- 2.1 The Contractor may be furnished additional instructions and detailed drawings by the Engineer, as necessary to carry out the work required by the Contract Documents.
- 2.2 The additional drawings and instructions thus supplied will become a part of the Contract Documents. The Contractor shall carry out the work in accordance with the additional detailed drawings and instructions.

## **3. SCHEDULES, REPORTS AND RECORDS**

- 3.1 The Contractor shall submit to the Owner such schedules of quantities and costs, progress schedules, payrolls, reports, estimates, records, and other data as the Owner may request concerning work performed or to be performed.

- 3.2 When requested by the Owner and prior to the first partial payment estimate, the Contractor shall submit schedules showing the order in which he proposes to carry on the work, including dates at which he will start the various parts of the work, estimated date of completion of each part, and, as applicable:
- 3.2.1 The dates at which special detailed drawings will be required; and
  - 3.2.2 respective dates for submission of shop drawings, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.
  - 3.2.3 A schedule of payments that he anticipates he will earn during the course of the work.

#### **4. DRAWINGS AND SPECIFICATIONS**

- 4.1 The intent of the drawings and specifications is that the Contractor shall furnish all labor, materials, tools, equipment, water, light, power, superintendence, barricades, signs, temporary construction and transportation necessary for the proper execution of the work in accordance with the Contract Documents and all incidental work necessary to complete the project in an acceptable manner, ready for use, occupancy or operation by the Owner.
- 4.2 In case of conflict between the drawings and specifications, the specifications shall govern. Figure dimensions on drawings shall govern over scale dimensions, and detail drawings shall govern over general drawings. In case of a conflict in the documents as to quantity or quality of work or material, the greater quantity or better quality of work or materials shall be furnished by the Contractor.
- 4.3 Any discrepancies found between the drawings and specifications and site conditions or any inconsistencies or ambiguities in the drawings or specifications shall be immediately reported to the Engineer, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's risk.
- 4.4 The Engineer shall provide the Contractor with four sets of plans and specifications. Additional sets will be provided only at the Contractor's expense. Said plans and specifications are the property of the Engineer and are provided for use on this project only.
- 4.5 The data given in the specifications and shown on the plans and drawings is believed to be accurate, but the accuracy is not guaranteed. The Contractor must take all levels, locations, measurements, and verify all dimensions on the job site prior to construction and adapt this work into the exact construction. Scale measurements taken from prints are not to be used for more than reference.

#### **5. SHOP DRAWINGS**

- 5.1 The Contractor shall provide shop drawings as may be necessary for the prosecution of the work as required by the Contract Documents. The Engineer shall promptly review all shop drawings. The Engineer's approval of any shop drawing shall not release the Contractor from responsibility for deviations from the Contract Documents. The approval of any shop drawing which substantially deviates from the requirement of the Contract Documents shall be evidenced by a Change Order.
- 5.2 When submitted for the Engineer's review, shop drawings shall bear the Contractor's certification that he has reviewed, checked and approved the shop drawings and that they are in conformance with the requirements of the Contract Documents.
- 5.3 Portions of the work requiring a shop drawing or sample submission shall not begin until the shop drawing or submission has been approved by the Engineer. A copy of each approved shop drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the Engineer.

## **6. MATERIALS, SERVICES AND FACILITIES**

- 6.1 It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, traffic barricades and signs, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the work within the specified time.
- 6.2 Materials and equipment shall be so stored as to ensure the preservation of their quality and fitness for the work. Stored materials and equipment to be incorporated in the work shall be located so as to facilitate prompt inspection.
- 6.3 Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
- 6.4 Materials, supplies and equipment shall be in accordance with samples submitted by the Contractor and approved by the Engineer. Names and addresses of suppliers must be furnished to the Engineer on request.
- 6.5 Materials, supplies or equipment to be incorporated into the work shall not be purchased by the Contractor or the Subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.
- 6.6 Contractor warrants that the normal warranties or manufacturers shall fully apply to all materials and equipment and shall inure to and be fully enforceable by the Owner, which manufacturer's warranty shall be cumulative to, and not in lieu of, any separate warranty or guarantee of the Contractor.

## **7. INSPECTION AND TESTING**

- 7.1 All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with generally accepted standards.
- 7.2 The Contractor shall provide at his expense the necessary testing and inspection services required by the Contract Documents, unless otherwise provided.
- 7.3 The Owner shall provide all other inspection and testing services not required by the Contract Documents.
- 7.4 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 someone other than the Contractor, the Contractor will give the Engineer timely notice of readiness. The Contractor will then furnish the Engineer the required certificates of inspection, testing or approval.
- 7.5 Neither observations by the Engineer nor inspections, tests or approvals by persons other than the Contractor shall relieve the Contractor from his obligations to perform the work in accordance with the requirements of the Contract Documents.
- 7.6 The Engineer and his representatives will at all times have access to the work. In addition, authorized representatives and agents of any participating governmental agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices for materials, and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the work and also for any inspection or testing thereof.
- 7.7 If any work is covered contrary to the written request of the Engineer, it must, if requested by the Engineer, be uncovered for his observation and replaced at the Contractor's expense.
- 7.8 If any work has been covered which the Engineer has not specifically requested to observe prior to its being covered, or if the Engineer considers it necessary or advisable that covered work be inspected or tested by others, the

Contractor, at the Engineer's request, will uncover, expose or otherwise make available for observation, inspection or testing as the Engineer may require, that portion of the work in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such work is defective, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If, however, such work is not found to be defective, the Contractor will 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 and an appropriate change order shall be issued.

## **8. SUBSTITUTIONS**

8.1 Whenever a material, article or piece of equipment is identified on the drawings or specification by reference to brand name or catalogue number, it shall be understood that this is reference for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The Contractor may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalogue number, and, if in the opinion of the Engineer, such material, article, or piece of equipment is of equal substance and function to that specified, the Engineer may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the Contract Price and the Contract Documents shall be appropriately modified by Change Order.

The Contractor warrants that if substitutions are approved, no major changes in the function or general design of the project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time.

## **9. PATENTS**

9.1 The Contractor shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified, but if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Engineer.

## **10. SURVEYS, PERMITS AND REGULATIONS**

10.1 The Owner's Engineer (TD2) shall provide all needed land surveys and establish all base lines for locating the principal component parts of the work, together with a suitable number of reference stakes adjacent to the work for the purpose of determining the location and elevation of such things as sewer lines, manholes, inlets, water lines, pavement, and the like. It shall be the responsibility of the Contractor to use such reference stakes to determine any working points, lines, and elevations such as he may desire to use in the construction of the work.

10.2 Surveys, stakes, reference points and bench marks provided by the Owner will be provided one time only. Any resurveying or restaking required will be done by the Owner's Engineer at the expense of the Contractor. All expenses resulting from willful or careless destruction of such stakes, reference points or bench marks shall be borne by the Contractor.

10.3 Permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the Contractor. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner,

unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the Contract Documents are at variance therewith, he shall promptly notify the Engineer in writing, and any necessary changes shall be adjusted as provided in Section 13, Changes in The Work.

## 11. PROTECTION OF WORK, PROPERTY, AND PERSONS

11.1 The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the work and other persons who may be affected thereby, all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. He shall maintain sufficient access to fire hydrants. He shall not obstruct natural drainage ways.

11.2 The underground utilities shown on the plans are shown as an aid to the Contractor. They are believed to be accurate, but are not guaranteed to be such or that these are the only utilities in the construction area. The Contractor shall personally check and verify utility information on the plans and he must satisfy himself as to the existence and location of all utilities and structures.

The Contractor shall exercise care to protect from injury all water pipes, sanitary sewer pipes, gas mains, telephone cables, electric cables, service pipes, and other utilities or fixtures which may be encountered during the progress of the work. All utilities and other service facilities or fixtures, if damaged, shall be repaired by the Contractor without additional compensation. In no case shall interruption of water or gas service be allowed to exist outside of working hours.

Should any sewer connection be encountered that is in direct conflict with any proposed item of construction, those connections shall either be raised, lowered, moved or connected as the Engineer may direct. Appropriate compensation shall be provided by a Change Order.

Should other utilities such as water mains, gas mains or services, steam lines, electric wires or conduits, telephone wires or conduits be encountered that are in direct conflict with a proposed item in construction and must be moved, the cost of moving same shall be at the expense of the Owner or the utility involved.

The Contractor shall cooperate with the utilities and schedule his work in such a manner as to protect the existing utility facilities until such time as the facilities are abandoned or replacement facilities are completed.

The Contractor shall give notice in writing at least 48 hours before breaking ground, to all persons, superintendents, inspectors, or those otherwise in charge of property, streets, water pipes, gas pipes, sewer pipes, telephone cables, electric cables, railroads or otherwise, who may be affected by the Contractor's operation, in order that they may remove any obstruction for which they are responsible and have a representative on the site to see that their property is properly protected.

11.3 The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction over the project. He will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. The Contractor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them is liable, except damage or loss attributable to the fault of the Contract Documents or to the acts or omissions of the Owner or the Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Contractor.

11.4 In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Engineer or Owner, shall act to prevent threatened damage, injury or loss. He will give the Engineer prompt written notice of any significant changes in the work or deviation from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved.

**12. SUPERVISION BY CONTRACTOR**

- 12.1 The Contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will employ and maintain on the work a qualified supervisor or superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site. The supervisor shall have full authority to act on behalf of the Contractor and all communications given to the supervisor shall be as binding as if given to the Contractor. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.
- 12.2 Incompetent, disorderly, intemperate or incorrigible employees will be dismissed by the Contractor or his representative when requested by the Engineer, and such persons shall not again be permitted to return to the work without the written consent of the Engineer.
- 12.3 See Sarpy County Standard Language in the Special Provisions section of these contract documents for requirements related to indemnification.
- 12.4 The Contractor must keep all streets, alleys and sidewalks as free from material and debris as the character of the work will permit, and upon completion of any part of the work must, within a reasonable time, remove all surplus material and debris and leave the area in acceptable condition.

Failure to comply with this provision after due and proper notice has been given by the Owner will be sufficient grounds for the Owner to proceed to clean up such material and debris, and make such repairs, charging same to the Contractor, who hereby agrees to the provisions as above set forth.

**13. CHANGES IN THE WORK**

- 13.1 The Owner may at any time, as the need arises, order changes within the scope of the work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the work, an equitable adjustment shall be authorized by the Change Order.
- 13.2 The Engineer may at any time, by issuing a Field Order, make changes in the details of the work. The Contractor shall proceed with the performance of any changes in the work so ordered by the Engineer unless the Contractor believes that such Field Order entitles him to a change in contract price or time, or both, in which event he shall give the Engineer written notice thereof within fifteen (15) days after the receipt of the ordered change, and the Contractor shall not execute such changes pending the receipt of an executed Change Order or further instruction from the Owner.
- 13.3 The Contractor may reasonably expect a variation in the estimated quantities, such that the total payment for the completed work may range from 80 to 120 percent of the total amount based on the estimated quantities. The Contractor will be allowed no claims for anticipated profits, for loss of profits, or any damage of any sort because of a difference between the estimate of any item and the amount of the item actually required. Funds for construction of the work herein contemplated are limited. The Owner reserves the right to eliminate items from the Proposal as may be required to bring the cost of the work within the limits of available funds.

**14. CHANGES IN CONTRACT PRICE**

- 14.1 The Contract Price may be changed only by a Change Order. The value of any work covered by a Change Order or of any claim for increase or decrease in the Contract Price shall be determined by one or more of the following methods in the order of precedence listed below:
  - (a) Unit prices previously approved.

- (b) An agreed lump sum.
- (c) The actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work. In addition, there shall be added an amount to be agreed upon, but not exceed fifteen (15) percent of the actual cost of the work to cover the cost of general overhead and profit.

**15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES**

- 15.1 The date of beginning and the time for completion of the work are essential conditions of the Contract Documents and the work embraced shall be commenced on a date specified in the Notice to Proceed.
- 15.2 The Contractor will proceed with the work at such rate of progress to insure full completion within the Contract Time. It is expressly understood and agreed, by and between the Contractor and the Owner, that the Contract Time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.
- 15.3 If the Contractor shall fail to complete the work within the Contract Time, or extension of time granted by the Owner, then the Contractor shall be in default after the time stipulated in the Contract Documents.
- 15.4 The Contractor shall not be charged with any excess cost when the delay in completion of the work is due to the following, and the Contractor has promptly given written notice of such delay to the Owner or Engineer:
  - 15.4.1 To any preference, priority, or allocation order duly issued by the Owner.
  - 15.4.2 To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather, and;
  - 15.4.3 To any delays of Subcontractors occasioned by any of the causes specified in Paragraphs 15.4.1 and 15.4.2 of this article.

**16. CORRECTION OF WORK**

- 16.1 The Contractor shall promptly remove from the premises all work rejected by the Engineer for failure to comply with the Contract Documents, whether incorporated in the construction or not, and the Contractor shall promptly replace and re-execute the work in accordance with the Contract Documents and without expense to the Owner and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.
- 16.2 All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten (10) days after receipt of Written Notice, the Owner may remove such work and store the materials at the expense of the Contractor.

**17. SUBSURFACE CONDITIONS**

- 17.1 The Contractor shall promptly, and before such conditions are disturbed, except in the event of any emergency, notify the Owner by Written Notice of:
  - 17.1.1 Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents; or

17.1.2 Unknown physical conditions at the site, of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.

17.2 The Owner shall promptly investigate the conditions, and if he finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for performance of the work, an equitable adjustment shall be made and the Contract Documents shall be modified by a Change Order. Any claim of the Contractor for adjustment hereunder shall not be allowed unless he has given the required written notice; provided that the Owner may, if he determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

## **18. SUSPENSION OF WORK, TERMINATION, AND DELAY**

18.1 The Engineer may, by issuing a written order, suspend construction if the weather is unfavorable for pursuit of the work. In this case, a second order shall be issued for resumption of work at an appropriate time. No working days shall be counted during such suspension. No increase in the contract price shall be allowed because of such suspension. This provision, or the non-exercise thereof by the Owner or Engineer, shall not relieve Contractor from the primary obligation to make certain construction work is not performed during weather that is unfavorable for the pursuit of the work.

18.2 If the Contractor is adjudged as bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the Contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to Subcontractors or for labor, materials, or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the work, or if he disregards the authority of the Engineer, or if he otherwise violates any provision of the Contract Documents, then the Owner may, without prejudice to any other right of remedy and after giving the Contractor and his surety a minimum of ten (10) days from delivery of a written notice, terminate the services of the Contractor and take possession of the project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and finish the work by whatever method he may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price exceeds the direct and indirect costs of completing the project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the Owner. Such costs incurred by the Owner will be determined by the Engineer and incorporated in a Change Order.

18.3 Where the Contractor's services have been so terminated by the Owner, said termination shall not affect any right of the Owner against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the Owner due the Contractor will not release the Contractor from compliance with the Contract Documents.

18.4 After ten (10) days from delivery of a written notice to the Contractor and the Engineer, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the Contract. In such case, the Contractor shall be paid for all work executed and any expense sustained, plus reasonable profit.

## **19. PAYMENTS TO CONTRACTOR**

19.1 At least ten days before each progress payment falls due (but not more often than once a month), the Contractor will submit to the Engineer a partial payment estimate filled out and signed by the Contractor covering the work performed during the period covered by the partial payment estimate and supported by such data as the Engineer may reasonably require. No payment shall be made on account of materials until actually incorporated in the work. The Engineer will, within ten days after receipt of each partial payment estimate, either indicate in writing his approval of payment and present the partial payment estimate to the Owner, or return the partial payment estimate to the Contractor indicating in writing his reasons for refusing to approve payment. In the latter case, the contractor

may make the necessary corrections and resubmit the partial payment estimate. The Owner will, upon presentation to him of an approved partial payment estimate, promptly issue an appropriate instrument of payment to the Contractor in the appropriate sum. The Owner shall retain ten (10%) percent of the amount of each payment until final completion and acceptance of all work covered by the Contract Documents. On completion and acceptance of a part of the work on which the price is stated separately in the Contract Documents, payment may be made in full, including retained percentages, less authorized deductions.

- 19.2 The request for payment may also include an allowance for the cost of such major materials and equipment which are suitably stored either at or near the site.
- 19.3 All work covered by partial payment made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the Owner to require the fulfillment of all terms of the Contract Documents.
- 19.4 Upon completion and acceptance of the work, the Engineer shall issue a certificate that the work has been accepted by him under the conditions of the Contract Documents. The entire balance found to be due the Contractor, including the retained percentages, but except such sums as may be lawfully retained by the Owner, shall be paid to the Contractor promptly upon completion and acceptance of the work.
- 19.5 See Sarpy County Standard Language in the Special Provisions section of these contract documents for requirements related to indemnification.

## **20. ACCEPTANCE OF FINAL PAYMENT AS RELEASE**

- 20.1 The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. Any payment, however, final or otherwise, shall not release the Contractor or his sureties from any obligations under the Contract Documents or the Performance Bond and Payment Bonds.

## **21. INSURANCE**

- 21.1 See Sarpy County standard insurance requirements in Paragraph 12 of the Terms and Conditions section of these contract documents.

## **22. CONTRACT SECURITY**

- 22.1 The Contractor shall within ten (10) days after the receipt of the Notice of Award furnish the Owner with a Performance Bond in penal sum equal to the amount of the Contract Price and in form satisfactory to the Owner, conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions and agreements of the Contract Documents, and upon the prompt payment by the Contractor to all persons supplying labor and materials in the prosecution of the work provided by the Contract Documents. Such bonds shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the state in which the work is to be performed. The expense of these bonds shall be borne by the Contractor. If at any time a surety on any such bond is declared a bankrupt or loses its right to do business in the state in which the work is to be performed, the Contractor shall within ten (10) days after notice from the Owner to do so, substitute any acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made under the Contract Documents until the new surety or sureties shall have furnished an acceptable bond to the Owner.

**23. ASSIGNMENTS**

23.1 Neither the Contractor nor the Owner shall sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of his right, title or interest therein, or of any amounts that may come due thereunder, or his obligations thereunder without written consent of the other party.

**24. INDEMNIFICATION**

24.1 See Sarpy County standard language for indemnification requirements in the Special Provisions section of these contract documents.

**25. SUBCONTRACTING**

25.1 The Contractor may utilize the services of specialty Subcontractors on those parts of the work which, under normal contracting practices, are performed by specialty Subcontractors.

25.2 The Contractor shall not award work to Subcontractors in excess of fifty (50%) percent of the Contract Price, without prior written approval of the Owner.

25.3 The Contractor shall be fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

25.4 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind Subcontractors to the Contractor by terms of the Contract Documents insofar as applicable to the Work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.

25.5 Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the Owner. Names and addresses of Subcontractors shall be furnished to the Engineer.

**26. ENGINEER'S AUTHORITY**

26.1 The Engineer shall act as the Owner's representative during the construction period. He shall decide questions which may arise as to quality and acceptability of materials furnished and work performed. He shall interpret the intent of the Contract Documents in a fair and unbiased manner. The Engineer will make visits to the site and determine if the work is proceeding in accordance with the Contract Documents.

26.1.1 Observers may be stationed on the work to report to the Engineer as to the progress of the work, the manner in which it is being performed, and also to report whenever it appears that materials furnished and work performed by the Contractor fail to fulfill the requirements of the contract. The observer may direct the attention of the Contractor to such failure or infringement, but such observation shall not relieve the Contractor from any obligation to furnish acceptable materials or to provide completed construction that is satisfactorily in accordance with the contract.

26.1.2 In case of any dispute arising between the observer and Contractor as to materials, furnished, the manner of performance or order of work, the observer shall have the authority to reject materials or suspend the work until the matter can be referred to and decided by the Engineer. Observers are not authorized to revoke, alter, enlarge, relax or release any requirements of these specifications, nor to issue instructions contrary to the plans and specifications. Observers shall in no case, act as foreman or perform other duties for the Contractor.

- 26.2 The Contractor will be held strictly to the intent of the Contract Documents in regard to the quality of materials, workmanship and execution of the work. Inspection may be made at the factory or fabrication plant of the source of material supply.
- 26.3 The Engineer will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety, except that he may direct the order in which the various phases of the project are to be constructed.
- 26.4 The Engineer shall promptly make decisions relative to interpretation of the Contract Documents.

## **27. GUARANTY**

- 27.1 The Contractor shall guarantee all materials and equipment furnished and work performed for a period of two (2) years from the date of the Owner's acceptance. The Contractor warrants and guarantees for a period of two (2) years from the date of acceptance of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system or other separately constructed improvements resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.
- 27.2 At the expiration of the guarantee period, the Contractor and his surety shall be released from further obligation under the guarantee portion of this contract, provided the Engineer certifies to the Owner that the work performed under this contract is in good and proper condition at the time. It shall be the duty of the Contractor to notify the Owner in writing within thirty (30) days prior to the expiration date of the guarantee period to make the final inspection of the work. Unless the Contractor shall furnish such notice, the obligation to maintain the work shall continue in force until such notice shall have been furnished; however, such final inspection will not be made between December 1st and March 31st, unless otherwise specified or approved by the Engineer.

## **28. ARBITRATION**

- 28.1 Notwithstanding any other provisions in these General Conditions to the contrary, no claim, dispute or other matter coming into question shall be subject to arbitration, unless the Owner, after the claim or dispute shall have arisen, shall have agreed to submit the matter to arbitration and shall have agreed as to the manner in which the specific claim or dispute shall be arbitrated. Nothing in this agreement shall be construed as requiring either party to submit to arbitration as a condition of seeking direct recourse from the courts.
- 29.2 The Contractor will carry on the work and maintain the progress scheduled during any arbitration proceedings that may be agreed to, unless otherwise mutually agreed in writing.

## **29. TAXES**

- 29.1 If the Owner is any governmental unit or organization exempt from Nebraska sales and use taxes, the Contractor shall be designated as a purchasing agent for the Owner per Nebraska Department of Revenue Form 17. The Contractor shall pay any other tax required by any governmental authority exercising control over this project.

## **30. ACCESS BY GOVERNMENTAL AND GRANTING AUTHORITIES**

- 30.1 Contractor shall provide the Owner, Engineer, the Engineer's representatives or the representatives or agents of federal, state, county, district or municipal governmental agencies proper facilities for access to, observation of, inspection of, or testing of the work. In addition, and when required, authorized representatives and agents of any participating federal or state agency shall be permitted to inspect all work, materials, payrolls, records, material invoices, and other relevant data and records.

**31. RECORD RETENTION**

31.1 The Contractor shall retain records for three years after final payment is made under the contract. If an audit, litigation, or other action involving the records is started before the end of the three-year period, the records must be retained until all issues arising out of the action are resolved, or until the end of the three-year period, whichever is later.

SPECIAL PROVISIONS  
FOR  
SARPY COUNTY NEBRASKA  
SARPY COUNTY LANDFILL SITE TREE REMOVAL

1. GENERAL PROJECT DESCRIPTION

The Sarpy County Landfill is reaching the permitted capacity for waste disposal. To prepare for the anticipated capping project necessary to meet site closure requirements the Sarpy County Landfill is soliciting bids for Site Tree Removal. Site Tree Removal will consist of removing the trees within the 20-acre parcel located in the NW portion of the site. This area is anticipated to be utilized as a borrow site for the capping project. In addition, misc. trees are proposed to be removed to allow for drainage improvements and to prepare the site for post closure.

The bid for this project is a total lump sum bid for all items shown on the plans. The extra costs for any significant changes from the plans requested by the Owner during the construction phase will need to be negotiated and agreed to by the Owner before the changed work is started. These extra costs will be processed as a Change Order at the end of the project.

2. CITY OF OMAHA SPECIFICATIONS

The 2014 edition of the City of Omaha Specifications for Public Works Construction and the City of Omaha Standard Plates as called for on the plans shall apply to the construction of this project.

3. NOTIFICATION OF SARPY COUNTY DIVISION OF ENVIRONMENTAL SERVICES

The Contractor shall notify the Sarpy County Division of Environmental Services (402-253-2371) at least 48 hours prior to commencing work.

4. EXISTING UTILITIES & IMPROVEMENTS

The Contractor will be held responsible for any damage to existing property, utilities, and structures, and will repair same at his own expense. The Contractor shall be responsible to obtain field locations of all existing utilities through the "One Call" system.

5. REMOVAL ITEMS

Removed tree materials free of debris and trash are to be piled in designated on-site locations or locations approved by Sarpy County for grinding or other processing by others. Unless otherwise noted on the plans, all other items removed and not relocated shall become the property of the Contractor and be disposed of properly.

6. REMOVAL DETAILS

See Plan Sheets for tree removal areas.









