# City of Rowlett

## Special Meeting Agenda

## City Council

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

***City of Rowlett City Council meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary at 972-412-6115 or write 4000 Main Street, Rowlett, Texas, 75088, at least 48 hours in advance of the meeting.***

**Wednesday, February 10, 2016** | **6:00 P.M.** | **Municipal Building – 4000 Main Street**

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item herein.

The City of Rowlett reserves the right to reconvene, recess or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

**1. CALL TO ORDER**

**2. WORK SESSION (6:00 P.M.)**

**2A.** Discuss zoning and building regulations related to nonconformities and vested rights. (90 minutes)

**2B.** Discuss proposed contracts for disaster debris removal and monitoring services. (45 minutes)

**3. CONSENT AGENDA**

*The following may be acted upon in one motion. A City Councilmember or a citizen may request items be removed from the Consent Agenda for individual consideration.*

**3A.** Consider action to approve a resolution authorizing the City Manager to negotiate and execute a contract for annual disaster debris removal, reduction, disposal and other emergency debris related services.

**3B.** Consider action to approve a resolution authorizing the City Manager to negotiate and execute a contract for annual disaster debris monitoring and consulting services.

**3C.** Consider action to approve a resolution authorizing the City Manager to negotiate and execute a contract for disaster debris removal, reduction, disposal and other emergency debris related services for the December 26, 2015, Tornado Event for an amount not to exceed $6,000,000.

**3D.** Consider action to approve a resolution authorizing the City Manager to negotiate and execute a contract for emergency debris monitoring and consulting services for the December 26, 2015, Tornado Event for an amount not to exceed $2,000,000.

## 4. ADJOURNMENT

Laura Hallmark

Laura Hallmark, City Secretary

I certify that the above notice of meeting was posted on the bulletin boards located inside and outside the doors of the Municipal Center, 4000 Main Street, Rowlett, Texas, as well as on the City's website (www.rowlett.com) on the 5th day of February 2016, by 5:00 p.m.

# City of Rowlett

## Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

**AGENDA DATE:** 02/10/16 **AGENDA ITEM:** 2A

### TITLE
Discuss zoning and building regulations related to nonconformities and vested rights. (90 minutes)

### STAFF REPRESENTATIVE
Marc Kurbansade, Director of Development Services

### SUMMARY
On December 26, 2015, the City of Rowlett was struck with a devastating EF-4 tornado that caused widespread structural damage to over 1,000 buildings. In an attempt to rebuild these structures, property owners are being required to adhere to current building and zoning regulations. The purpose of this item is to discuss the regulations as they pertain to nonconformities and vested rights, particularly in the context of means to provide relief from these requirements.

### BACKGROUND INFORMATION
Homes and businesses are in the process of being rebuilt after the devastation from the December 26, 2015 tornado. In conjunction with these rebuilding efforts, property owners are required to adhere to current zoning and building regulations.

Zoning regulations depend on the zoning district established on the property. The tornado impacted a total of eleven subdivsions. Three of these subdivisions are regulated by standard zoning districts—two of which are Single Family 9 (SF-9) and the other is Single Family 10 (SF-10). The remaining eight subdivisions are regulated by Planned Development Districts. Below is a list of the subdivisions that were impacted:

- Vue-De-Lac
- The Vineyards
- College Park
- The Peninsula
- Dalrock Estates
- Dalrock Heights
- Lake Bend Estates
- Highland Meadows North
- Highland Meadows North #2
- Graham Estates
- Mallard Reserve

Building code regulations are also applied to each construction permit applied for as a result of the property owner rebuilding. Property owners do not have vested rights as it pertains to building code regulations (i.e., all construction must meet current building code requirements).

## DISCUSSION

Property owners are in the midst of trying to rebuild and repair their properties. As stated in the background section, the applicable regulations largely fall under the control of zoning and building regulations. Building regulations do not pose any issues at this time; however, zoning questions are being asked by property owners.

The main zoning issue is the code requirement addressing nonconformities. A nonconformity is a structure, use, or lot that, while legal at the time of platting or construction, no longer conforms to current regulations. A nonconformity may exist indefinitely. In theory, however, as buildings are demolished and rebuilt, as land is replatted, or as uses change, the nonconformity will naturally go away. Alternatively, the reconstruction of a destroyed structure to its former nonconforming status is generally prohibited if the damage exceeds a certain percentage.

As can be seen below in the excerpt of the Code, damage to homes greater than 50% of their value requires adherence to current Code requirements. The damage assessment that the City performed did not assess percentage of value. However, the City did identify 470 homes that were either destroyed or incurred major damage. Based on this information, the City estimates that the homes at the 50% damage threshold would be at least 470 homes. Please note that this is a rough approximation only.

*Sec. 77-902. - Regulations applicable to all nonconformities.*

*. . .*

*E. Damage or destruction.*

1. *If a nonconforming structure is damaged or destroyed by any means to an extent where the replacement cost is greater than 50 percent of its appraised value at the time of damage or destruction as determined by the latest tax rolls, then such nonconformity shall not be re-established and such structure may only be rebuilt in compliance with the requirements of this Code except upon action by the board of adjustment to permit reconstruction of such structure and continuance of the nonconforming use. The board of adjustment shall have due regard for the rights of the person or persons affected, and shall consider such in regard to public welfare, character of the area surrounding, nature of the use in relation to the intent of the area, and the conservation, preservation and protection of property.*
2. *Any existing single-family or two-family residential dwelling that is a nonconforming use that is destroyed to an extent where the replacement cost is less than 50 percent of its appraised value at the time of damage or destruction as determined by the latest tax rolls, due to fire, flood, or acts of nature or God, shall be allowed to rebuild on site, provided that the use is either for single-family or two-family residential use and in conformance with the prevailing zoning district.*

3. *The intentional destruction of a structure by any owner of the use and/or structure and/or property shall immediately terminate all nonconforming rights, and all use of the structure or property shall cease and desist.*

There are two main issues that will affect most of the homeowners whose properties were damaged 50% or more: 1) adherence to the increased masonry exterior requirement and 2) instances where garages must be side-loaded. The masonry exterior issue is particularly causing issues because foundations that are not constructed with a "brick ledge" may not be able to construct to the 100% masonry exterior requirement without removal of or adjustment to the foundation slab.

Staff has been applying existing ordinances/policy as it is adopted. Property owners can construct to current zoning code requirements or seek relief either through Planning & Zoning/City Council for Alternative Building Materials requests (masonry exterior) or Board of Adjustment (garage door faces, etc.).

There are three immediate options available:

1. Continue to adhere to current policy and the means of deviation from the Code as mentioned above – Alternative Building Materials relief requires approval by both Planning & Zoning and the City Council and garage door faces requires approval by Board of Adjustment.
2. Amend the zoning ordinance to remove the 50% damage threshold for single-family residential uses. Further stipulations would require that the nonconformity could not be increased (i.e., a building with a current 75% masonry exterior would be required to meet that standard at a minimum but could opt to meet the current code instead).
3. This option would be identical to Option #2 with the exception that the amendments would only include the geographic area impacted by the tornado, and the time for the amendments would have a sunset provision (e.g., 24-36 months).

It should be noted that in order to meet City of Rowlett and State of Texas regulations, there are notification and advertising requirements for Options 2 and 3. Option 2 will require a legal advertisement be published ten days prior to a Planning & Zoning Commission hearing and 15 days prior to a City Council hearing. In addition to the legal advertisement requirements in Option 2, Option 3 would also require a mailed notice to all impacted residents similar to a typical rezoning effort as defined in Section 77-805 of the Rowlett Development Code. The mailed notice would be required to be sent at least 15 days prior to a public hearing.

## FINANCIAL/BUDGET IMPLICATIONS

N/A

## RECOMMENDED ACTION

Staff seeks direction from City Council based on the options presented above.

# City of Rowlett

## Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
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**AGENDA DATE**: 02/10/16 **AGENDA ITEM**: **2**B

### TITLE
Discuss proposed contracts for disaster trash removal and monitoring services. (45 minutes)

### STAFF REPRESENTATIVE
Jim Proce, Assistant City Manager
Kim Galvin, Director of Financial Services

### SUMMARY
The purpose of this item is to discuss the contracting needs and recommendations regarding consent agenda items for annual and incident specific contracts for disaster debris removal, reduction and disposal as well as monitoring services.

### BACKGROUND INFORMATION
These contracts will provide the City with pre-positioned contracts in the event of a disaster, as well as incident specific contracts that will address the debris resulting from the December 26, 2015 Tornado Event.

In preparation for this discussion and the resultant recommendations, staff developed requests for proposals for annual contracts in case of future disasters as well as specifically for the December 26, 2015, tornado. The proposals were received on February 2, 2016, and City staff will review the proposals and bring them to Council February 10, 2016.

### DISCUSSION
To ensure the City is prepared to address the debris resulting from disasters, staff will be recommending an annual contract for Disaster Debris Removal, Reduction, Disposal and Other Debris Related Emergency Services and an annual contract for Disaster Debris Monitoring and Consulting Services. In reference to the December 26, 2015, Tornado Event, staff will present recommendations for incident specific contracts.

The goal of this process is to develop annual contracts from a capable and experienced service provider who could successfully respond to a disaster within specified guidelines, and within FEMA established regulations when a federal disaster declaration has been made or is likely to be made. These annual contracts “pre-position” Rowlett to address debris removal and monitoring services in future disaster declarations.

The proposals were received on February 2, 2016, and staff recommendations will be presented at the February 10, 2016, City Council Work Session.

Any contracts resulting from these proposals will be developed by the City Attorney in conjunction with FEMA legal consultants.

## FINANCIAL/BUDGET IMPLICATIONS

The annual contracts will provide pre-positioning of contracts needed to address any disaster debris and will not have a financial implication until triggered. The specific proposals relating to the December 26, 2015, Tornado Event will have financial implications that will be presented to Council upon receipt and evaluation of proposals.

At the time of publishing, Texas Governor Abbot had formally requested disaster assistance from the President of the United States. If the federal declaration is granted, many of the disaster related expenses incurred by the City could qualify for federal FEMA grants.

The primary goal of the staff related to funding will be to provide taxpayers with the most cost effective funding available to the City, while ensuring that the future growth of the City is not jeopardized. All funding opportunities available to the City will be considered, and a formal budget amendment will be submitted for Council consideration at a later date.

Until known otherwise from the actual proposals received February 2, 2016, the City is estimating total debris removal expenses of $8.0 million, up to $6.0 million for actual removal and up to $2.0 million for monitoring services. This is based on the estimated cubic yards of debris to be removed from the December 26, 2015, tornado. These amounts may be adjusted based on the actual proposals received.

Funding for this item is currently being considered by staff and could come from a variety of sources. Possible funding sources could include excess fund balance reserves, project funds, state and federal grants, and debt instruments. Some of those identified sources that may be considered include traffic signal funding, parks master plan funding, innovations funding, community enhancement funds, and excess fund balance reserves in the Employee Health Benefit Fund, Drainage Fund, General Fund, and Golf Fund. Staff has also reviewed funding options with First Southwest and may recommend issuing certificates of obligation to fund a portion of the disaster recovery.

## RECOMMENDED ACTION

Provide direction to staff regarding the proposed award of contracts for disaster trash removal and monitoring services, which are listed on the Consent Agenda as 3A, 3B, 3C and 3D.

# City of Rowlett

## Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

**AGENDA DATE:** 02/09/16 **AGENDA ITEM:** 3A

### TITLE

Consider action to approve a resolution authorizing the City Manager to negotiate and execute a contract for annual disaster debris removal, reduction, disposal and other emergency debris related services.

### STAFF REPRESENTATIVE

Kim Galvin, Director of Financial Services

### SUMMARY

This item will provide an annual contract for emergency debris removal services. The contract may be renewed each year for four additional years.

### BACKGROUND INFORMATION

This item will provide for the annual contract for disaster debris removal, reduction, disposal, and other emergency debris related services. A request for proposals (RFP) was advertised on January 14 and 21, 2016. Proposals were initially due on January 29, 2016, with an extension to February 2, 2016. Staff will review the proposals and present them to Council on February 10, 2016.

### DISCUSSION

The objective of the request for proposals for disaster debris removal, reduction, disposal, and other emergency debris related services was to secure the service of a qualified firm for a stand-by contract for the clearance, demolition, removal, reduction, and disposal of disaster related debris in order to eliminate the immediate threat to public health and safety. The selected firm will also provide technical program management assistance to the City in the event of a disaster or emergency event. The initial contract will be for 12 months with the option for four renewal periods of 12 months each.

Work under the contract will be performed on an as needed basis and will require a specific incident contract be approved by Council in the event of a disaster. In relation to the December 26, 2015, Tornado Event, a specific incident contract will be presented to council for consideration on this agenda.

The scope of work for specific incident contracts could include coordinating and mobilizing an appropriate number of cleanup crews to the City upon receipt of a Notice to Proceed. All roadways designated by the City will be cleared within a specified time frame depending upon the nature and scope of the affected area. All work will be in conformance with established FEMA guidelines if a federal declaration is anticipated. Reduction, removal and disposal alternatives will be

considered at the time of the specific event and will be influenced by the nature and scope of the debris.

The proposals were received on February 2, 2016 and staff recommendations will be presented at the February 10, 2016 Council meeting. Proposals were evaluated using the following criteria:

| | |
|---|---|
| Experience & Past Performance | 25 points |
| Demonstrated Ability to Perform Required Work | 25 points |
| Price | 20 points |
| Safety Record | 20 points |
| Capacity to Respond to Major & Catastrophic Disaster Obligations | 10 points |
| Total | 100 points |

Because time is of the essence, staff presented the opportunity to award this contract at the earliest possible meeting, following all local and state purchasing guidelines. Contracts will be developed by the City Attorney in conjunction with FEMA legal consultants.

## FINANCIAL/BUDGET IMPLICATIONS

The financial implications of this item will be dependent upon the nature of the incident. Staff will include possible financial implications in all specific incident contracting requests.

## RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN ANNUAL CONTRACT FOR DISASTER DEBRIS REMOVAL, REDUCTION, DISPOSAL AND OTHER EMERGENCY DEBRIS RELATED SERVICES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** it is necessary to provide for the removal of debris in the event a disaster occurs; and

**WHEREAS,** the City of Rowlett Purchasing Division opened competitive sealed proposals on February 2, 2016 for annual Debris Removal, Reduction, Disposal, and Other Emergency Debris Related Services; and

**WHEREAS,** this contract will be for a period of 12 months and may be renewed for four additional 12 month periods.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:**

**Section 1:** That the City Council of the City of Rowlett does hereby authorize the City Manager to negotiate and execute an annual contract for Disaster Debris Removal, Reduction, Disposal and Other Emergency Debris Related Services.

**Section 2:** This resolution shall become effective immediately upon its passage.

**ATTACHMENT**

Attachment 1 – Debris Removal, Reduction, Disposal and Other Emergency Debris Related Services RFP

# CITY OF ROWLETT, TEXAS

# REQUEST FOR PROPOSAL
# FOR
# DISASTER DEBRIS REMOVAL, REDUCTION, DISPOSAL, AND OTHER EMERGENCY DEBRIS RELATED SERVICES

## RFP # 2016-13

## Disaster Debris Removal, Reduction, Disposal, and Other Emergency Debris Related Services

**CITY OF ROWLETT**
**PURCHASING DEPARTMENT**
**REQUEST FOR PROPOSAL (RFP)**
**RFP NUMBER : 2016-13**
**RFP TITLE: DISASTER DEBRIS REMOVAL, REDUCTION, DISPOSAL AND OTHER EMERGENCY DEBRIS RELATED SERVICES**
**DATE DUE: January 29, 2016 DUE NO LATER THAN 10:00 A.M., CST**

RFP's will be opened at the City of Rowlett Annex Building located at 4004 Main Street, Rowlett, Texas 75088. (as per Purchasing Dept. clock) on deadline due date. RFPs received later than the date and time above will not be considered.

Please return RFP **ORIGINAL AND FOUR (4) COPIES** in sealed envelope. Be sure that return envelope shows the RFP Number, Description and is marked "SEALED RFP".

**RETURN RFP TO**:
Purchasing Agent, **City of Rowlett, 4004 Main Street, Rowlett Texas 75088.**
For additional information or to request addendum contact: purchasing@rowlett.com.

**You must sign below in INK; failure to sign WILL disqualify the offer. All prices must be typewritten or written in ink.**

Company Name:

_____

Company Address:

_____

City, State, Zip Code:

_____

Telephone No._____

E-mail_____

Printed
Name:_____Signature:_____

**Is Proposer's principal place of Business within City of Rowlett? Yes - No**
(Your signature attests to your offer to provide the goods and/or services in this RFP according to the published provision of this RFP. When an award letter is issued, this RFP becomes the contract. If a RFP required specific Contract is to be utilized in addition to this RFP, this signed RFP will become part of that contract. When an additional Contract is required a RFP award does not constitute a contract award and RFP / Contract is not valid until contract is awarded by City Council (when applicable) and Purchase Order is issued.

**Terms and Definitions**

Definitions are provided for those terms listed below.

1. *Agreement Execution* – The date on which Service Provider executes and enters into an Agreement with the City to perform the Work.

2. *Agreement Price* – The total monies, adjusted in accordance with any provision herein, payable to the Service Provider under this Agreement.

3. *Authorized Representative* – City employees and/or contracted individuals designated by the City or City Debris Manager.

4. *Chipping or Mulching* – The process of reducing woody material, such as lumber and vegetative debris, by mechanical means into small pieces to be used as mulch or fuel.

5. *Cleanup Crew* – A group of individuals and/or an individual working for the Service Provider collecting disaster debris.

6. *Construction and Demolition Debris (C&D)* – FEMA Publication 325 defines eligible construction and demolition (C&D) debris as damaged components of buildings and structures such as: lumber and wood, gypsum wallboard, glass, metal, roofing material, tile, carpeting and floor coverings, window coverings, plastic pipe, concrete, fully cured asphalt, heating, ventilation and air conditioning systems and their components, light fixtures, small consumer appliances, equipment, furnishings and fixtures that are a result of a disaster. Current eligibility criteria include:

   - Debris must be located within a designated disaster area and be removed from an eligible applicant's improved property or right-of-way.
   - Debris removal must be the legal responsibility of the applicant.
   - Debris must be a result of the major disaster.

7. *Contract* – The Agreement Documents specifically identified and incorporated herein by reference in Section 2, Contract Documents.

8. *Contract Time* – The period of time stated in this Agreement for the completion of the Work.

9. *City* – The City of Rowlett, Texas, a political subdivision of the State of Texas.

10. *City Debris Manager* – The City will designate a Debris Manager, who will lead the debris removal process and provide general oversight for all phases of debris removal operations within the City.

11. *City Approved Final Disposal Site* – A final disposal location approved in writing by the City.

12. *Debris* – Items and materials broken, destroyed or displaced by a natural or man-made federally declared disaster. Examples of debris include, but are not limited to, trees, construction and demolition debris and personal property.

13. *Debris Clearance* – Clearing roads by pushing debris to the roadside to accommodate emergency traffic.

14. *Debris Management Site* (DMS) – A location to temporarily store, reduce, segregate and/or process debris before it is hauled to its final disposition. May also be referred to as a Temporary Debris Storage and Reduction Site (TDSR Site) or Temporary Debris Staging and Processing Facility (TDSPF).

15. *Debris Monitoring* – Actions taken by applicants in order to document eligible quantities and reasonable expenses during debris activities to ensure that the work complies with the contract scope-of-work and/or is eligible for federal or state grant reimbursement.

16. *Debris Removal* – Picking up debris and taking it to a debris management site, composting facility, recycling facility, permanent landfill or other reuse or end-use facility.

17. *Debris Removal Contractor* – Also referred to as the "Service Provider" in this document, conducts debris removal operations per the terms of the contract. Term includes primary contractor(s), subcontractors and individual crews.

18. *Demobilization* – Following the completion of services provided under the resulting contract, the Service Provider will remove all equipment, supplies and other associated materials involved in the services provided to the City. The Service Provider will leave all sites utilized clean and restored to the original state as approved by the City and verified through soil and groundwater samples.

19. *Demolition* – The act or process of reducing a structure, as defined by the State of Texas or local code, to a collapsed state. It contrasts with deconstruction, which is the taking down of a building while carefully preserving valuable elements for reuse.

20. *Department* – The Director or designee of requesting department(s) named in this solicitation.

21. *Disaster Specific Guidance* – Disaster Specific Guidance (DSG) is a policy statement issued in response to a specific post-event situation or need in a state or region. Each DSG is issued a number and is generally referred to, along with their numerical identification.

22. *Drawings* - Collectively, all the drawings, receipt of which is acknowledged by the CITY, listed in this Agreement, and also such supplementary drawings as the Service Provider may issue from time to time in order to clarify or explain such drawing or to show details which are not shown thereon.

23. *Eligible* – Eligible means qualifying for and meeting the most current stipulated requirements (at the time written Release Orders are issued and executed by the City to the Service Provider) of the Public Assistance grant program, FEMA Publication 321, FEMA Publication 322, FEMA Publication 323, FEMA Publication 325 and all current FEMA fact sheets, guidance documents and disaster-specific documents. Eligible also includes meeting any changes in definition, rules or requirements regarding debris removal reimbursement as stipulated by the Federal Emergency Management Agency during the course of a debris removal project.

24. *Emergency Relief Program* – Provides for the funding of emergency roadway clearing and first pass disaster debris removal on federal aid highways.

25. *E*-Scrap – End of life electronics, typically televisions, computers and related components

26. *FEMA Publication 325* – Debris Management Guide – This publication is specifically dedicated to the rules, regulations and policies associated with the debris cleanup process. Familiarity with this publication and any revisions, can aid a local government to limit the amount of non-reimbursable expenses. The Debris Management Guide provides the framework for the debris removal process authorized by the Stafford Act including:

    - Eliminating immediate threats to lives, public health and safety.
    - Eliminating immediate threats of significant damage to improved public or private property.
    - Ensuring the economic recovery of the affected community to the benefit of the community-at-large.

27. *Field Inspector* – Monitor

28. *Force Account Labor* – Labor performed by the applicant's permanent, full time or temporary employees.

29. *Garbage* – Waste that is regularly picked up by an applicant. Common examples of garbage are food, packaging, plastics and papers.

30. *Grinding* – Reduction of disaster-related vegetative debris through mechanical means into small pieces to be used as mulch or fuel. Grinding may also be referred to as chipping or mulching.

31. *Hazardous Hangers* – A Hanger is a hazardous limb that poses significant threat to the public. The current eligibility requirements for hazardous hangers according to FEMA Publication 325 are:

    - The limb must be greater than two inches in diameter;
    - The limb must be suspended in a tree and threatening a public-use area; and
    - The limb must be located on improved public property.

32. *Hazardous Leaners* – A tree is considered hazardous and defined as an eligible leaner when the tree's present state is caused by a disaster, the tree poses a significant threat to the public and the tree is six inches in diameter or greater as measured two feet from the ground. The current eligibility requirements for leaning trees according to FEMA Publication 325 include:

    - The tree has more than 50 percent of the crown damaged or destroyed (requires written documentation from an arborist).
    - The tree has a split trunk or broken branches that expose the heartwood.
    - The tree has fallen or been uprooted within a public use area.
    - The tree is leaning at an angle greater than 30 degrees.

33. *Hazardous Stump* - A stump is defined as hazardous and eligible for reimbursement if all of the following criteria are met. The current eligibility requirements for hazardous hangers according to FEMA Publication 325 are:

    - The stump has 50 percent or more of the root-ball exposed.
    - The stump is greater than 24 inches in diameter when measured 24 inches from the ground.
    - The stump is located on a public right-of-way.
    - The stump poses an immediate threat to public health and safety.

34. *Household Hazardous Waste* – Waste with properties that make it potentially harmful to human health or the environment. Hazardous waste is regulated under the Resource Conservation and Recovery Act (RCRA). In regulatory terms, a RCRA hazardous waste is a waste that appears on one of the four hazardous wastes lists or exhibits at least one of the following four characteristics: ignitability, corrosively, reactivity or toxicity.

    - HHW must be located within a designated disaster area and be removed from an eligible applicant's improved property or right-of-way.
    - HHW removal must be the legal responsibility of the applicant.
    - HHW must be a result of the major disaster.

    The collection of commercial disaster related hazardous waste is generally not eligible for reimbursement. The City of Rowlett may utilize existing environmental contractor to remove this type of waste in a large-scale debris generating event.

35. *Hold Harmless* – Generally, a contractual arrangement whereby one party agrees to hold the other party without responsibility for damage or other liability incurred as a result of a particular action or transaction.

36. *Liaison* – Representative of the City who shall act as a Liaison between the City of Rowlett and the Service Provider for all matters pertaining to this Agreement, including review of Service Provider's plans and work.

37. *Monitor* – Person that observes day-to-day operations of debris removal crews to ensure they are performing eligible work, meeting the City's expectations and contractual requirements and are in compliance with all applicable Federal, State and local regulations. (May also be referred to as a Field Inspector.)

38. *Mutual Aid Agreement* – A written understanding between communities and States obligating assistance during a disaster. See FEMA RP9523.6, Mutual Aid Agreements for Public Assistance and Fire Management Assistance.

39. *National Response Framework (NRF)* – A plan developed to facilitate the delivery of all types of Federal assistance to States following a disaster. It outlines the planning assumptions, policies, concept of operations, organizational structures and specific assignments and agencies involved in Federal assistance to supplement State, tribal and local efforts.

40. *Outbuilding* – Any structure secondary to a house such as a barn, shed or outhouse separated from the main structure.

41. *Recycling* – The recovery or use of wastes as a raw material for making products of the same or different nature as the original product.

42. *Refrigerant* – Ozone depleting compound that must be removed from white goods or other refrigerant containing items prior to recycling or disposal.

43. *Regulated Waste* – Any waste that is regulated by the EPA, TCEQ or local rules/ordinance.

44. *Right of Entry* – As used by FEMA, the document by which a property owner confers to an eligible applicant or its Service Provider or the United States Army Corps of Engineers the right to enter onto private property for a specific purpose without committing trespass.

45. *Right-of-Way* – The portions of land over which facilities such as highways, railroads or power lines are built. It includes land on both sides of the facility up to the private property line.
46. *Scale/Weigh Station* – A scale used to weigh trucks as they enter and leave a landfill. The difference in weight determines the tonnage dumped and a tipping fee is charged accordingly. It also may be used to determine the quantity of debris picked up and hauled.

47. *Service Provider* – The party or parties contracting directly with the City to perform Work pursuant to this Agreement.

48. *Specifications* – The written technical provisions including all appendices thereto, both general and specific, which form a part of the Agreement Documents.

49. *Subservice Provider* – Any person, firm, partnership, joint venture, company, corporation, or entity having a contractual agreement with Service Provider or with any of its subservice providers at any tier to provide a part of the Work called for by this Agreement.

50. *Supplemental Agreement* – A written order to Service Provider signed by the City and accepted by Service Provider, effecting an addition, deletion or revision in the Work, or an adjustment in the Agreement Price or the Contract Time, issued after execution of this Agreement.

51. *Temporary Debris Staging and Processing Facility (TDSPF)* – Site where collected debris is taken by the Service Provider(s) for staging and processing prior to final disposal. May also be referred to as a Debris Management Site (DMS).

52. *Temporary Debris Storage and Reduction Site (TDSR Site)* – TDSR sites are locations designated by the City for the storage and reduction of disaster related debris.

53. *Tipping Fee* – A fee charged by landfills or other waste management facilities based on the weight or volume of debris dumped.

54. *United States Army Corps of Engineers (USACE)* – A component of the United States Army responsible for constructing and maintaining military installations and other government-owned and controlled facilities. The USACE may be used by FEMA when direct Federal assistance, issued through a mission assignment, is needed.

55. *Vegetative Debris* – As outlined in FEMA Publication 325, Eligible Vegetative Debris consists of whole trees, tree stumps, tree branches, tree trunks and other leafy material. Vegetative debris will largely consist of mounds of tree limbs and branches piled along the public ROW by residents and volunteers. Current eligibility criteria include:

    - Debris must be located within a designated disaster area and be removed from an Eligible applicant's improved property or right-of-way.
    - Debris removal must be the legal responsibility of the applicant.
    - Debris must be a result of the major disaster.

56. *Volatile Organic Compounds (VOCs)* – VOCs are hydrocarbon compounds that have a low boiling point which allows them to evaporate quickly. Many VOCs are toxic and ground-water contaminants of concern because they may persist in and migrate with ground-water to a drinking-water supply.

57. *White Goods* – As outlined in FEMA Publication 325, White Goods are defined as discarded disaster related household appliances such as refrigerators, freezers, air conditioners, heat pumps, ovens, ranges, washing machines, clothes dryers and water heaters. White goods can contain ozone-depleting refrigerants, mercury or compressor oils that the federal Clean Air Act prohibits from being released into the atmosphere. The Clean Air Act specifies that only qualified technicians can extract refrigerants from white goods before they can be recycled. The eligibility criteria for white goods are as follows:

    - White goods must be located within a designated disaster area and be removed from an eligible applicant's improved property or ROW.
    - White goods removal must be the legal responsibility of the applicant.
    - White goods must be a result of the major disaster.

58. *Work* – Any and all obligations, duties and responsibilities, including furnishing equipment, engineering, design, workmanship, labor and any other services or things necessary to the successful completion of the Project, assigned to or undertaken by Service Provider under this Agreement.

**Acronyms**

| | |
|---|---|
| ACM | Asbestos Containing Material |
| C&D | Construction and Demolition |
| CBRA | Coastal Barrier Resources Act |
| CBRN | Chemical, Biological, Radiological and Nuclear |
| CBRS | Coastal Barrier Resources System |
| CEI | Construction Engineering and Inspection |
| CFR | Code of Federal Regulations |
| CTS | Central Transfer Station |
| CWA | Clean Water Act |
| DDIR | Detailed Damage Inspection Report |
| DMS | Debris Management Site |
| DOT | Department of Transportation |
| DPW | Department of Public Works |
| DRM | Disaster Recovery Manager |
| DTFL | Debris Task Force Leader |
| EO | Executive Order |
| EMC | Emergency Management Coordinator |
| EPA | Environmental Protection Agency |
| ER | Emergency Relief |
| ESA | Endangered Species Act |
| ESF | Emergency Support Function |
| FEMA | Federal Emergency Management Agency |
| FHWA | Federal Highway Administration |
| FMIS | Fiscal Management Information System |
| TCEQ | Texas Environmental Protection Division |
| TxDOT | Texas Department of Transportation |
| GIS | Geographic Information System |
| GPS | Global Positioning System |
| HHW | Household Hazardous Waste |
| HUD | Department of Housing and Urban Development |
| IA | Individual Assistance |
| ICS | Incident Command System |
| JFO | Joint Field Office |
| MRE | Meals Ready to Eat |
| NEPA | National Environmental Policy Act |
| NHPA | National Historic Preservation Act |
| NRCS | Natural Resources Conservation Service |
| NRF | National Response Framework |
| OCC | Office of Chief Counsel |
| OEM | Office of Emergency Management |
| OSHA | Occupational Safety and Health Administration |
| PA | Public Assistance |
| PDA | Preliminary Damage Assessment |
| PNP | Private Nonprofit |
| PPDR | Private Property Debris Removal |
| PPE | Personal Protective Equipment |
| PW | Project Worksheet |
| RACM | Regulated Asbestos Containing Material |
| RCRA | Resource Conservation and Recovery Act |
| RFB | Request for Bid |
| RFP | Request for Proposals |
| ROE | Right-of-Entry |
| ROW | Right-of-Way |
| RRC | Rapid Response Crew |
| SHPO | State Historic Preservation Officer |
| TDSPF | Temporary Debris Staging and Processing Facility |
| TDSR Site | Temporary Debris Storage and Reduction Site |

| | |
|---|---|
| TSDF | Hazardous Waste Treatment, Storage, and Disposal Facility |
| USACE | United States Army Corps of Engineers |
| USCG | United States Coast Guard |
| USDA | United States Department of Agriculture |
| VOCs | Volatile Organic Compounds |

**PROPOSAL FORMAT**

Proposals must be submitted on 8-1/2" x 11" size paper and should be typed using a minimum10 point standard font with sections and sub-sections identified appropriately. Graphic illustrations (including organizational charts and maps) may be shown on 11" x 17" paper provided it is folded to 8-1/2"x 11" and will count as one page. Promotional literature, brochures, etc. will be considered a part of the 25-page limit. Required submittals A–M, résumés, contribution to local economy information and project references, however, will not be included in the page count. Proposal narratives do not have a page limit restriction. An appendix may be provided that includes résumés and examples of relevant work experience. The proposal narrative and appendices should be bound together in a single submittal. One original of the proposal and seven copies should be submitted (TBD).

The proposal should be divided into nine tabbed sections with references to all parts of this Request for Proposal (RFP) done on a section number/paragraph number/letter basis. The nine sections shall be named:

1. **Required Submittals:**

   A. ***Letter of Transmittal*:** This letter will summarize in a brief and concise manner the Service Provider's understanding of the scope of work and make a positive commitment to perform the work in a professional and timely manner. The letter should name all of the persons authorized to make representations for the Service Provider, including the titles, addresses and telephone numbers of such persons. An authorized agent of the Service Provider must sign the Letter of Transmittal indicating the agent's title or authority. The letter should not exceed two pages in length.

   B. ***Type of Business:*** The Service Provider shall identify the type of business entity involved (e.g., sole proprietorship, partnership, corporation, joint venture, etc.). The Service Provider shall identify whether the business entity is incorporated in Texas, another state, or a foreign country.

   C. ***FEIN:*** Provide the **Federal Employer Identification Number** of the Service Provider.

   D. ***SSN:*** In the case of a sole proprietorship or partnership, provide Social Security numbers for all owners/partners.

   E. ***Principals:*** The proposal must name all persons or entities serving, or intending to serve as principals in the Service Provider's firm. Identify each principal of the firm and any other "key personnel" who will be professionally associated with the development and/or presentation of the proposal.

   F. ***Corporate Information:*** If a Service Provider is a corporation, it shall be certified with the Texas Secretary of State and have a corporate status in good standing, and in the case of out-of-state corporation, they must present evidence of authority to do business in Texas.

   G. ***Summary of Litigation:*** Provide a summary of any litigation, claim(s), or contract dispute(s) filed by or against the Service Provider in the past five years which is related to the services that the Service Provider provides in the regular course of business. The summary shall state the nature of the litigation, claim or contract dispute, a brief description of the case, the outcome or projected outcome, and the monetary amounts involved. State if there are no litigation claim(s) or contract dispute(s) filed by or against the Service Provider in the past five years.

   H. ***License Sanctions:*** List any regulatory or license agency sanctions. State if there are no license sanctions against the Service Provider.

   I. ***Acknowledgment of Addenda:*** Include a signed and dated copy of last addendum issued by the City, if any.

J. ***Past Performance:*** Service Provider(s) must list and provide required information from **all** debris removal projects in excess of 250,000 cubic yards within the past five years. Failure to list and provide the required information from **any** project the Service Provider has managed in excess of 250,000 cubic yards within the past five years may result in proposal rejection. Required information from each project listed includes total cubic yards collected, total dollar amount of each project and corresponding amount reimbursed to the applicant. The Service Provider must also provide a contact person, telephone number, fax number and e-mail address for each project. See below for an example format.

| Project | Date | Total CY | Total Dollar Amount Invoiced | Federal Reimbursement Amount | Contact | Comments |
|---|---|---|---|---|---|---|
| City, State (The City of Rowlett) | MM/YY to MM/YY | 800,000 | $7,590,000 | $7,590,000 | Name<br>Title<br>Phone Number<br>Fax Number<br>E-mail Address | |

***K.*** ***Financial Statements:*** Demonstrate the Respondent's financial ability to provide the Proposed Services to the City for the term of the contract. The Respondent shall provide detailed financial information, including but not limited to the following:

1) Copies of audited financial statements for the entity that is proposed to sign the Agreement, for the most recent three fiscal years. **For the purposes of this RFP, submit proprietary information under separate cover and submit only one statement (no need for reproduction).**

2) If the entity that will sign the Agreement has a parent company or is proposing a joint venture, the parent company or joint venture company(ies) must also provide audited financial statements for the most recent three fiscal years. The parent company must provide a statement indicating its intent and means to provide financial assurance of performance. **For the purposes of this RFP, submit proprietary information under separate cover and submit only one statement (no need for reproduction).**

3) If the entity that will sign the Agreement has been in existence less than three years, the Respondent must provide sufficient financial data to substantiate, to the satisfaction of the City, the Respondent's financial capability and viability of the entity. **For the purposes of this RFP, submit proprietary information under separate cover and submit only one statement (no need for reproduction).**

4) In addition to the audited financial statements, the Respondent must provide a statement from the Chief Financial Officer indicating that there has been no material change in the financial circumstances of the proposing entity (or its parent company or owners if they are providing financial assurance of performance) since the date of the last audited financial statements.

5) Financing of the services and equipment will be the sole responsibility of the successful Respondent. Respondent must demonstrate that it can provide the required financing from either 1) internally generated funds or 2) commitments from external sources.

***L.*** ***Affidavit,*** *see Attachment 5*

***M.*** ***Residence Certification,*** *see Attachment 6*

***N.*** ***Discussions Prior to Selection,*** *see Attachment 7*

***O.*** ***Certification Regarding Debarment,*** *see Attachment 8*

***P.*** ***Conflict of Interest Questionnaire,*** *see Attachment 9*

***Q.*** ***Certificate of Interested Parties,*** *see Attachment 10*

***R.*** ***Other Contractual Obligations:*** Include a list of other contractual obligations at the time of response submittal to The City of Rowlett.

2. **Project Understanding and Technical Approach:** Provide a statement demonstrating an understanding of the services and support required by this RFP. State how the Service Provider will approach the project and the methodology to be used to perform the services described in the Scope of Services. The technical approach must also outline the following:

   A. Ability to manage activation of multiple contracts
   B. Mobilization and demobilization plan
   C. Documenting and resolving damages
   D. Invoicing and data management

3. **Personnel:** A list of personnel assigned to the City in the event of contract activation. Information shall be presented in tabular form. The list shall include but is not limited to:

   - Contact persons, including telephone numbers and e-mail address
   - Project manager – must have five years experience
   - Operations manager – must have three years of experience
   - Other key personnel assigned to the project/this Agreement

   Changes to personnel listed on the proposal at the time of an event must be communicated to the City and are subject to approval by the City. The City of Rowlett also reserves the right to request the substitution of any personnel as the City deems necessary.

4. **Résumés:** Provide résumés for the project manager, operations manager and other key personnel proposed for this program.

5. **Typical Debris Management Site (DMS) Safety Plan and Operational Plan:** Provide a description of the firm's typical DMS safety plan and operational plan. Any changes to the site safety plan or operational plan must be provided to the City and are subject to City's approval. The City of Rowlett also reserves the right to request changes to the Service Provider r(s) site safety plan or operational plan.

6. **Subcontracting Plan:** A subcontracting plan that includes items such as a description of percentage of work to be subcontracted and a list of subcontractors.

7. **Licenses and Certificates:** List any licenses or certifications related to the scope or work described in this RFP. State if the Service Provider does not have any related or applicable licenses or certifications.

8. **Insurance Requirements:** Service Provider must meet the insurance requirements set forth in the Technical Specifications – Insurance Requirements section of the RFP.

9. **Price Proposal:** The Service Provider shall submit Price Proposal forms included in this RFP in a separate and sealed envelope from the proposal document. For any item indicated as $0, an explanation must be provided to explain how this cost will be assessed if the item is encountered.

## TERMS AND CONDITIONS

**ADDENDA:** Bidders are responsible for a thorough review of the contract documents, plans and specifications. Bidders shall assume all risk of any ambiguities. Thus, it is imperative that bidders be familiar with the contract documents as well as the job site.

No interpretation of the meaning of plans, specifications, or other pre-bid documents will be made to any bidder orally.

Every request for such interpretation should be in writing addressed to purchasing@rowlett.com and to be given consideration, must be received at least five days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be mailed by certified mail with return receipt requested to all prospective bidders (at the respective address furnished for such purposes), not later than three days prior to the date fixed for opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

**PREPARATION OF BID:** Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form.

**ADVERTISING:** Seller shall not advertise or publish, without the City of Rowlett's prior consent, the fact that City has entered into this contract, except to the extent necessary to comply with proper request for information from an authorized representative of the federal, state or local government.

**AWARD:** The City of Rowlett may hold all bid submission for a period of sixty (60) days. The City of Rowlett reserves the right to delete any item it considers too expensive. RFP/RFQ prices are to be F.O.B. City of Rowlett. All discounts will be considered in determining the lowest, responsible Proposer. The City of Rowlett reserves the right to award this contract on the basis of EVALUATION CRITERIA (AS STATED IN RFP/RFQ) in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one offeror, and to reject any or all RFP/RFQ's.

**POWER OF ATTORNEY:** Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

**BONDS:** Simultaneously with his delivery of the executed contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract, as specified in the General Conditions included herein. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the City.

Maintenance Bonds to cover defective workmanship of materials are required for all projects in the amounts and time periods to be included in the contract documents.

**CANCELLATION AND TERMINATION:** The City of Rowlett shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof, including warranties of Seller or if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to, and not in lieu of, any other remedies which The City of Rowlett may have in law or equity.

**TERMINATION:** The performance of work under this order may be terminated in whole, or in part, by the City of Rowlett in accordance with this provision. Termination of work hereunder shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to, and not in lieu of, rights of the City of Rowlett set forth. The City

of Rowlett reserves the right to terminate the contract for default if offeror breaches any of the terms therein, including warranties of offeror or if the offeror becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the City of Rowlett may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City of Rowlett's satisfaction and/or to meet all other obligations and requirements. The City of Rowlett may terminate the contract without cause upon thirty (30) days written notice.

**CONTRACT RENEWALS:** Renewals may be made ONLY by City Council approval and agreement between the City of Rowlett and the offeror.

Any price escalations are limited to those stated by the original RFP/RFQ. All Annual RFP/RFQ's with a one (1) year renewal option requires that the awarded Proposer must notify the City of Rowlett of any anticipated price increases to the current Annual RFP/RFQ (in writing) at least two months prior to the annual renewal award date unless otherwise specified within the specific provisions of the RFP.

This allows the City of Rowlett sufficient time to plan for re-advertising for Proposals due to a vendor required price increase. If Vendor fails to notify the City of Rowlett within time noted it shall be assumed that there will be no price increase for the following year's award period if renewed. This procedure does not apply to any Annual RFP/RFQ's which allow for Open Market Price increases or Cost allowance increases during the RFP/RFQ award period (as so specified in the RFP/RFQ documents).

**DISCRIMINATION:** In order to comply with the provisions of fair employment practices, the contractor agrees as follows:

1.)the contractor will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin;

2) in all solicitations or advertisements for employees, the contractor will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, handicap or national origin;

3) the contractor will furnish such relevant information and reports as requested by the City of Rowlett for the purpose of determining compliance with these regulations; and

4) failure of the contractor to comply with these laws will be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part.

**MINIMUM WAGE RATES:** The contractor shall utilize the minimum hourly wage rates listed herein (or in the contract documents, identified under "Prevailing Wage Rates") for the various types of skills and disciplines employed in the construction of this facility.

**DISQUALIFICATION OF OFFEROR:** Upon signing this RFP/RFQ document, an offeror offering to sell supplies, materials, services, or equipment to the City of Rowlett certifies that the offeror has not violated the antitrust laws of this state codified in Texas Business and Commerce Code 15.01, et seq., as amended, or the federal antitrust laws, and has not communicated directly or indirectly the RFP/RFQ made to any competitor or any other person engaged in such line of business. Any or all RFP/RFQ's may be rejected if the City of Rowlett believes that collusion exists among the offerors. RFP/RFQs in which the prices are obviously unbalanced may be rejected. If multiples are submitted by an offeror and after the RFP/RFQ's are opened, one of the RFP/RFQ's are withdrawn, the result will be that all of the RFP/RFQs submitted by that offeror will be withdrawn; however, nothing herein prohibits a vendor from submitting multiples for different products or services.

**EVALUATION:** All proposals will be evaluated in accordance with law and reviewed to assure they are in the best interest of the City of Rowlett. Evaluations shall be based on criteria, bearing on price, and performance of the items/services in the user environment. Any specific criteria section or sections identified elsewhere in this request for proposals may be evaluated by one or more evaluators once the basis and details of this process has been approved by the Purchasing Officer and acknowledged by the Evaluation Committee. Detailed information pertaining to this selective evaluation process is available to offerors and the City Council upon request.

Compliance with all RFP/RFQ requirements, delivery and needs of the using department are considerations in evaluating RFP/RFQ's. Pricing is NOT the only criterion for making a recommendation

(see criteria and relative importance of price and other evaluation factors, if any, specified elsewhere in this request for proposals. ). The City of Rowlett Purchasing Department reserves the right to contact any offeror, at any time, to clarify, verify or request information with regard to any RFP/RFQ. The City of Rowlett Purchasing Department further reserves the right to hold negotiation discussions with any responsible offeror submitting proposals determined to be reasonably susceptible of being selected for award in accordance with law.

**BID SECURITY:** Each bid must be accompanied by a certified check of the bidder, or a bid bond, duly executed by the bidder as principal and having as surety thereon a surety company approved by the City, in the amount of 5% of the bid. Such checks, or bid bonds will be returned to all except the three lowest bidders within thirty days after the opening of bids, and the remaining checks or bid bonds will be returned promptly after the City and the accepted bidder have executed the contract, or, if no award has been made within 90 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.

**LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT:** The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within 10 days after he has received notice of the acceptance of his bid, shall forfeit to the City, as liquidated damages for such failure or refusal, the security deposited with his bid. This liquidated damage amount is not a penalty but is, instead, a reasonable forecast of actual damages that the City may sustain were the bidder to default.

**TIME OF COMPLETION, EARLY COMPLETION BONUS AND LIQUIDATED DAMAGES:** Bidders must agree to commence work on or before a date to be specified in a written "Notice To Proceed" of the City and to fully complete the project within the specified time as stated in the proposal.
TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THIS PROJECT. THE CITY EMPLOYS A ZERO-TOLERANCE POLICY FOR TIME OF COMPLETION. FAILURE TO MEET THE CONTRACTUAL DEADLINE, OR A DELAY IN MEETING PROJECT SCHEDULES, MAY BE DEEMED A DEFAULT. THE CITY WILL AWARD AN EARLY COMPLETION BONUS IF THE PROJECT IS COMPLETED EARLY. THE EARLY COMPLETION BONUS WILL BE UP TO BUT NOT IN EXCESS OF THE AMOUNT STATED IN THE PROPOSAL.

**NOTICE OF SPECIAL CONDITIONS:** Attention is particularly called to those parts of the contract documents and specifications which deal with the following:

(a) Inspection and testing of materials
(b) Insurance requirements
(c) Wage rates
(d) Stated allowances

**PROTEST PROCEDURES:** Procedure - This protest procedure is available to vendors responding to this Bid.
Protests are made - 1. To the Purchasing Department. Vendor protests shall be received, in writing, by the Purchasing Department within five (5) business days after award. 2. To the City Manager, only after the protest to the Purchasing Department was not resolved satisfactory to the protestor. Protests to the City Manager shall be made within five (5) business days after the vendor has received notification from the City of Rowlett Purchasing Department of his/her decision.
Grounds for protest – 1. Errors were made in computing the score. 2. The City of Rowlett failed to follow procedures established in the Bid, the Purchasing policy: Acquisition or applicable state or federal laws or regulations. 3. Bias, discrimination or conflict of interest on the part of an evaluator. Protests not based on these criteria shall not be considered.
Format and Content - Protesting vendors shall include, in their written protest to the City of Rowlett Purchasing Department, all facts and arguments upon which they rely. Vendors shall, at a minimum, provide: 1. Information about the protesting vendor; name of firm, mailing address, phone number and name of individual responsible for submission of the protest. 2. Information about the acquisition and the acquisition method. 3. Specific and complete statement of the City of Rowlett's action(s) protested. 4. Specific reference to the grounds for the protest. 5. Description of the relief or corrective action requested. 6. For protests to the City Manager, a copy of the Purchasing Department's written decision on the protest.

Review Process – 1. Upon receipt of a vendor protest, the Purchasing Department shall perform an objective review of the protest by individuals not involved in the acquisition protested. The review shall be based on the written protest material submitted by the vendor. A written decision will be delivered to the vendor within five business days after receipt of the protest, unless more time is needed. The protesting vendor shall be notified if additional time is necessary.
Final Determination - The final determination shall 1. Find the protest lacking in merit and uphold the agency's action; or 2.Find only technical or harmless errors in the agency's acquisition process conduct, determine the agency to be in substantial compliance, and reject the protest; or 3. Find merit in the protest and provide the agency options which may include a) Correct its errors and reevaluate all proposals, and/or b)Reissue the vendor solicitation document; or c) Make other findings and determine other courses of action as appropriate.
City Manager Review Process - Protests to the City Manager may be made only after review by City of Rowlett Purchasing Department. Protests of the decisions of City of Rowlett Purchasing Department shall be made by letter to the City Manager, who may establish procedures to resolve the protest. Protests shall be received by the City Manager, within five business days after the decision of Purchasing Department in order to be considered. The resulting decision is final, with no further administrative appeal available.

**FISCAL FUNDING:** A multi-year lease or lease/purchase arrangement (if requested by the Special Requirements/Instructions), or any contract continuing as a result of an extension option, must include fiscal funding out. If, for any reason, funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. After expiration of the lease, leased equipment shall be removed by the offeror from the using department without penalty of any kind or form to the City of Rowlett. All charges and physical activity related to delivery, installation, removal and redelivery shall be the responsibility of the offeror.

**GRATUITIES AND PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** Any elected or appointed official who has any substantial interest, either direct or indirect, in any business entity seeking to contract with the City of Rowlett, shall, before any vote or decision on any matter involving the business entity, file an affidavit stating the nature and extent of interest and shall abstain from any participation in the matter. This is not required if the vote or decision will not have any special effect on the entity other than its effect on the public. However, if a majority of the governing body is also required to file, and do file similar affidavits, than the member is not required to abstain from further participation. Attached and included is a disclosure of all of this Company's business or pecuniary financial relationships with officers or employees of City of Rowlett must be attached and included with RFP/RFQ submitted. The City of Rowlett may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by the City of Rowlett that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent, or representative of the Seller, to any officer or employee of City of Rowlett with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making or any determinations with respect to the performing of such a contract. In the event this contract is cancelled by the City of Rowlett pursuant to this provision, the City of Rowlett shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities. Consistent and continued tie RFP's/RFQ's could cause rejection of RFP/RFQ's by the City of Rowlett and/or investigation for Anti-Trust violations. Proposer guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

**HISTORICALLY UNDERUTILIZED BUSINESS (HUB) CERTIFICATION:** If Proposer is a Certified Historically Underutilized Business (HUB), please include a copy of your HUB Certificate with your Proposal.

**MAINTENANCE:** Maintenance required for equipment RFP/RFQ should be available in the City of Rowlett by a manufacturer authorized maintenance facility. Costs for this service shall be shown on the Pricing/Delivery Information form. If the City of Rowlett opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.

**MATERIAL SAFETY DATA SHEETS:** Under the "Hazardous Communication Act", commonly known as the "Texas Right To Know Act", an offeror must provide to the City of Rowlett with each delivery, material safety data sheets which are applicable to hazardous substances defined in the Act. Failure of the offeror to furnish this documentation will be cause to reject any RFP/RFQ applying thereto.

**NAME BRANDS:** Specifications may reference name brands and model numbers. It is not the intent of the City of Rowlett to restrict these RFP/RFQs in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Offerors may offer items of equal stature and the burden of proof of such stature rests with offerors. The City of Rowlett shall act as sole judge in determining equality and acceptability of products offered.

**PRICING:** Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated on the Pricing/Delivery Information form. Prices shall be all inclusive: No price changes, additions, or subsequent qualifications will be honored during the course of the contract,. All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the contractor and included in the RFP/RFQ prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, offeror MUST indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails.

**RECYCLED MATERIALS:** The City of Rowlett encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. The City of Rowlett will be the sole judge in determining product preference application.

**SCANNED RE-TYPED RESPONSE:** If in its RFP/RFQ response, offeror either electronically scans, retypes, or in some way reproduces the City of Rowlett 's published RFP/RFQ package, then in event of any conflict between the terms and provisions of the City of Rowlett 's published RFP/RFQ specifications, or any portion thereof, and the terms and provisions of the RFP/RFQ response made by offeror, the City of Rowlett 's RFP/RFQ specifications as published shall control. Furthermore, if an alteration of any kind to the City of Rowlett 's published RFP/RFQ specifications is only discovered after the contract is executed and is or is not being performed, the contract is subject to immediate cancellation.

**SILENCE OF SPECIFICATIONS:** The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item RFP/RFQ. Substitute items will not be accepted unless approved (in advance).

**SUPPLEMENTAL MATERIALS:** Offerors are responsible for including all pertinent product data in the returned RFP/RFQ package. Literature, brochures, data sheets, specification information, completed forms requested as part of the RFP/RFQ package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the offeror wishes to include as a condition of the RFP/RFQ, must also be in the returned RFP/RFQ package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire RFP/RFQ.

**TITLE TRANSFER:** Title and Risk of Loss of goods shall not pass to the City of Rowlett until the City of Rowlett actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department.

Generally, deliveries may be made between 8:30 a.m. and 4:00 p.m., Monday through Friday. Offerors are advised to consult the using department for instructions. The place of delivery shall be shown under the "Special Requirements/Instructions" section of this RFP/RFQ package and/or on the Purchase Order as a "Deliver To:" address.

**USAGE REPORTS:** The City of Rowlett reserves the right to request, and receive at no additional cost, up to two (2) times during the contract period, a usage report detailing the products and/or services furnished to date under a contract resulting from this RFP. The reports must be furnished no later than five (5) working days after written request and itemize all purchases to date by the City of Rowlett department, description of each item purchased, including manufacturer, quantity of each item purchased, per unit and extended price of each item purchased, and total amount and price of all items purchased.

**WARRANTY PRICE:** (a) The price to be paid by the City of Rowlett shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, the City of Rowlett may cancel this contract without liability to Seller for breach or Seller's actual expense. (b) The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach or violation of this warranty, the City of Rowlett shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee. Offerors shall furnish all data pertinent to warranties or guarantees which may apply to items in the bid. Offerors may not limit or exclude any implied warranties. Offeror warrants that product sold and services provided to the City of Rowlett shall conform to the standards and laws established by the U.S. Department of Labor, U.S. Department of Homeland Security, Occupational Safety and Health Administration and O.S.H.A. Act of 1970. In the event product does not conform to OSHA Standards, where applicable, the City of Rowlett may return the product for correction or replacement at the offeror's expense. If offeror fails to make the appropriate correction within a reasonable time, the City of Rowlett may correct at the offeror's expense. Offerer warrants that product sold and services provided to the City of Rowlett shall conform to the standards and laws established by the U.S. Department of Homeland Security, Occupational Safety and Health Administration and O.S.H.A. Act of 1970.

**WARRANTY PRODUCTS:** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the City of Rowlett. Seller warrants that the goods furnished will conform to the specifications, drawings and descriptions listed in the RFP/RFQ invitation and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern.

**SAFETY WARRANTY:** Seller warrants that the product sold to the City of Rowlett shall conform to the standards promulgated by the U.S.Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, the City of Rowlett may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by the City of Rowlett will be at Seller's expense. Have you attached the required warranty information to the RFP/RFQ (if applicable)? Yes, No.

**APPLICABLE LAW**
he bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full..

**ASSIGNMENT DELEGATION:** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the City of Rowlett. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph. Any contract entered into pursuant to this request is not assignable, nor the duties thereunder, by either party, without the written consent of the other party in the contract City of Rowlett and the City of Rowlett City Council.

**CONTRACT OBLIGATION:** The City of Rowlett City Council must award the contract and the Council designee must sign the contract before it becomes binding on the City of Rowlett or the offerors. Department heads are NOT authorized to sign agreements for the City of Rowlett. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

**CONDITIONS OF WORK:** Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible, the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor and will be responsible for coordination with utilities on site.

**ERRORS AND OMISSIONS:** Errors and Omissions in the RFP / RFQ of any provision herein described will not be construed as to relieve the Vendor of any responsibility or obligation, requisite to the complete and satisfactory implementation, operation, and support of any and all equipment, systems or services.

At the time of the opening of bids each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve the bidder from any obligation in respect to his bid.

**FORCE MAJEURE:** If, by reason of Force Majeure, either party hereto shall be rendered unable wholly, or in part, to carry out its obligations under this agreement, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely with the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgement of the party having the difficulty.

**HOLD HARMLESS AGREEMENT:** Contractor, the successful offeror, shall indemnify and hold the City of Rowlett harmless rom all claims for personal injury, death and/or property damage resulting directly or indirectly from contractor's performance. Contractor shall procure and maintain, with respect to the subject matter of this RFP/RFQ, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover contractor's liability as may arise directly or indirectly from work performed under terms of this RFP/RFQ. Certification of such coverage must be provided to the City of Rowlett upon request.

**INFRINGEMENTS:** There will be no warranty by the City of Rowlett against infringements. As part of this contract for sales, Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement or the like. The City of Rowlett makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall the City of Rowlett City of Rowlett be liable to Seller for indemnification in the event that Seller is sued on the grounds of infringement or the like. If Seller is of the opinion that an infringement or the like will result, he will notify the City of Rowlett to this effect in writing within two (2) weeks after the signing of this agreement. If the City of Rowlett does not receive notice and is subsequently held liable for the infringement or the like, Seller will hold the City of Rowlett harmless. If Seller in good faith ascertains that production of the goods in accordance with the specifications will result in infringement or the like, this contract shall be

null and void, except that the City of Rowlett will pay Seller the reasonable cost of his/her search as to infringement. The contractor agrees to protect the City of Rowlett from claims involving infringement of patents or copyrights.

**WORK ORDER CHANGES:** It is understood that the quantities of work to be done at unit prices is approximate only and are intended principally to serve as a guide in evaluating bids. Any change order will be approved by the City prior to work being started on said change.

It is further agreed that the quantities of work to be done at unit prices and materials to be furnished may be increased or diminished as may be considered necessary, in the opinion of the Engineer, to complete the work fully as planned and contemplated and that all quantities of work, whether increased or decreased, are to be performed at the unit prices set forth except as provided for in the specifications. The City reserves the right to increase or decrease the amount of work to be done by any amount not to exceed twenty-five percent (25%) of the original contract amount. In the event the increase pertains to items not originally bid, the Contractor shall submit a bid in writing to the Engineer for approval.

It is further agreed that lump sum prices may be increased to cover additional work ordered by the Engineer but not shown on the plans or required by the specifications, in accordance with the provisions of the general conditions; similarly, they may be decreased to cover deletion of work so ordered.

The City reserves the right to reject the Contractor's bid on such extra work and secure such work to be done other than by said Contractor.

The time for performance set forth in the contract documents contemplates normal bad weather days and typical construction delays. Extensions in the time for performance may be given or allowed for if and only if the extension is approved by the City and the approval is evidenced by a written and signed Change Order. In the absence of a written, signed Change Order.

**INTERPRETATION PAROLE EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement, even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to Control.

**MODIFICATIONS:** This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents. O.S.H.A: Offeror must meet all Federal and State OSHA requirements.

**RIGHT TO ASSURANCE:** Whenever one (1) party to this contract in good faith has reason to question the other party's intent to perform, he/she may demand that the other party give written assurance of their intent to perform. In the event that a demand is made, and no assurance is given within five (5) days the demanding party may treat this failure as an anticipatory repudiation of the contract.

**SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

**VENUE:** Both parties agree that venue for any litigation arising from this contract shall lie in Dallas City, Texas.

## EVALUATION METHOD

Proposals will be evaluated and scored by the Proposal Evaluation Committee based on the scoring criteria as outlined in this document.

The Evaluation Committee will review all proposal materials. The selection committee **may** invite any number of the highest rated firms to participate in onsite interviews. All expenses related to the participation in the onsite interviews are the responsibility of the consultant with no obligation to the City. The decision to interview and the number of firms to interview is at the sole discretion of the evaluation committee. The interview (if required) will be evaluated and scored, and this score will be added to the overall score. The consultant(s) with the highest score(s) will be recommended for award contingent upon approval by the City of Rowlett City Council. The City reserves the right to negotiate with the selected firm(s) for rates and concessions that are in the best interest of the City. Upon the City's award of the contract, the City will present a contract for execution to the selected consultant(s). If execution of this contract with the selected consultant(s) is unsuccessful, the City will negotiate with the second ranked consultant(s) and so on until a satisfactory agreement has been reached.

There will be no bias in terms of a solution and/or a solution framework so as to afford all consultants an even playing field when the proposals are evaluated. The City reserves the right to ask for additional information and clarification from or about any or all consultants.

Please make sure the contact information for the references you provide is correct. References are usually contacted via e-mail and it is very important that they reply in a timely manner.

**EVALUATION CRITERIA**

The following criteria and weights shall be utilized in the evaluation of the proposals:

| CRITERIA | MAXIMUM POINTS |
|---|---|
| ***EXPERIENCE AND PAST PERFORMANCE***<br>• Experience of the firm/individual's, credentials and training<br>• List and description of similar services and how they relate to the City's needs, past performance and demonstrated experience | **25** |
| ***DEMONSTRATED ABILITY TO PERFORM THE REQUIRED WORK***<br>• Understanding of the scope of the project; approach to the project<br>• Financial Stability<br>• Include references and appropriateness of fleet | **25** |
| ***PRICE PROPOSAL*** | **20** |
| ***SAFETY RECORD*** | **20** |
| ***CAPACITY TO RESPOND TO MAJOR AND CATASTROPHIC DISASTER AND OTHER CONTRACTUAL OBLIGATIONS*** | **10** |
| ***TOTAL POSSIBLE SCORE*** | **100** |

**Background**
The City of Rowlett, Texas is requesting proposals from qualified individuals/firms for a stand-by contract for the clearance, demolition, removal, reduction, and disposal of disaster debris as directed by the City in order to eliminate immediate threat to the public health and safety. Also required is the elimination of immediate threats of significant damage to improved public or private property and that which is considered essential to ensure economic recovery of the affected community. Service Providers shall provide disaster recovery technical program management assistance to City officials. Work under this proposal will be utilized on an "as needed" basis or when notice to proceed is given to the successful proposer(s).

The Service Provider shall have an excellent understanding of the documentation involved for the reimbursement from FEMA, FHWA, or other federal agency, and the state relief programs to make the process of cost recovery efficient and accurate. The processes and documentation required will be in strict compliance with FEMA, FHWA, or other federal agency, and other state relief programs regulations regarding eligibility.
A primary, secondary, and tertiary Service Provider may be selected to provide differing elements or levels of scope of work in accordance with the capabilities and extent of involvement each respondent proposes.

**Term of Agreement**
The contract will be a one year contract utilized on an "as needed basis" with the option to be renewed for four additional one-year periods if mutually agreed upon by both parties, within budgetary limitations, and at the same terms and conditions.

**Annual Coordination Meeting**
The successful Service Provider(s) shall be required to attend an annual coordination meeting with the City at no additional cost to the City.

**Description of Designated Areas**

A. The designated area for debris removal (the City right-of-way) is bounded by the City limits of the City and includes public property and Right-of-Way (ROW), City parks and City debris staging areas within the City and *may* include private segments within the jurisdictional boundaries of the City. The City Debris Manager may also authorize the Service Provider to perform debris removal on non-City roadways or other areas, as directed in writing by the City Debris Manager.

B. The City Debris Manager will authorize and approve which services the Service Provider shall provide from the scope of services and which zones/areas must be prioritized.

C. All debris identified by the City Debris Manager shall be removed. The number of complete passes the Service Provider shall conduct through the City is at the discretion of the City Debris Manager. Partial removal of debris piles is strictly prohibited. The Service Provider shall not move from one designated work area to another designated work area without prior approval from the City or its authorized representative. Any eligible debris, such as fallen trees, which extends onto the ROW from private property, shall be cut at the point where it enters the ROW, and that part of the debris which lies within the ROW shall be removed. The Service Provider shall not enter onto private property during the performance of this contract unless specifically authorized by the City Debris Manager in writing.

D. Loose leaves and small debris shall be removed within the designated area. No debris shall be left on the road surface. No single piece of debris larger than three inches in any dimension shall be left at the point of collection.

E. Service Provider shall deliver all disaster related debris to the City approved Debris Management Site (DMS) or City approved Final Disposal Site that has been approved to receive disaster-generated debris and adhere to all local, state and federal regulations.

F. All Final Disposal Sites must be approved, in writing, by the City Debris Manager. The Service Provider will be responsible for the handling, reduction and final haul-out and disposal of all reduced and unreduced debris. DMS operations and remediation must comply with all local,

state and federal safety and environmental standards. The Service Provider reduction, handling, disposal and remediation methods must be approved, in writing, by the City Debris Manager.

G. Payment for disposal costs such as tipping fees incurred by the Service Provider at a City approved Final Disposal Site that meet local, state and federal regulations for disposal will be reimbursed by the City as a pass through cost. Prior to reimbursement by the City, the Service Provider must furnish an invoice in hard copy and electronic format matching scale/weigh tickets numbers with load ticket or haulout ticket numbers and other applicable information. The Service Provider will also be required to provide proof of Service Provider payment to the City approved Final Disposal Site.

H. The Service Provider shall conduct the work so as not to interfere with the disaster response and recovery activities of local, state and federal governments or agencies, or of any public utilities.

I. The City reserves the right to inspect DMS, verify quantities and review operations at any time.

**Debris Management Sites**

The Service Provider is responsible for providing a sufficient number of DMS to support the event in which the contract is activated. The proposed DMS must be approved by the City. Depending on the event, the City may provide the Service Provider with DMS locations within the City. The cost associated with acquiring, preparing, leasing, renting, operating, and remediating land used as DMS in the City is a cost borne by the Service Provider and compensated based on the Service Provider's bid for site management and reduction of debris.

The Service Provider will prepare and maintain the DMS facility(ies) to accept and process all eligible storm debris. Preparation and maintenance of facilities shall include the following:

- Maintaining the DMS approach and interior road(s) for all weather conditions for the entire period of debris hauling, including provision of crushed concrete for any roads that require stabilization for ingress and egress.
- Ensuring only Service Provider vehicles and others specifically authorized by the City will be allowed to use the DMS.
- Providing DMS utilities which include but are not limited to water, lighting, and portable toilets.
- Providing traffic control which includes but is not limited to traffic cones and staff with traffic flags.
- Providing DMS dust control and erosion control which includes but is not limited to an operational water truck, silt fencing, and other best management practices.
- Providing DMS fire protection which includes but is not limited to an operational water truck (sufficient and equipped for fire protection), fire breaks, and a site foreman.
- Providing 24-hour site security for each DMS.
- Restoring the site to its original condition prior to site use. Site remediation includes returning original site grade, sod, and other physical features. Site remediation also includes returning the site to its original condition as verified through soil and groundwater samples. Site remediation does not include restoring fencing, concession stands, lighting, and other permanent structures that may have to be demolished at the City's direction.

The City may also establish designated homeowner drop-off sites. The Service Provider will be responsible for removing all debris from those sites daily.

The Service Provider's Operations Manager will assign a Foreman to the (each) DMS, who will be responsible for the management of all operations of the site, including traffic control, dumping operations, segregation of debris, grinding, fire protection, and safety. The DMS Foreman will be responsible for monitoring and documenting equipment and labor time and providing the daily operational report to the Service Provider's Operation Manager, who will in turn provide this information to the City. These daily reports must meet the requirements of FEMA or other federal agency, and other reimbursement and regulatory governmental agencies.

The Service Provider will be responsible for returning all utilized DMS to their original condition prior to site use. DMS remediation will include, but is not limited to, returning the original site grade, fill dirt, base material, sod, and other physical features. DMS site remediation will also include returning all utilized sites to their original condition as verified through soil and groundwater samples. DMS remediation will abide by all state and federal environmental regulatory requirements and is subject to final approval by the City and the Texas Commission on Environmental Quality (TCEQ). All debris, mulch, etc is to be removed adequately; fill dirt and/or other base material (if required) must meet standards for intended use; new sod or seeding must meet standards for intended use.

**Scope of Services**

Under this contract, work shall consist of coordinating and mobilizing an appropriate number of cleanup crews, as determined by the City Debris Manager. Work shall also include the clearing and removing of any and all "Eligible" debris as most currently defined (at the time written notice to proceed is issued to the Service Provider) by the Public Assistance grant program guidelines, Federal Emergency Management Agency (FEMA) Publication 321 – Public Assistance Policy Digest, FEMA Publication 322 – Public Assistance Guide, FEMA Publication 323 – Public Assistance Applicant Handbook, FEMA Publication 325 – Debris Management Guide, all applicable state and federal Disaster Specific Guidance (DSG) documents, FEMA fact sheets and policies and as directed by the City Debris Manager. Eligible also includes meeting any changes in definition, rules or requirements regarding debris removal reimbursement as stipulated by FEMA during the course of a debris removal project. The aforementioned definition of "eligible" applies to all uses throughout Scope of Services items 1 through 17. Work will include: 1) examining debris to determine whether or not debris is eligible; 2) loading the debris; 3) hauling debris to City approved DMS(s) or City approved Final Disposal Site(s); 4) reducing disaster related debris; 5) hauling reduced debris to a City approved Final Disposal Site; and 6) disposing of reduced debris at a City approved Final Disposal Site. Debris not defined as eligible by FEMA Publication 325 or state or federal DSGs or policies will not be loaded, hauled or dumped under this contract unless written instructions are given to the Service Provider by the City Debris Manager. It shall be the Service Provider's responsibility to load, transport, reduce and properly dispose of any and all disaster generated debris which is the result of the event under which the Service Provider was issued notice to proceed, unless otherwise directed by the City Debris Manager, in writing.

City personnel will complete the initial debris clearance for access from public streets, including the moving of debris to unblock a street. The City intends to perform debris clearance for access within its own forces or under existing contracts between the City and local firms. However, in a significant disaster, these resources may be insufficient to perform the clearance activities in a timely manner and the Service Provider may be directed to perform them.

After activation of the contract and after a preliminary damage assessment, the City and the Service Provider, together, will establish a schedule of events depending on the severity of the disaster surrounding the City. This schedule of events shall include the dates for the:

- Last pass of the removal of public and/or private vegetative debris
- Last pass of the removal of construction and demolition debris

These last pass dates shall be very important to both the City and the Service Provider because of the liquidated damages that may be implemented, if the Service Provider does not meet these dates.

Scope of services under this contract includes, but is not limited to:

1. **Emergency Road Clearance**
   At the request of the City this contract, work shall consist of all labor, equipment, fuel and associated costs necessary to clear and remove debris from City roadways, to make them passable immediately following a declared disaster. All roadways designated by the City Debris Manager shall be clear and passable within 70 working hours of the issuance of Release Orders from the City to conduct emergency roadway clearance work. The City may choose to extend the Service Provider's 70-hour limit through a written request. This may include roadways in municipalities within the City or other governmental agencies under the legal responsibility of the City. Clearance of these roadways will be performed as identified by the City Debris Manager. The Service Provider shall assist the City and its representatives in ensuring proper

documentation of emergency road clearance activities by documenting the type of equipment and/or labor utilized (i.e., certification), starting and ending times, and zones/areas worked. Services performed under this Contract element will be compensated using Schedule 2 – Hourly Labor and Equipment Price Schedule.

**2. ROW Vegetative Debris Removal**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to pick up and transport disaster-related vegetative debris existing on the City ROW to a City approved DMS or a City approved Final Disposal Site in accordance with all federal, state and local rules and regulations.

a. For the purposes of this contract, vegetative debris that is piled in immediate close proximity to the street, and is accessible from the street with loading equipment (i.e., not behind a fence or other physical obstacle) will be removed.

b. Removal of vegetative debris existing in the City will be performed as identified by the City Debris Manager.

c. Once the debris removal vehicle has been issued a load ticket from the City's authorized representative, the debris removal vehicle will proceed immediately to a City approved DMS or a City approved Final Disposal Site. The debris removal vehicle will not collect additional debris once a load ticket has been issued.

d. All debris will be removed from each location before proceeding to the next location unless directed otherwise by the City or its authorized representative.

e. Entry onto private property for the removal of vegetative hazards will only be permitted when directed by the City or its authorized representative. The City will provide specific Right-of-Entry (ROE) legal and operational procedures.

f. The Service Provider must provide traffic control as conditions require or as directed by the City Debris Manager.

**3. ROW C&D Debris Removal**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to pick up and transport Construction and Demolition (C&D) debris existing on the City ROW to a City approved DMS or City approved Final Disposal Site in accordance with all federal, state and local rules and regulations.

a. For the purposes of this contract, C&D debris that is piled in immediate close proximity to the street, and is accessible from the street with loading equipment (i.e., not behind a fence or other physical obstacle) will be removed.

b. Removal of C&D debris existing in the City ROW will be performed as identified by the City Debris Manager.

c. Once the debris removal vehicle has been issued a load ticket from the City's authorized representative, the debris removal vehicle will proceed immediately to a City approved DMS or a City approved Final Disposal Site. The debris removal vehicle will not collect additional debris once a load ticket has been issued.

d. All debris will be removed from each location before proceeding to the next location unless directed otherwise by the City or its authorized representative.

e. Entry onto private property for the removal of C&D hazards will only be permitted when directed by the City or its authorized representative. The City will provide specific ROE legal and operational procedures.

f. The Service Provider must provide traffic control as conditions require or directed by the City Debris Manager.

**4. Demolition, Removal, Transport and Disposal of Non-RACM Structures**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to decommission, demolish and dispose of Non-Regulated Asbestos Containing Material (Non-RACM) structures on private property within the jurisdictional limits of the City. Under this service, work will include Asbestos Containing Material (ACM) testing, decommissioning, structural demolition, debris removal and site remediation. Further, debris generated from the demolition of Non-RACM structures, as well as scattered C&D debris on private property, will be transported to a City approved Final Disposal Site in accordance with all federal, state and local rules and regulations.

a. Decommissioning consists of the removal and disposal of all HHW, E-Scrap, White Goods, and Waste Tires from a Non-RACM structure at a properly sanctioned facility in accordance with all applicable federal, state and local rules and regulations.

b. Any structurally unsound and unsafe structures will be identified and presented to the City for direction regarding decommissioning.

c. Removal and transportation of Non-RACM demolished structures and scattered C&D debris on private property will be performed as directed in writing by the City Debris Manager.

d. Once the debris removal vehicle has been issued a load ticket from the City's authorized representative, the debris removal vehicle will proceed immediately to a City approved Final Disposal Site. The debris removal vehicle will not collect additional debris once a load ticket has been issued.

e. Entry onto private property for the removal of C&D hazards will only be permitted when directed in writing by the City or its authorized representative. The City will provide specific Right-of-Entry (ROE) legal and operational procedures for private property debris removal programs if requested.

f. The Service Provider is required to strictly adhere to any and all local, state and federal regulatory requirements for the demolition, handling and transportation of Non-RACM structures (such as obtaining demolition permits, etc.).

**5. Demolition, Removal, Transport and Disposal of RACM Structures**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to decommission, demolish and dispose of RACM structures on private property within the jurisdictional limits of the City. Under this service, work will include ACM testing, decommissioning, structural demolition, debris removal and site remediation. Further, debris generated from the demolition of structures, as well as scattered C&D debris on private property, will be transported to a City approved Final Disposal Site in accordance with all federal, state and local rules and regulations.

a. Decommissioning consists of the removal and disposal of all HHW, E-Waste, White Goods, and Waste Tires from a RACM structure at a properly sanctioned facility in accordance with all applicable federal, state and local rules and regulations.

b. Any structurally unsound and unsafe structures will be identified and presented to the City for direction regarding decommissioning.

c. Removal and transportation of RACM demolished structures and scattered C&D debris on private property will be performed as directed in writing by the City Debris Manager.

d. Once the debris removal vehicle has been issued a load ticket from the City's authorized representative, the debris removal vehicle will proceed immediately to a City approved Final Disposal Site that accepts RACM debris. The debris removal vehicle will not collect additional debris once a load ticket has been issued.

e. Entry onto private property for the removal of C&D hazards will only be permitted when directed in writing by the City or its authorized representative. The City will provide specific ROE legal and operational procedures for private property debris removal programs if requested.

f. The Service Provider is required to strictly adhere to any and all local, state and federal regulatory requirements for the demolition, handling and transportation of RACM structures (such as obtaining demolition permits, burrito wrapping of debris, etc.).

**6. DMS(s) Management, Operations and Reduction Through Grinding**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to manage and operate DMS(s) for the acceptance, management, segregation, staging and reduction through grinding of disaster related debris. Grinding must be approved by the City Debris Manager prior to commencement of reduction activities. The DMS(s) layout and ingress and egress plan must be approved by the City Debris Manager.

a. The management of DMS(s) includes assistance in obtaining necessary local, state and federal permits or approval and operating in accordance with all rules and regulations of local, state and federal regulatory agencies which may include, but are not limited, to the U.S. Environmental Protection Agency (EPA) and TCEQ. The Service Provider shall also be responsible for any and all costs associated with third-party groundwater and soil testing.

b. The Service Provider is responsible for operating the DMS(s) in accordance with Occupational Safety and Health Administration (OSHA), EPA and TCEQ guidelines.

c. Debris at DMS(s) will be clearly segregated and managed independently by debris type (C&D, vegetative debris, Household Hazardous Waste (HHW) etc.), program (ROW collection, private property debris removal, etc.) and applicant(s).

d. All un-reduced storm debris must be staged separately from reduced debris at the DMS(s).

e. The Service Provider is responsible for all associated costs necessary to provide DMS(s) utilities such as, but not limited to, water, lighting and portable toilets.

f. The Service Provider is responsible for all associated costs necessary to provide DMS(s) traffic control such as, but not limited to, traffic cones and staff with traffic flags.

g. The Service Provider is responsible for all associated costs necessary to provide DMS(s) dust control and erosion control such as, but not limited to, an operational water truck, silt fencing and other best management practices (BMPs).

h. The Service Provider is responsible for all associated costs necessary to provide DMS(s) fire protection such as, but not limited to, an operational water truck (sufficient and equipped for fire protection), fire breaks and a site foreman.

i. The Service Provider is responsible for all associated costs necessary to provide qualified personnel, as well as lined containers or containment areas, for the segregation of visible contaminants that may be mixed with disaster debris. The Service Provider is also responsible for all associated costs necessary for contaminant disposal at a permitted Hazardous Waste Treatment, Storage and Disposal Facility (TSDF), as requested by the City. The cost associated with qualified personnel and lined containers/containment areas for contaminant segregation, as well as contaminant disposal from DMS locations, is a cost reflected in this scope of services item 13.

j. The Service Provider is responsible for providing 24-hour DMS(s) security.

k. The Service Provider will only permit Service Provider vehicles and others specifically authorized by the City or its authorized representative on site(s).

l. The Service Provider shall provide a tower(s) from which the City or its authorized representative can make volumetric load calls. The tower(s) provided by the Service Provider will at a minimum meet the specifications provided in the Technical Specifications of this RFP (See pages 36, Debris Site Tower Specifications).

Upon completion of haul-out activities, the Service Provider will be responsible for remediating the physical features of the site to its original condition prior to site use. Site remediation will include, but is not limited to, returning the original site grade, sod, and other physical features. Site remediation does not include restoring fencing, concession stands, lighting, and other permanent structures that may have been demolished at the City's direction for DMS operations. All debris, mulch, etc is to be removed adequately; fill dirt and/or other base material (if required) must meet standards for intended use; new sod or seeding must meet standards for intended use. Site remediation will also include returning all utilized sites to their original condition as verified through soil and groundwater samples. Site remediation will abide by all state and federal environmental regulatory requirements and is subject to final approval by the City and TCEQ.

**7. DMS(s) Management, Operations and Reduction Through Air Curtain Incinerators**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to manage and operate DMS(s) for the acceptance, management, segregation, staging and reduction through an Air Curtain Incinerator (ACI) of disaster related debris. ACI reduction must be approved by the City Debris Manager, Division of Forestry, TCEQ and any other applicable regulatory agencies as required prior to commencement of reduction activities. DMS(s) layout and ingress and egress plan must be approved by the City Debris Manager.

a. The management of DMS(s) includes assistance in obtaining necessary local, state and federal permits or approval and operating in accordance with all rules and regulations of local, state and federal regulatory agencies which may include, but are not limited, to EPA and TCEQ. The Service Provider shall also be responsible any and all costs associated with third-party groundwater and soil testing.

b. The Service Provider is responsible for operating the DMS(s) in accordance with OSHA, EPA and TCEQ guidelines.

c. Debris at DMS(s) will be clearly segregated and managed independently by debris type (C&D, vegetative debris, Household Hazardous Waste (HHW) etc.), program (ROW collection, private property debris removal, etc.) and applicant(s).

d. All un-reduced storm debris must be staged separately from reduced debris at the DMS(s).

e. The Service Provider is responsible for all associated costs necessary to provide DMS(s) utilities such as, but not limited to, water, lighting and portable toilets.

f. The Service Provider is responsible for all associated costs necessary to provide DMS(s) traffic control such as, but not limited to, traffic cones and staff with traffic flags.

g. The Service Provider is responsible for all associated costs necessary to provide DMS(s) dust control and erosion control such as, but not limited to, an operational water truck, silt fencing and other BMPs.

h. The Service Provider is responsible for all associated costs necessary to provide DMS(s) fire protection such as, but not limited to, an operational water truck (sufficient and equipped for fire protection), fire breaks and a site foreman.

i. The Service Provider is responsible for providing 24-hour DMS(s) security and fire tender.

j. The Service Provider will only permit Service Provider vehicles and others specifically authorized by the City or its authorized representative on site(s).

k. The Service Provider shall provide a tower(s) from which the City or its authorized representative can make volumetric load calls. The tower(s) provided by the Service Provider will at a minimum meet the specifications provided in the Technical Specifications of this RFP (See pages 36 Debris Site Tower Specifications).

l. The Service Provider is responsible for all associated costs necessary to test residual ash from processing for arsenic and other Volatile Organic Compounds (VOCs) as deemed necessary based on DMS operations.

Upon completion of haul-out activities, the Service Provider will be responsible for remediating the site to its original condition prior to site use. Site remediation will include, but is not limited to, returning the original site grade, sod, and other physical features. Site remediation does not include restoring fencing, concession stands, lighting, and other permanent structures that may have been demolished at the City's direction for DMS operations. All debris, mulch, etc is to be removed adequately; fill dirt and/or other base material (if required) must meet standards for intended use; new sod or seeding must meet standards for intended use. Site remediation will also include returning all utilized sites to their original condition as verified through soil and groundwater samples. Site remediation will abide by all state and federal environmental regulatory requirements and is subject to final approval by the City and TCEQ.

**8. DMS(s) Management, Operations and Reduction Through Controlled Open Burning**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to manage and operate DMS(s) for the acceptance, management, segregation, staging and reduction through controlled open air burning of disaster related debris. Controlled open air burning must be approved by the City Debris Manager, Division of Forestry, TCEQ and any other applicable regulatory agencies as required prior to commencement of reduction activities. DMS(s) layout and ingress and egress plan must be approved by the City Debris Manager.

a. The management of DMS(s) includes assistance in obtaining necessary local, state and federal permits or approval and operating in accordance with all rules and regulations of local, state and federal regulatory agencies which may include, but are not limited, to EPA and TCEQ. The Service Provider shall also be responsible for any and all costs associated with third-party groundwater and soil testing.

b. The Service Provider is responsible for operating the DMS(s) in accordance with OSHA, EPA and TCEQ guidelines.

c. Debris at DMS(s) will be clearly segregated and managed independently by debris type (C&D, vegetative debris, Household Hazardous Waste (HHW) etc.), program (ROW collection, private property debris removal, etc.) and applicant(s).

d. All un-reduced storm debris must be staged separately from reduced debris at the DMS(s).

e. The Service Provider is responsible for all associated costs necessary to provide DMS(s) utilities such as, but not limited to, water, lighting and portable toilets.

f. The Service Provider is responsible for all associated costs necessary to provide DMS(s) traffic control such as, but not limited to, traffic cones and staff with traffic flags.

g. The Service Provider is responsible for all associated costs necessary to provide DMS(s) dust control and erosion control such as, but not limited to, an operational water truck, silt fencing and other BMPs.

h. The Service Provider is responsible for all associated costs necessary to provide DMS(s) fire protection such as, but not limited to, an operational water truck (sufficient and equipped for fire protection), fire breaks and a site foreman.

i. The Service Provider is responsible for all associated costs necessary to provide qualified personnel, as well as lined containers or containment areas, for the segregation of visible HHW/contaminants that may be mixed with disaster debris. The Service Provider is also responsible for all associated costs necessary for HHW/contaminant disposal at a permitted TSDF, as requested by the City. The cost associated with qualified personnel and lined containers/containment areas for HHW/contaminant segregation, as well as HHW/contaminant disposal from DMS locations, is a cost reflected in this scope of services item 13. Depending on the volume of HHW per DMS location, the City may choose to collect and dispose of HHW segregated from disaster debris at DMS locations.

j. The Service Provider is responsible for providing 24-hour DMS(s) security and fire tender.

k. The Service Provider will only permit Service Provider vehicles and others specifically authorized by the City or its authorized representative on site(s).

l. The Service Provider shall provide a tower(s) from which the City or its authorized representative can make volumetric load calls. The tower(s) provided by the Service Provider will at a minimum meet the specifications provided in the Technical Specifications of this RFP (See pages 36, Debris Site Tower Specifications).

m. The Service Provider is responsible for all associated costs necessary to test residual ash from processing for arsenic and other VOCs as deemed necessary based on DMS operations.

n. Upon completion of haul-out activities, the Service Provider will be responsible for remediating the site to its original condition prior to site use. Site remediation will include, but is not limited to, returning the original site grade, sod, and other physical features. Site remediation does not include restoring fencing, concession stands, lighting, and other permanent structures that may have been demolished at the City's direction for DMS operations. All debris, mulch, etc is to be removed adequately; fill dirt and/or other base material (if required) must meet standards for intended use; new sod or seeding must meet standards for intended use. Site remediation will also include returning all utilized sites to their original condition as verified through soil and groundwater samples. Site remediation will abide by all state and federal environmental regulatory requirements and is subject to final approval by the City and TCEQ.

**9. Haul-Out of Reduced Debris to a City Approved Final Disposal Site**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and associated costs necessary to load and transport reduced material such as ash, compacted C&D or mulch existing at a City approved DMS(s) to a City approved Final Disposal Site in accordance with all federal, state and local rules and regulations. The Service Provider shall not receive any payment from the City for haul-out or load tickets related to reduced or un-reduced debris transported and disposed of at a non-City approved Final Disposal Site.

**10. Removal of Hazardous Leaning Trees and Hanging Limbs**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to remove all hazardous trees six inches or greater in diameter, measured four-and-a-half feet from the base of the tree and hazardous hanging limbs two inches or greater in diameter when measured at the break existing on the City ROW. Debris generated from the removal of hazardous trees and hanging limbs two inches or greater existing in the City ROW will be placed in the safest possible location on the City ROW and subsequently removed in accordance with scope of services, item 2, under the terms, conditions and procedure described in "ROW Vegetative Debris Removal." Hazardous leaning trees less than six inches in diameter, measured four-and-a-half feet from the base of the tree, will be flush cut, loaded and removed in accordance with the terms, conditions, and compensation schedule for scope of services item 2. The City will not compensate the Service Provider for cutting leaning trees less than six inches in diameter on a unit rate basis. The collection of all hazardous leaning trees and hazardous hanging limbs must be performed on the same day as the cut work. If there is insufficient room for safe placement along the City ROW then The Service Provider must load the resulting debris as hazardous leaning tree or hazardous hanging limbs as they are removed.

a. Hazardous trees will be identified by the City or its authorized representative for removal. Removal and placement of hazardous trees six inches or greater in diameter existing on the City ROW or private property will be performed as identified by the City Debris Manager. All disaster specific eligibility guidelines regarding size and diameter of leaning trees will be communicated to the Service Provider, in writing, by the City Debris Manager. In order for leaning or hazardous trees to be removed and eligible for reimbursement, the tree must satisfy a minimum of one of the following requirements:

1. The tree is leaning in excess of 30 degrees in a direction that poses an immediate threat

to public health, welfare and safety.

2. The tree is dead, twisted or mangled as a direct result of the storm and a certified Arborist can attest to the fact that the tree will die, and potentially create a falling hazard to the public.

3. Over 50 percent of the tree crown is damaged or broken and heartwood is exposed.

4. The tree has a split trunk that exposes heartwood.

b. Removal and placement of hazardous hanging limbs two inches or greater in diameter existing on the City ROW or private property will be performed as identified by the City Debris Manager. All disaster specific eligibility guidelines regarding size and diameter of limbs will be communicated to the Service Provider, in writing, by the City Debris Manager. In order for hanging limbs to be removed and eligible for payment, the limb must satisfy all of the following requirements:

1. The limb is greater than two inches in diameter.

2. The limb is still hanging in a tree and threatening a public-use area.

3. The limb is located on improved public property.

**11. Removal of Hazardous Stumps**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to remove hazardous uprooted stumps greater than 24 inches in diameter, measured 24 inches from the base of the tree existing on the City ROW. Further, debris generated from the removal of uprooted stumps existing on the City ROW will be transported to a City approved DMS or a City approved Final Disposal Site in accordance with all federal, state and local rules and regulations. Hazardous stumps measured 24 inches from the base of the tree and 24 inches or less in diameter will be considered normal vegetative debris and removed in accordance with scope of services item 2. The diameter of stumps less than 24 inches will be converted into a cubic yardage volume based on the published FEMA stump conversion table (See Attachment 1 – FEMA Stump Conversion Table) and removed under the terms and conditions of scope of services item 2.

a. Hazardous stumps will be identified by the City or its authorized representative for removal. Removal and transportation of hazardous uprooted stumps existing on the City ROW or private property will be performed as identified by the City Debris Manager. All disaster specific eligibility guidelines regarding size and diameter of hazardous stumps will be communicated to the Service Provider, in writing, by the City Debris Manager. In order for hazardous stumps to be removed and eligible for reimbursement, the stump must satisfy the following criteria:

1. Fifty percent or more of the root ball is exposed.

2. The stump is on City ROW and poses an immediate threat to public health, safety or welfare.

Tree stumps that are not attached to the ground will be considered normal vegetative debris and subject to removal under the terms and conditions of scope of services item 2. Stumps with less than 50 percent of the root ball exposed shall be flush cut to the ground. The stump portion of the tree will not be removed but the residual debris (i.e. tree trunk) will be removed under the terms and conditions of scope of services, item 2. The cubic yard volume of unattached stumps will be based off of the diameter conversion using the published FEMA stump conversion table (See Attachment 1 – FEMA Stump Conversion Table).

The City or its authorized representative will measure and certify all eligible stumps prior to removal.

**12. Sand, Silt, and Debris Removal from Detention/Retention Structures**

Under this element, work shall consist of all labor, equipment, fuel, traffic control costs, and other associated costs necessary to collect sand, silt, and debris from City detention/retention

structures and transport to a City approved final disposal site in accordance with all federal, state, and local rules and regulations.

a. For the purposes of this element, sand, silt, and debris existing in City detention/retention structures will be removed to a depth designated by the City or the City's authorized representative.

b. Once the debris removal vehicle has been issued a load ticket from the City's authorized representative, the debris removal vehicle will proceed immediately to a City approved final disposal site. The debris removal vehicle will not collect additional debris once a load ticket has been issued.

**13. Household Hazardous Waste Removal Transport and Disposal**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary for the removal, transportation and disposal of HHW from the ROW to a permitted TSDF.

a. The removal, transportation and disposal of HHW includes obtaining all necessary local, state and federal handling permits and operating in accordance with all rules and regulations of local, state and federal regulatory agencies.

b. All HHW shall be managed as hazardous waste and disposed of at a permitted TSDF.

**14. ROW White Goods Debris Removal**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary for the collection of white goods from the ROW, removal of refrigerants, transportation to a City approved DMS, decontamination, and transportation to a City approved facility for recycling or final disposal. The facility for recycling or final disposal site must be approved in writing by the City. White goods containing refrigerants must first have such refrigerants removed by the Service Provider's qualified technicians prior to mechanical loading.

White goods can be collected without first having refrigerants removed if the white goods are manually placed into a hauling vehicle with lifting equipment so that the elements containing refrigerants are not damaged.

a. The removal, transportation, and recycling or final disposal of white goods includes obtaining all necessary local, state and federal handling permits and operating in accordance with all rules and regulations of local, state and federal regulatory agencies.

    - All white goods containing food items shall be decontaminated in accordance with local, state and federal law prior to recycling.

b. The Service Provider shall recycle or dispose of all white goods in accordance with all rules and regulations of local, State and federal regulatory agencies.

c. Refrigerant containing items will have such refrigerants removed prior to mechanical loading or will be manually loaded and hauled to a City approved DMS for refrigerant removal by the Service Provider's qualified technicians.

**15. Dead Animal Carcasses**

Under this element, work shall consists of all labor, equipment, fuel, traffic control costs and other associated costs necessary for the removal, transportation, and lawful disposal of dead animal carcasses from the ROW to a City approved Final Disposal Site. The Service Provider shall coordinate activities the City of Rowlett and appropriate state agencies, if needed.

a. Disposal of animal carcasses must be compliant with the Texas Department of Agriculture and TCEQ rules for handling, solid waste, and air quality.

**16. Other Debris Removal Work**

Neither the Service Provider nor any subcontractors shall solicit work from private citizens or others to be performed in the designated work areas during the term of this agreement. The City reserves the right to require the Service Provider to dismiss or remove from the project any

workers as the City sees necessary. Any debris removal vehicles dismissed from the project must have their issued placard removed and destroyed.

**TECHNICAL SPECIFICATIONS**

**Notice to Proceed**

The City shall issue official written notice to proceed for the services referenced in this contract. Notice to proceed shall be sent via electronic transmission (facsimile, e-mail, etc.). If the Service Provider's authorized representative is on site in the City then the written notice to proceed may be hand delivered. Under no circumstances shall the City be liable for any services rendered unless the written notice to proceed has been sent and received by the Service Provider(s). The Service Provider(s) must acknowledge receipt of the written notice to proceed.

**Changes in Scope of Work**

The City Administrator or Assistant City Administrator may request changes in the scope of work to be performed. Such changes, including increase or decrease in compensation must be mutually agreed upon and incorporated by written amendment to the agreement.

**Insurance Requirements**

The bidder, acting as an independent contractor, must provide the following insurance, which must be kept in force during the term of the contract. Performance under the contract will not start until this obligation has been met.

Worker's CompensationAs set forth in the Worker's Compensation Act.

Commercial General: $1,000,000 Each Accident/Occurrence.

Liability (Public): $1,000,000 Aggregate

$1,000,000 Products & Completed Operations Aggregate.

City's Protective: $600,000 per occurrence

Liability Insurance: $1,000,000 aggregate

Excess/Umbrella Liability:$1,000,000 per occurrence w/drop down coverage

Limit of Insurance per Project or City's and Contractor's Protective
Liability Insurance for the Project.

Automobile Liability$500,000 Combined single limit per occurrence.

The successful contactor must provide insurance certificates satisfactory to the City of Rowlett within five (5) working days after notification of award. Generally with a carrier authorized to do business in Texas and rated "A" or better in the current Best Key Rating Guide. Failure to supply such insurance shall be a breach of contract. All policies shall be of the "occurrence type" and The City of Rowlett shall be listed as an additional insured (to the extent Contractor/City are indemnified pursuant to the indemnity provisions herein) on all certificates of insurance. Additional Insured Clauses does not apply to Workers' Compensation and Employer's Liability. A waiver of Subrogation Clause, naming the City of Rowlett "shall be included" on all types of coverages.

Thirty (30) days prior written notice to the City of cancellation or material change endorsement shall be attached to all policies.

Insurance certificate to be submitted to: The City of Rowlett, Purchasing Division, 4004 Main Street, Rowlett, Texas 75088. Bid number shall be included on certificate.

**Indemnity**

The successful contractor shall defend, indemnify and save harmless The City of Rowlett and all its officers, agents and employees who are participating in this contract from all suits, actions, or other

claims of any character, name and description brought for or on account of any negligent act or fault of the contractor, or of any agent, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from bid award. Successful bidder shall pay any judgment with cost which may be obtained against The City of Rowlett and participating entities growing out of such injury or damages.

**Drug Free Workplace**
In the interest of job safety and to protect the general public, other contractors and the City's employees from the consequences of accidents that are caused by worker abuse of controlled substances on City construction projects, the bidder certifies by submission of its bid that it will make a good faith effort to maintain a drug-free jobsite.

**Mobilization**
Within 18 hours of notice to proceed from the City, the Service Provider will mobilize an Operations Manager to the City. The Operations Manager will assist the City in planning for the operation and mobilization of Service Provider personnel and equipment necessary to perform the work. If the Service Provider does not send an Operations Manager within 18 hours after the all by the City, the City may then go to the next RFP-approved Service Provider for their services instead of using the first Service Provider.

Within 36 hours of notice to proceed from the City, the Service Provider shall mobilize equipment and resources in the City to begin debris removal operations as directed by the City Administrator. As part of the Service Provider's mobilization effort the Service Provider(s) shall provide an on-site office trailer for the duration of the project or as directed by the City.

**Safety**
The Service Provider(s) shall be solely responsible for maintaining safety at all work sites including DMS(s) and debris collection sites. The Service Provider(s) shall take all reasonable steps to insure safety for both workers and visitors to DMS(s) and debris collection sites. Safety at DMS(s) and debris collection sites includes traffic control such as traffic cones and flag personnel. The Service Provider(s) will also be solely responsible to ensure that all OSHA requirements are met and a safety officer assigned to the project for the duration of this contract.

**On-Site Project Manager**
The Service Provider(s) shall provide an on-site project manager to the City. The project manager shall provide a telephone number to the City with which he or she can be reached for the duration of the project. The project manager will be expected to have daily meetings with the City Debris Manager and/or City authorized representatives. Daily meeting topics will include, but not limited to, volume of debris collected, completion progress, City coordination and damage repairs. Frequency of meetings may be adjusted by the City Debris Manager. The Service Provider(s)' project manager must be available 24 hours a day, or as required by the City Debris Manager.

**Equipment**

a. All trucks and other equipment must be in compliance with all applicable local, state and federal rules and regulations. Any truck used to haul debris must be capable of rapidly unloading its load without the assistance of other equipment, be equipped with a tailgate that will effectively contain the debris during transport and permit the truck to be filled to capacity.

b. Sideboards or other extensions to the bed are allowable provided they meet all applicable rules and regulations, cover the front and both sides and are constructed in a manner to withstand severe operating conditions. The sideboards are to be constructed of two-inch by six-inch boards or greater and not to extend more than two feet above the metal bedsides. Trucks or equipment certified with sideboards must maintain such sideboards and keep them in good repair. In order to ensure compliance, equipment will be inspected by the City's authorized representatives prior to its use by the Service Provider(s).

c. Debris shall be reasonably compacted into the hauling vehicle. Any debris extending above the top of the bed shall be secured in place so as to prevent it from falling off. Measures must be taken to avoid the debris blowing out of the hauling vehicle during transport to a City approved

DMS or a City approved Final Disposal Site.

d. Trucks or equipment designated for use under this contract shall not be used for any other work. The Service Provider(s) shall not solicit work from private citizens or others to be performed in the designated work area during the period of this contract. Under no circumstances will the Service Provider(s) mix debris hauled for others with debris hauled under this contract.

e. Equipment used under this contract shall be rubber tired and sized properly to fit loading conditions. Excessive size equipment (100 cubic yards and up) and non-rubber tired equipment must be approved for use on the road by the City Debris Manager.

f. Hand loaded vehicles are prohibited unless pre-authorized, in writing, by the City Debris Manager, following the event. All hand-loaded vehicles will receive an automatic 50 percent deduction for lack of compaction.

**Traffic Control**
The Service Provider(s) shall mitigate the impact of their operations on local traffic to the fullest extent practical. The Service Provider(s) is responsible for establishing and maintaining appropriate traffic controls in all work areas, including DMS(s) and debris collection sites. The Service Provider(s) shall provide sufficient signing, flagging and barricading to ensure the safety of vehicular and pedestrian traffic in all work areas. All work shall be done in conformity with all applicable local, state and federal laws, regulations, and ordinances governing personnel, equipment and work place safety. Any notification of a deficiency in traffic control or other safety items shall be immediately corrected by the Service Provider(s). No further work shall take place until the deficiency is corrected. Neither the City Debris Manager nor the authorized representative shall sign any additional load or unit rate tickets until the safety item is corrected. The expense incurred by the Service Provider for traffic control is an overhead expense contemplated as part of the Service Provider's compensation under the terms and conditions of scope of services.

**Rapid Response Crew**
Service Provider(s) shall be required to provide the City with access to one or more Rapid Response Crews (RRC) as directed by the City. The purpose of the RRC is to respond immediately to disaster related debris piles as directed by the City Debris Manager or the City's authorized representative. The RRC assists in the overall cleanup effort by responding to and collecting disaster related debris which the City deems a priority for overall City recovery.

**Work Hours**
The Service Provider(s) shall conduct those debris removal operations generating noise levels above that normally associated with routine traffic flow, during daylight hours only. Work may be performed seven days per week. Adjustments to work hours, as local conditions may dictate, shall be coordinated between the City and the Service Provider(s). Unless otherwise directed, the Service Provider must be capable of conducting volumetric reduction operations at DMS locations on a 24 hour, 7 days a week basis.

**Time of Completion**
The services shall commence upon written notice to proceed from the City Administrator or his designee. For each event in which the contract is activated the City and the Service Provider will develop a project completion date. The project completion date may be revised if mutually agreed upon by the City and the Service Provider.

**Liquidated Damages**
Should the Service Provider fail to complete requirements set forth in this scope of work, the City will suffer damage. The amount of damage suffered by the City is difficult, if not impossible to determine at this time. Therefore the Service Provider shall pay the City, as liquidated damages, the following:

a. The Service Provider shall pay the City, as liquidated damages, $5,000.00 per calendar day of delay to mobilize in the City with the resources required to begin debris removal operations, within 36 hours of notice to proceed.

b. The Service Provider shall pay the City, as liquidated damages, $1,000.00 per load of disaster

debris collected in the City that is not disposed of at a City approved DMS or City approved Final Disposal Site. Application of liquidated damaged does not release the Service Provider of all liability associated with hauling and depositing material to an unauthorized location.

c. The Service Provider shall pay the City, as liquidated damages, $500.00 per incident where the Service Provider fails to repair damages that are caused by the Service Provider or subcontractor(s). Application of liquidated damages does not release the Service Provider from the responsibility of resolving or repairing damages.

d. The Service Provider shall pay the City, as liquidated damages, $500.00 per calendar day of delay to complete the project by the agreed upon project completion date.

e. The Service Provider shall pay the City, as liquidated damages, $500.00 per calendar day of delay to remediate each DMS to the original condition based on the completion date set forth by the City and Service Provider per DMS.

f. The Service Provider shall pay the City, as liquidated damages, $100.00 per incident where the Service Provider fails provide sufficient documentation to the City to support FEMA eligibility of the work performed. Additionally no payment will be made for the work performed. This liquidated damage will only apply when the contract is activated for a FEMA eligible disaster.

The amounts specified above are mutually agreed upon as reasonable and proper amount of damage the City should suffer by failure of the Service Provider to complete requirements set forth in the scope of work.

**Damages**

The Service Provider(s) shall repair any damages caused by the Service Provider's equipment in a timely manner at no expense to the City. If there is disagreement between a resident and Service Provider(s) as to the repair of damages, the City shall decide and make the final determination on the repair. Any damages to private property shall be repaired at the Service Provider's expense. Failure to restore damage to public property or private property to the satisfaction of the City will result in the City withholding retainage money in an amount sufficient to make necessary repairs.

To the extent that the City deems the Service Provider(s) negligent in management practices, the City may withhold from retainage money or invoice the Service Provider(s) for time and material costs associated with resolving issues or damages related to the Service Provider's work.

**Existing Utilities**

a. Some trees and debris that are to be removed under this contract may be blocked or entangled with overhead power, telephone and television cables. In this case, it shall be Service Provider's responsibility to coordinate directly with the utility owners to arrange for the removal of the debris without damage to the overhead and underground utility lines (i.e. water and sewer). The Service Provider(s) shall pay all such costs to the utility company for any adjustments.

b. The City may choose either to have the Service Provider(s) make the necessary repairs or have the Service Provider(s) pay all costs incurred to repair damaged utilities that are a result of the Service Provider, as determined by the affected utility company. Repairs to all municipal and privately owned utilities shall be made by the Service Provider(s).

**Debris Site Tower Specifications**

a. The Service Provider(s) shall provide as many towers as designated by the City at each dumpsite for the use of City authorized representatives during their inspection of dumping operations. If ingress and egress of a DMS is of significant distance that the City or its authorized representative are unable to verify the entering and exiting trucks, then the Service Provider(s) may be required to provide a second tower. The inspection platform of the tower shall be constructed at a minimum height of 10 feet from surrounding grade to finish floor level, have a minimum 8 feet by 8 feet of usable floor area, be covered by a roof with 2 feet overhangs on all sides and be provided with appropriate railings and a stairway. Platform shall be enclosed, starting from platform floor level and extending up 4 feet on all 4 sides. The expense incurred by the Service Provider for the construction of towers is an overhead expense contemplated as part of the Service Provider's compensation under the terms and conditions of scope of work.

b. Care shall be taken to place tower(s) at a sufficient distance away from any reduction/dumping operations. If necessary, dumping operations may be temporarily suspended by the City Debris Manager due to unsuitable conditions at the tower.

**Facilities at DMS Locations**
The Service Provider(s) shall provide as many portable toilets as designated by the City at each dumpsite for the use of City authorized representatives during their inspection of dumping operations. The toilet shall be provided prior to start of any dumping operations and kept in a sanitary condition by the Service Provider(s) throughout the duration of dumping operations. The expense incurred by the Service Provider(s) for the operation of portable toilets is an overhead expense contemplated as part of the Service Provider's compensation under the terms and conditions of scope of work.

**Ownership of Debris**
All debris residing in the City ROW and City provided DMS(s) shall be the property of the City until final disposal at a properly permitted disposal site.

**Environmental Protection**

a. Any and all fluids or chemicals (work-related materials such as oil-dri, absorbents, etc.) used by the Service Provider(s) must be used and disposed of in accordance with all rules and regulations of local, state and federal regulatory agencies.

b. Service Provider(s) and subcontractors shall not perform maintenance on over-the-road equipment at DMSs. Maintenance of equipment that typically remain at the DMS (e.g., track hoes, front end loaders, grinders, etc.) may be conducted at the DMS provided best management practices are followed and all wastes are managed and disposed of in accordance with all rules and regulations of local, state and federal regulatory agencies.

c. The Service Provider(s) shall, at its own expense, ensure that noise and dust pollution is minimized to comply with all local and state ordinances and the approval of the City Debris Manager. The Service Provider(s) shall comply in a timely manner with all directions of the City Debris Manager regarding the use of a water truck or other approved dust abatement measures.

d. The Service Provider(s) shall comply with all laws, rules, regulations and ordinances regarding environmental protection.

e. The Service Provider(s) shall immediately report and document all incidents to the City Debris Manager or the authorized representative that affect the environmental quality of DMS(s) such as, but not limited to, hydraulic fluid leaks, oil spills or fuel leaks.

f. The Service Provider must notify the City regarding any fluid or chemical spillage so that the City or its authorized representative can review and approve of the cleanup.

**Documentation and Measurement**

a. The Service Provider is responsible for ensuring that all labor and equipment used for Emergency Push activities is certified and that logs are kept for starting days/times, ending days/times, and zones, areas, and streets worked.

b. All Service Provider(s) trucks used for collection and hauling of debris from the City ROW to City approved DMSs or City approved Final Disposal Sites shall be measured (inside bed measurements) and certified for cubic yard volume by the City or City-authorized representative. The Service Provider shall provide a representative to attest to the certification/measuring process. It is the Service Provider's responsibility to verify the accuracy of truck certifications within 48 hours of truck certification (and notify the City of any discrepancies). Placards will be attached to both sides of each certified truck and shall clearly state the truck measurement in cubic yards, Service Provider name, assigned truck number, and other pertinent information, as determined by the City Debris Manager. If a vehicle is

working under multiple contracts or for multiple communities, it must be re-certified and issued a new placard by a City authorized representative each time it returns to work from other contracts or communities.

c. The Service Provider(s) is responsible for ensuring that all subcontractors maintain a valid driver's licenses and equipment legally fit for travel on the road.

d. Load tickets will be provided by the City or its authorized representative for recording volumes of debris removal. Unit rate tickets will be provided by the City or its authorized representative for documenting unit rate services, such as hanger or leaning tree removal. Only tickets designated and approved by the City will be authorized for use.

- Each ticket shall be of a type that consists of one original and four carbon-copy duplicates.
- Each ticket shall be used to document the location the disaster related debris was collected (i.e., street address) and the amount picked up, hauled, reduced and disposed of. Service Provider(s) are responsible for ensuring all load and unit rate tickets capture location debris or work was completed, collection/disposal date, disposal location, percentage load call or measurement and City authorized representative name and signature. No payment will be made by the City for incomplete load or unit rate tickets submitted for payment.
- Load tickets will be issued by an authorized representative of the City at the collection site. The City authorized representative will complete the applicable portion of the load ticket, and provide all five copies to the vehicle operator. Upon arrival at the DMS or City approved Final Disposal Site, the vehicle operator will present the five copies of the load ticket to the City authorized representative on site. Trucks with less than full capacities will be adjusted down by visual inspection. This determination will be made by the City authorized representative present at the DMS or City approved Final Disposal Site. The City authorized representative will validate, enter the estimated debris quantity and sign the load ticket. The City will keep the original copy, two copies will be given back to the vehicle operator and the remaining two copies will be provided to the Service Provider.
- Loads of processed (e.g., chipped) debris being hauled from a DMS to a City approved Final Disposal Site will follow the same load ticket procedures. A City authorized representative will initiate the load ticket at the DMS. Another City authorized representative will validate and sign the ticket at the City approved Final Disposal Site.
- The Service Provider(s) shall give written notice of the location for work scheduled 24 hours in advance.

**Payment**

a. The City, or its authorized representative, will monitor, verify and document with load tickets or unit rate tickets the completion of all work, as defined in the scope of work. The Service Provider(s) will be provided with copies of this documentation. These documents will be used by the Service Provider as backup data for invoice submittals. Work not ticketed or not authorized by the City will not be approved for payment. Additionally, any ticket submitted for payment must be properly completed. Tickets missing loading address, truck number, certified capacity, collection monitor signature, disposal site, load call or disposal monitor signature will not be paid, nor will the City be responsible for unpaid incomplete tickets.

b. Private property debris removal operations will be invoiced separately from ROW collection removal operations. The City reserves the right to request additional invoice separation by debris type (C&D, vegetative debris, Household Hazardous Waste (HHW) etc.), program (ROW collection, private property debris removal, etc.).

c. Invoices shall be submitted to the City's authorized representative on a bi-weekly basis. All invoices must be submitted in electronic copy (Microsoft Excel format) of the invoice detail. Electronic invoices should be sent via e-mail to kgalvin@rowlett.com and rowlettoem.com. The invoice detail must consist of a tabular report listing all ticket information required by the City. Invoice detail submittals will be checked against City records. City records are the basis of all payment approvals. Only 100 percent accurate and complete invoices shall be forwarded by the City authorized representative to the City for payment.

d. A 10 percent retainage will be withheld from each reconciled invoice until the end of the project. In order to recover the retainage, the Service Provider(s) must successfully complete, and receive a letter of completion from the City, for all work zones. Retainage will be held until final reconciliation is complete. Portions of the retainage may be held by the City to repair damages caused by the Service Provider(s) to public or private property.

e. No separate payment will be made for mobilization and demobilization operations. These costs are to be included in the respective unit prices bid for debris removal and will not be adjusted based on the total amount of debris actually removed in the contract.

f. The Service Provider is responsible for payment to all subcontractors utilized for the services rendered within this scope of work. The Service Provider shall execute release waivers with all subcontractors to release the City from payment to subcontractors directly. The release waivers for all subcontractors shall be provided to the City prior to final retainage release.

g. Payment for disposal cost incurred by the Service Provider(s) at the City approved Final Disposal Sites will be made at the cost incurred by the Service Provider. The Service Provider(s) must submit a copy of all applicable disposal site permits, a copy of the invoice(s) received by the City approved Final Disposal Site, an electronic copy tabulating all scale or load tickets issued by the City approved Final Disposal Site, and proof of Service Provider payment to the City approved Final Disposal Site.

h. Service Provider(s) must submit a final invoice within 30 days of completion of scope of work. Completion of scope of work will be acknowledged, in writing, by the City Debris Manager. The final invoice must be marked "FINAL INVOICE" and no additional payments will be made after the Service Provider's final invoice.

i. When this contract is activated for an event funded by state or federal funds, the Service Provider will comply with all requirements of the state or federal government applicable to the use of the funds. Additionally, when this contract is activated for an event funded by state or federal funds, the City will only pay for those items deemed eligible by the Federal Emergency Management Agency (FEMA), unless the City otherwise agrees in writing.

j. The Service Provider will retain all records pertaining to the services and the contract for these services and make them available to the City for a period of seven years following receipt of final payment for the services referenced herein.

**Price Re-determination**

Price re-determination shall only be considered by the City 45 days prior to the anniversary date of initial contract award and subsequent renewals and shall be substantiated in writing (i.e. Manufacturer's direct cost, postage rates, Railroad Commission rates, Federal/State minimum wage law; Federal/State unemployment taxes; F.I.C.A.: Insurance Coverage rates, etc.). The City of Rowlett reserves the right to reject any/all of the price re-determination as it deems to be in the best interest of the City.

**Inter-local Agreements**

Bidder shall state on the Cooperative Inter-local Purchasing form whether they will agree to other governmental entities entering into inter-local agreements on this price agreement at the same prices and conditions with the exception of deliveries being ordering agencies location as opposed to within The City of Rowlett.

Attachment 1 – FEMA Stump Conversion Table

# Stump Conversion Table

**Diameter to Volume Capacity**

The quantification of the cubic yards of debris for each size of stump in the following table was derived from FEMA field studies conducted throughout the State of Florida during the debris removal operations following Hurricanes Charley, Frances, Ivan and Jeanne. The following formula is used to derive cubic yards:

$$\frac{[(\text{Stump Diameter}^2 \times 0.7854) \times \text{Stump Length}] + [(\text{Root Ball Diameter}^2 \times 0.7854) \times \text{Root Ball Height}]}{46656}$$

0.7854 is one-fourth Pi and is a constant.
46656 is used to convert cubic inches to cubic yards and is a constant

The formula used to calculate the cubic yardage used the following factors, based upon findings in the field:

- Stump diameter measured two feet up from ground
- Stump diameter to root ball diameter ratio of 1:3.6
- Root ball height of 31"

| Stump Diameter (Inches) | Debris Volume (Cubic Yards) | Stump Diameter (Inches) | Debris Volume (Cubic Yards) |
|---|---|---|---|
| 6 | 0.3 | 46 | 15.2 |
| 7 | 0.4 | 47 | 15.8 |
| 8 | 0.5 | 48 | 16.5 |
| 9 | 0.6 | 49 | 17.2 |
| 10 | 0.7 | 50 | 17.9 |
| 11 | 0.9 | 51 | 18.6 |
| 12 | 1 | 52 | 19.4 |
| 13 | 1.2 | 53 | 20.1 |
| 14 | 1.4 | 54 | 20.9 |
| 15 | 1.6 | 55 | 21.7 |
| 16 | 1.8 | 56 | 22.5 |
| 17 | 2.1 | 57 | 23.3 |
| 18 | 2.3 | 58 | 24.1 |
| 19 | 2.6 | 59 | 24.9 |
| 20 | 2.9 | 60 | 25.8 |
| 21 | 3.2 | 61 | 26.7 |
| 22 | 3.5 | 62 | 27.6 |
| 23 | 3.8 | 63 | 28.4 |
| 24 | 4.1 | 64 | 29.4 |
| 25 | 4.5 | 65 | 30.3 |
| 26 | 4.8 | 66 | 31.2 |
| 27 | 5.2 | 67 | 32.2 |
| 28 | 5.6 | 68 | 33.1 |
| 29 | 6 | 69 | 34.1 |
| 30 | 6.5 | 70 | 35.1 |
| 31 | 6.9 | 71 | 36.1 |
| 32 | 7.3 | 72 | 37.2 |
| 33 | 7.8 | 73 | 38.2 |
| 34 | 8.3 | 74 | 39.2 |
| 35 | 8.8 | 75 | 40.3 |
| 36 | 9.3 | 76 | 41.4 |
| 37 | 9.8 | 77 | 42.5 |
| 38 | 10.3 | 78 | 43.6 |
| 39 | 10.9 | 79 | 44.7 |
| 40 | 11.5 | 80 | 45.9 |
| 41 | 12 | 81 | 47 |
| 42 | 12.6 | 82 | 48.2 |
| 43 | 13.3 | 83 | 49.4 |
| 44 | 13.9 | 84 | 50.6 |
| 45 | 14.5 | | |

Attachment 2 – Schedule 1 Unit Rate Price Schedule

| **UNIT RATE PRICE SCHEDULE**<br>Reference to RFP Scope of Services. If a Vendor elects to "No Bid" individual service offerings their proposal may be considered non-responsive by the City. Vendors are requested to provide a cost for ancillary items; however these costs will not be used for evaluative purposes. Work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary. | | | |
|---|---|---|---|
| **1 Vegetative Debris Removal**<br>Work consists of the collection and transportation of eligible vegetative debris on the PROPERTY or public property to a City approved debris management site (DMS) or City approved final disposal site. | **Estimated Quantity (CY)** | **$ Per Cubic Yard** | **Total** |
| Removing debris from public property and ROW and hauling to DMS | 200,000 | | |
| **2 C&D Debris Removal**<br>Work consists of the collection and transportation of eligible C&D on the PROPERTY or public property to a City approved final disposal site. | **Estimated Quantity (CY)** | **$ Per Cubic Yard** | **Total** |
| Removing C&D debris from PROPERTY or public property and hauling to DMS | 200,000 | | |
| **3 Debris Removal from Canals / Waterways**<br>Work consists of the collection and transportation of eligible debris from City maintained canals and waterways to a City approved final disposal site. | **Estimated Quantity (CY)** | **$ Per Cubic Yard** | **Total** |
| Removing debris from City maintained canals/waterways and hauling to DMS | 100,000 | | |
| **4 DMS Operation and Reduction Through Grinding**<br>Work consists of managing and operating DMS for acceptance and reduction of eligible vegetative disaster related debris through grinding. The costs associated with acquiring, preparing, leasing, renting, operating, and remediating land used as DMS is reflected in this bid. | **Estimated Quantity (CY)** | **$ Per Cubic Yard** | **Total** |
| | 200,000 | | |

| **5 Haul-out of Reduced Debris to a City Approved Final Disposal Site**<br>Work consists of loading and transporting reduced eligible disaster related debris at a City approved DMS to a City designated final disposal site. | **Estimated Quantity (CY)** | **$ Per Cubic Yard** | **Total** |
|---|---|---|---|
| | 70,000 | | |
| **6 Removal of Hazardous Trees and Limbs**<br>Work consists of removing eligible hazardous trees or limbs and placing them on the safest possible location on the City PROPERTY for collection under the terms and conditions of Scope of Services Item 2, Vegetative Debris Removal. | **Estimated Quantity** | **$ Per Tree** | **Total** |
| 6 inch to 12.99 inch diameter | 200 | | |
| 13 inch to 24.99 inch diameter | 100 | | |
| 25 inch to 36.99 inch diameter | 50 | | |
| 37 inch to 48.99 inch diameter | 10 | | |
| 49 inch and larger diameter | 1 | | |
| Hanger Removal (per Tree) | 1,900 | | |
| **7 Removal of Hazardous Stumps**<br>Work consists of removing eligible hazardous stumps and transporting resulting debris from the PROPERTY to a City approved DMS. Rate includes removal, backfill of stump hole, reduction, and final disposal. | **Estimated Quantity** | **$ Per Stump** | **Total** |
| 24.1 inch to 36.99 inch diameter | 50 | | |
| 37 inch to 48.99 inch diameter | 10 | | |
| 49 inch and larger diameter | 1 | | |

| | | | |
|---|---|---|---|
| **8 PROPERTY White Goods Debris Removal** Work consists of the removal of eligible White Goods from the PROPERTY to a City approved DMS site or City approved facility for recycling. Contractor shall be responsible for recovering/disposing refrigerants as required by law as well as unit decontamination in a contained area. The Contractor shall also be responsible for the transportation of eligible White Goods from the City approved DMS to a City approved facility for recycling. | **Estimated Quantity** | **$ Per Unit** | **Total** |
| AC Units, Refrigerators and freezers requiring refrigerant recovery and decontamination | 50 | | |
| Washers, dryers, stoves, ovens, and hot water heaters | 50 | | |
| **Total** | **$ _____** | | |
| **SCHEDULE 2 (REVISED) - UNIT RATE PRICE SCHEDULE CONTINUED** | | | |
| Ancillary Options - The Following Items are not included in the Price Evaluation | | | |
| **9 Household Hazardous Waste Removal, Transport, and Disposal**<br><br>Work consists of the collection, transportation, and disposal of household hazardous waste from the PROPERTY to a City approved permitted hazardous waste facility or MSW type I landfill. | **Estimated Quantity** | **$ Per Pound** | **Total** |
| | 2000 | | |
| **10 E-Waste Removal**<br>Work consists of the recovery and disposal of televisions, computers, computer monitors, and microwaves unless otherwise specified in writing by the City. | **Estimated Quantity** | **$ Per Unit** | **Total** |
| | 2000 | | |
| **11 Abandoned Vehicle Removal**<br>Work consists of the removal and transport of eligible abandoned vehicles. | **Estimated Quantity** | **$ Per Unit** | **Total** |

| | | | |
|---|---|---|---|
| Passenger Car | 300 | | |
| Single Axle | 10 | | |
| Double Axle | 5 | | |
| **12 Dead Animal Carcasses**<br>Work consists of the recovery and disposal of dead animal carcasses. | **Estimated Quantity** | **$ Per Pound** | **Total** |
| | 25 | | |

Attachment 3 –Hourly Labor and Equipment Price Schedule (To be included under separate cover)

| **Hourly Labor and Equipment Price Schedule<br>These costs are in addition to the removal & disposal costs submitted in Attachment 2.** | | | |
|---|---|---|---|
| **Equipment Type With Operator** | **Estimated Hours** | **Hourly Labor Rate** | **Total** |
| Air Curtain Burner, Self-Contained System | 200 | | |
| 50’ Bucket Truck | 200 | | |
| Crash Truck w/Impact Attenuator | 100 | | |
| Dozer, Tracked, D3 or Equivalent | 210 | | |
| Dozer, Tracked, D4 or Equivalent | 210 | | |
| Dozer, Tracked, D5 or Equivalent | 210 | | |
| Dozer, Tracked, D8 or Equivalent | 210 | | |
| Dump Truck, 5+/-CY | 280 | | |
| Dump Truck, 16 +/- CY | 280 | | |
| Dump Truck, 20 +/- CY | 280 | | |
| Dump Truck, 38 +/- CY | 280 | | |
| Generator, 5.5 kW, List kW Capacity | 140 | | |
| Generator, 200 kW, List kW Capacity | 140 | | |
| Generator, 2,500 kW, List kW Capacity | 140 | | |
| Light Plant with Fuel and Support | 280 | | |
| Grader w/12’ Blade (Min. 30,000 LB) | 140 | | |
| Hydraulic Excavator, 1.5 CY | 280 | | |
| Hydraulic Excavator, 2.5 CY | 280 | | |
| Knuckleboom Loader | 350 | | |
| Lowboy Trailer w/Tractor | 100 | | |
| Mobile Crane up to 15 Ton | 100 | | |
| Pump, 95 HP (Minimum 25’ Intake and 200’ Discharge to Include Fuel and Support Personnel) | 280 | | |
| Pump, 200 HP (Minimum 25’ Intake and 200’ Discharge to Include Fuel and Support Personnel) | 280 | | |
| Pump, 650 HP (Minimum 25’ Intake and 200’ Discharge to Include Fuel and Support Personnel) | 280 | | |
| Vac Truck (Mist Capacity), List Capacity | 280 | | |
| Pickup Truck, ½ ton | 70 | | |
| Pickup Truck, 1 Ton | 100 | | |
| Passenger Vehicle | 70 | | |

| | | | |
|---|---|---|---|
| Skid-Steer Loader, 1,500 LB Operating Capacity (w/ utility grapple) | 140 | | |
| Skid-Steer Loader, 2,500 LB Operating Capacity (w/ utility grapple) | 140 | | |
| Compact Track Loader, 1,500 LB Operating Capacity (w/ utility grapple) | 100 | | |
| Compact Track Loader, 2,500 LB Operating Capacity (w/ utility grapple) | 70 | | |
| Tub Grinder, 800 to 1,000 HP | 200 | | |
| Hydraulic Excavator, 1.5 cy (w/ thumb) | 280 | | |
| Hydraulic Excavator, 2.5 cy (w/ thumb) | 280 | | |
| Truck, Flatbed, 5 ton | 200 | | |
| Articulated, Telescoping Scissor Lift for Tower, 15 hp/37 ft lift | 140 | | |
| Water Truck, 2500 gal (Non-Potable, Dust Control and Pavement Maintenance) | 210 | | |
| Wheel Loader, 3 CY, 152 HP | 140 | | |
| Wheel Loader, 4.0 CY, 200 HP | 140 | | |
| Wheel Loader-Backhoe,1.5 CY, 95 HP | 140 | | |
| Other – Please List | | | |
| | | | |
| | | | |
| | | | |
| | | | |

| Labor Category | Estimated Hours | Hourly Labor Rate | Hourly Labor Rate |
|---|---|---|---|
| Operations Manager w/Cell Phone and .5 ton Pickup | 140 | | |
| Crew Foreman w/Cell Phone and 1 ton Equipment Truck w/small tools and misc supplies in support of crew | 280 | | |
| Tree Climber/Chainsaw and Gear | 350 | | |
| Laborer w/Chain Saw | 350 | | |
| Laborer w/Small Tools, Traffic Control, or Flag person | 350 | | |
| Bonded and Certified Security Personnel | 200 | | |
| Other – Please List | | | |
| | | | |
| | | | |
| | | | |
| | | | |

| Crew Category | Estimated Hours | Hourly Labor Rate | Total |
|---|---|---|---|
| Wheel Loader, 2.5 CY, 950 or Similar w/Operator, Foreman with Support Vehicle and Small Equipment, Laborer w/Chain Saw, and 2 Laborers w/Small Tools. | 350 | | |
| Other – Please List | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

**Labor & Equipment Total:** _____

Attachment 4 – Sample Public Works Contract

# CITY OF ROWLETT, TEXAS

# PUBLIC WORKS CONSTRUCTION PROJECT

## Insert name of bid,
## bid #,
## Vendor name

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# City of Rowlett, Texas

This Agreement is made by and between the City of Rowlett, Texas, a home-rule municipality (hereinafter referred to as the "City") and ***[ENTER CONTRACTOR LEGAL NAME]***, (hereinafter referred to as the "Contractor") for construction of ***[ENTER PROJECT NAME]***, (hereinafter referred to as the "Project"), the City and the Contractor hereby agreeing as follows:

## ARTICLE I

## THE CONTRACT AND THE CONTRACT DOCUMENTS

### 1.1 THE CONTRACT

1.1.1 The contract between the City and the Contractor, of which this agreement (sometimes referred to herein as the "Contract") is a part, consists of the Contract Documents. It shall be effective on the date this Agreement is executed by the last party to execute it.

### 1.2. THE CONTRACT DOCUMENTS

1.2.1 The Contract Documents consist of this agreement, the General Conditions, the Special Conditions, the Invitation to Bid, Requirements and Instructions to Bidders, the Specifications, the Drawings, the Shop Drawings, the Project Manual, all Change Orders and Field Orders issued hereafter, the addenda, exhibits and attachments thereto, any other amendments hereto executed by the parties hereafter, together with the following (if any):

### 1.3 ENTIRE AGREEMENT

1.3.1 This Contract, together with the Contractor's performance and payment bonds for the Project, all General Conditions, Special Conditions, Plans and Specifications, and Addenda attached thereto, constitute the entire and exclusive agreement between the City and the Contractor with reference to the Project. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the City and Contractor not expressly made a part hereof.

### 1.4 NO PRIVITY WITH OTHERS

1.4.1 Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the City and any person or entity other than the Contractor.

### 1.5 INTENT AND INTERPRETATION

1.5.1 The intent of this Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by the Contractor for the Contract Price.

1.5.2 This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

1.5.3 When a word, term or phrase is used in this Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.

1.5.4 The word "City" includes the City of Rowlett, Texas, a municipal corporation, and its public officials, officers, employees, agents and employees. The word "Contractor" includes the Contractor and its officers, employees, agents and representatives. The word "include", "includes", or "including", as used in this subparagraph and in this Contract, shall be deemed to be followed by the phrase, "without limitation".

1.5.5 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

1.5.6 Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

1.5.7 The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents, the Shop Drawings, the Product Data, and any Plans and Specifications, and shall give written notice to the City of any inconsistency, ambiguity, error or omission which the Contractor may discover with respect to these documents before proceeding with the affected Work. The issuance, or the express or implied approval by the City or the Engineer of the Contract Documents, Shop Drawings or Product Data, shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The City has requested the Engineer to only prepare documents for the Project, including the Drawings, Plans and Specifications for the Project, which are accurate, adequate, consistent, coordinated and sufficient for construction. HOWEVER, THE CITY MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS. THE CONTRACTOR ASSUMES ALL RISK OF ERRORS, AMBIGUITIES AND INACCURACIES. By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the City concerning such documents as no such representation or warranties have been or are hereby made. Further, the Contractor represents and warrants that it has had a sufficient opportunity to inspect the Project site and assumes any and all responsibility for inadequacies or ambiguities in the plans, drawings or specifications as well as for latent conditions of the site where the work is to be performed.

1.5.8 As between numbers and scaled measurements on the Drawings and in the Design, the numbers shall govern, as between larger scale and smaller scale drawings, the larger scale shall govern.

1.5.9 Neither the organization of any of the Contract Documents into divisions, sections, paragraphs, articles, (or other categories), nor the organization or arrangement of the Design, shall control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors.

### 1.6 OWNERSHIP OF CONTRACT DOCUMENTS

1.6.1 The Contract Documents, and each of them individually and collectively, shall remain the property of the City. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided, however, that in no event shall Contractor use, or permit to be used, any or all of such Contract Documents on other projects without the City's prior written authorization.

## ARTICLE II

## THE WORK

**2.1** The Contractor shall perform all of the Work required, implied or reasonably inferable from this Contract.

### 2.2 WORK

2.2.1 The term "Work" shall mean whatever is done by or required of the Contractor to perform and complete its duties under this Contract, including the following: construction of the whole or a designated part of the Project; furnishing of any required surety bonds and insurance, and the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, permits and licenses required of the Contractor, power, water, fuel, heat, light, cooling and all other utilities as required by this Contract. The Work to be performed by the Contractor is generally described as follows:

Approximate quantities for construction of ***[ENTER PROJECT NAME]*** include ***[ENTER MAJOR BID ITEMS AND QUANTITIES]***; in the lump sum of $_____ in accordance with the specifications.

2.2.2 The Contractor shall be responsible for paying for and procuring all materials and labor and furnishing all services necessary or appropriate for the full performance of the Work and the for the full completion of the Project. All materials shall be new and materials and workmanship shall be of good quality. Upon request, the Contractor shall furnish

satisfactory proof of the type, kind, and quality of materials.

## ARTICLE III

## CONTRACT TIME

### 3.1 SUBSTANTIAL COMPLETION

3.1.1 "Substantial Completion" shall mean that stage in the progression of the Work when the Work is sufficiently complete in accordance with this Contract that the City can enjoy beneficial use or occupancy of the Work and can utilize the Work for its intended purpose, even though minor miscellaneous work and/or adjustment may be required.

### 3.2 TIME

3.2.1 The Contractor shall commence the Work within 10 days of receipt of a written Notice to Proceed, and shall achieve Substantial Completion of the Work no later than ***[ENTER NUMBER OF CALENDAR DAYS FOR PROJECT DURATION]*** calendar days from the date specified in the Notice to Proceed. The term "calendar days" shall mean any and all days of the week or month, no days being excepted. The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the Contract Time" and the "scheduled completion date." The execution of this Contract by the Contractor constitutes an agreement that adequate time has been allotted for this Contract, given the Contract Price.

3.2.2 Work may proceed on any day of the week, including weekends, and at any time of the day. However, work shall not occur on such days or at such times as, in the City's or Engineer's discretion, may be a violation of noise or environmental regulations or ordinances, or when the presence of workers, equipment or materials may create an abnormally hazardous condition.

3.2.3 The Contractor shall submit and comply with construction schedules establishing completion timelines and deadlines for each component of the Project. Construction schedules shall be submitted to and approved by the Engineer and the City on a regular basis as required by the Contract Documents. If no reference is made to construction schedules in the Contract Documents, then construction schedules shall be submitted with each Application for Payment .

### 3.3 TIME IS OF THE ESSENCE

3.3.1 The scheduled completion date is based on public necessity. The scheduled completion date is factored into and is a material component of the Contract Price. All limitations of time set forth in the Contract Documents are of the essence of this Contract.

3.3.2 TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THE WORK AND THE COMPLETION OF THE PROJECT ON OR BEFORE THE SCHEDULED COMPLETION DATE. THE SCHEDULED COMPLETION DATE IS A DEADLINE. THE CITY EMPLOYS A ZERO-TOLERANCE POLICY REGARDING THE TIME FOR COMPLETION. The time for completion is an essential and material term of this Contract and the Contractor's failure to achieve substantial completion on the date stated herein, to comply with work schedules, or achieve milestones in approved construction schedules, shall be a material breach and default of this Contract.

3.3.3 The City will assess liquidated damages for late or untimely performance and may, at the City's sole option, elect to allow Contractor to continue with the Work, or may declare Contractor to be in breach and default of the Contract and order Contractor to remove all equipment and personnel from the work site. All remedies for Contractor's late performance shall be nonexclusive and cumulative without waiver of any other, and the City's election of one shall not preclude the City from pursuing any other.

3.3.4 It is contemplated by the parties that the progress of the Work may be delayed by certain conditions beyond the control of the parties; these delays have been contemplated by the parties and considered in the time allotted for performance specified herein and in the contract price and includes, but is not limited to delays occasioned on account of adverse weather, temporary unavailability of materials, shipment delays, and the presence and potential interference of other contractors or of utilities that may be performing work at the Project site unrelated to this Contract. These delays have been considered and included in the determination of the scheduled completion date and the Contract Price.

### 3.4 LIQUIDATED DAMAGES; EARLY COMPLETION BONUS

3.4.1 The Contractor shall pay the City the sum of **$_____ *[ENTER DAILY LIQUIDATED DAMAGE AMOUNT]*** per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that Substantial Completion will be inexcusably delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. If the Contractor has submitted a Statement of Delay with the appropriate Application for Payment as required by Subparagraph 5.2.3, and/or has complied with the notice and Change Order requirements of this Contract, the Engineer shall have sole discretion to determine whether a delay is excused or unexcused and the Engineer's determination thereof shall be final and binding on the parties.

3.4.2 In the event that the Contractor achieves certification by the Engineer of Final Completion prior to _____ ***[ENTER DATE FOR EARLY COMPLETION BONUS]*** Calendar days from the date specified in the Notice to Proceed, the City shall pay to the Contractor the sum of **$_____ *[ENTER DAILY AMOUNT OF INCENTIVE]*** per day for each calendar day that Final Completion is certified in advance of the scheduled Final Completion date, as that date may be modified by written change order. However, early completion bonuses shall not, in the aggregate, exceed the total sum of $_____ ***[ENTER MAXIMUM AMOUNT OF EARLY COMPLETION BONUS]***. Any reduction in the scope of work, evidenced by written change order, shall commensurately reduce the Contract Time.

### 3.5 NO DAMAGES FOR DELAY; NO BACK-CHARGES; DAMAGE WAIVER

3.5.1 No claim shall be made by the Contractor to the City, and no damages, costs or extra compensation shall be allowed or paid by the City to the Contractor for any delay or hindrance from any cause in the progress or completion of the Work or this Contract. The Contractor's sole remedy in the event of any delay or hindrance, regardless of cause, shall be to request time extensions by written change orders as provided for hereinafter. The failure to seek or obtain a change order for time extension shall be deemed a waiver thereof and Contractor shall be regarded as having made a determination that the delay will not affect the completion of the Work. Should the Contractor be delayed by an act of the City, or should the City order a stoppage of the Work for sufficient cause unrelated to any act or omission of the Contractor, an extension of time shall be granted by the City by Change Order upon written application, which extension shall not be unreasonably denied, to compensate for the delay.

3.5.2 The City shall have the authority to suspend the Work wholly or in part for such period or periods of time as it may deem appropriate due to unsuitable conditions considered unfavorable for the proper prosecution of the Work or for the failure of the Contractor to carry out instructions from the City or City's representative. During any period in which the Work is stopped or during which any of the Work is not actively in progress for any reason, Contractor shall properly protect the site and the Work from damage, loss or harm. The Contractor shall not be compensated for periods of delay caused by a suspension of the work by the City. If work is suspended due to unsuitable conditions through no fault of the Contractor, an extension of time shall be granted by the City by Change Order upon written application, which extension shall not be unreasonably denied, to compensate for the delay.

3.5.3 The Contractor shall not have or assert any claim against the City for damages or back-charges of any kind for any reason, including but not limited to claims for Extra Work, damages, economic loss, additional costs, unknown latent site conditions, and refusals by the City to grant extensions of time, unless supported and authorized by a written Change Order or separate agreement signed by all parties. The Contractor, in entering into this Contract, hereby waives, releases, quitclaims, discharges and holds harmless the City from and against any and all claims, damages, liabilities and losses, save and except those arising under Paragraph 12.1 of this Contract.

## ARTICLE IV

## CONTRACT PRICE

### 4.1 THE CONTRACT PRICE

4.1.1 The City shall pay, and the Contractor shall accept, as full and complete payment for all of the Work required herein, the fixed sum of

***$[ENTER CONTRACT AMOUNT].***

The sum set forth in this Paragraph 4.1 shall constitute the Contract Price which shall not be modified except by written Change Order as provided in this Contract, or the assessment of liquidated damages or the award of an early completion bonus.

## ARTICLE V

## PAYMENT OF THE CONTRACT PRICE

### 5.1 SCHEDULE OF VALUES

5.1.1 The Schedule of Values, submitted to and accepted by the City and Engineer at the time of the Contractor's bid, allocates the Contract Price to the various portions of the Work. The Contractor's Schedule of Values shall have been be prepared, or at the City's or Engineer's request shall be amended prior to the commencement of construction, in such form, with such detail, and supported by such data as the Engineer or the City may require to substantiate its accuracy. The Contractor shall not imbalance its Schedule of Values nor artificially inflate any element thereof. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Schedule of Values shall be used only as a basis for the Contractor's Applications for Payment and shall only constitute such basis after it has been acknowledged and accepted in writing by the Engineer and the City.

### 5.2 PAYMENT PROCEDURE

5.2.1 The City shall pay the Contract Price to the Contractor as provided below.

5.2.2 PROGRESS PAYMENTS - Based upon the Contractor's Applications for Payment submitted to the Engineer and upon Certificates for Payment subsequently issued to the City by the Engineer, the City shall make progress payments to the Contractor on account of the Contract Price.

5.2.3 APPLICATION FOR PAYMENT - On or before the 25th day of each month after commencement of the Work, the Contractor shall submit an Application for Payment for the period ending the 15th day of the month to the Engineer in such form and manner, and with such supporting data and content, as the City or the Engineer may require. The Contractor may request payment for that portion of the Contract Price properly allocable to Contract requirements properly provided and to labor, materials and equipment properly incorporated in the Work, less retainage and less the total amount of previous payments received from the City. Such Application for Payment shall be signed by the Contractor and shall constitute the Contractor's representation that the Work has progressed to the level for which payment is requested in accordance with the Schedule of Values, that the Work has been properly installed or performed in full compliance with this Contract, and that the Contractor knows of no reason why payment should not be made as requested. Thereafter, the Engineer will review the Application for Payment and may also review the Work at the Project site or elsewhere to determine whether the quantity and quality of the Work is as represented in the Application for Payment and is as required by this Contract. The Engineer shall determine and certify to the City the amount properly owing to the Contractor. The City shall make partial payments on account of the Contract Price to the Contractor within thirty (30) days following the Engineer's receipt and approval of each Application for Payment. The amount of each partial payment shall be the amount certified for payment by the Engineer less such amounts, if any, otherwise owing by the Contractor to the City or which the City shall have the right to withhold as authorized by this Contract. The Engineer's certification of the Contractor's Application for Payment shall not preclude the City from the exercise of any of its rights as set forth in Paragraph 5.3 hereinbelow.

5.2.4 STATEMENT OF DELAY - Each Application for Payment shall include a Statement of Delay showing the number of days lost due to inclement weather, conflicts with other City contractors, utilities, or design specifications, or other proper reasons. The failure to submit the Statement of Delay shall be a waiver of any claim for additional days or extensions of the scheduled completion date.

5.2.5 RETAINAGE - If the Contract Price set forth in Subparagraph 4.1.1 is between $50,000 and $1,000,000, the City shall withhold retainage of ten (10) percent.; if between $1,000,001 and $2,000,000, the City shall withhold retainage of seven and one half (7.5) percent, if between $2,000,001 and above, the

City shall withhold retainage of five (5) percent from each progress payment to secure performance of the Contract and shall deposit in an interest-bearing account that portion of the retainage withheld that exceeds five (5) percent of the progress payment. If a different percentage is set forth in the Invitation to Bid, then that percentage shall apply.

5.2.6 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the City when installed at the Project site, regardless of the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which payments have been received from the City shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.

5.2.7 The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which such Subcontractor is entitled. In the event the City becomes informed that the Contractor has not paid a Subcontractor as herein provided, the City shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the City, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.

5.2.8 No progress payment, nor any use or occupancy of the Project by the City, shall be interpreted to constitute an acceptance of any Work not in strict compliance with this Contract.

### 5.3 WITHHELD PAYMENT

5.3.1 The City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the City from loss because of:

(a) defective Work not remedied by the Contractor or, in the opinion of the City, likely to be remedied by the Contractor;

(b) claims of third parties against the City or the City's property;

(c) failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;

(d) evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price,

(e) evidence that the Work will not be completed in the time required for substantial or final completion (final completion meaning the full and final completion of all work called for by this Contract and final acceptance by the Engineer and the City);

(f) persistent failure to carry out the Work in accordance with the Contract;

(g) damage to the City or a third party to whom the City is, or may be, liable.

(h) failure to submit an updated project schedule in accordance with Subparagraph 3.2.3.

(i) failure to submit record drawings in accordance with Subparagraph 7.9.1.

In the event that the City makes written demand upon the Contractor for amounts previously paid by the City as contemplated in this Subparagraph 5.3.1, the Contractor shall promptly comply with such demand. The City shall have no duty to third parties to withhold payment to the Contractor and shall incur no liability for a failure to withhold funds.

### 5.4 UNEXCUSED FAILURE TO PAY

5.4.1 If within twenty (20) days after the date established herein for payment to the Contractor by the City, the City, without cause or basis hereunder, fails to pay the Contractor any amount then due and payable to the Contractor, then the Contractor may after ten (10) additional days' written notice to the City and the Engineer, and without prejudice to any other available rights or remedies it may have, stop the Work until payment of those amounts due from the City have been received. Late payments shall not accrue interest or other late charges.

## 5.5 CERTIFICATE OF SUBSTANTIAL COMPLETION

5.5.1 When the Contractor believes that the Work is substantially complete, the Contractor shall submit to the Engineer a list of items to be completed or corrected. When the Engineer and the City on the basis of an inspection determine that the Work is in fact substantially complete, the Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall state the responsibilities of the City and the Contractor for Project security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. In no event, however, shall the date of Final Completion be delayed. Guarantees required by the Contract shall commence on the date of Substantial Completion of the Work; however, the maintenance bond required herein, and the assurances given thereunder, shall commence of and from the date of final acceptance of the work by the City. The Certificate of Substantial Completion shall be submitted to the City and the Contractor for their written acceptance of the responsibilities assigned to them in such certificate.

Upon Substantial Completion of the Work, and execution by both the City and the Contractor of the Certificate of Substantial Completion, the City shall pay the Contractor for all work completed to date, less retainage.

## 5.6 COMPLETION AND FINAL PAYMENT

5.6.1 When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the City and the Engineer thereof in writing. Thereupon, the Engineer will make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the Engineer will promptly issue a final Certificate for Payment certifying to the City that the Project is complete and the Contractor is entitled to the remainder of the unpaid Contract Price (including retainage and the interest accrued on the retainage in excess of five (5) percent if the Contract Price is in excess of $400,000), plus an early completion bonus, if any, less any amount withheld pursuant to this Contract. If the Engineer is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of such repeat final inspection(s) which cost may be deducted by the City from the Contractor's final payment.

5.6.1.1 If the Contractor fails to achieve final completion within the time fixed therefor by the Engineer in its Certificate of Substantial Completion, the Contractor shall pay the City the sum set forth hereinabove as liquidated damages per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set forth herein for final completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that final completion will be inexcusably delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving final completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. Liquidated damages shall be deducted first from any earned early completion bonus, then from any sums otherwise due to the Contractor.

5.6.2 The Contractor shall not be entitled to final payment unless and until it submits to the Engineer its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the City, or the City's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors of the Contractor and of any and all other parties required by the Engineer or the City; consent of Surety, if any, to final payment. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the City, the Contractor shall furnish a bond satisfactory to the City to discharge any such lien or indemnify the City from liability.

5.6.3 The City shall make final payment of all sums due the Contractor within thirty (30) days of the Engineer's execution of a final Certificate for Payment.

5.6.4 Acceptance of final payment shall constitute a waiver of all claims against the City by the Contractor except for those claims previously made in writing against the City by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final payment.

5.6.5 Other than interest on retainage in excess of 5% under Paragraph 5.2.5, under no circumstances shall Contractor be entitled to receive interest on any payments or monies due Contractor by the City, whether the amount on which the interest may accrue is timely, late, wrongfully withheld, or an assessment of damages of any kind.

## ARTICLE VI

## THE CITY

### 6.1 INFORMATION, SERVICES AND THINGS REQUIRED FROM CITY

6.1.1 The City shall furnish to the Contractor, at the time of executing this Contract, any and all written and tangible material in its possession concerning conditions below ground at the site of the Project. Such written and tangible material is furnished to the Contractor only in order to make complete disclosure of such material and for no other purpose. By furnishing such material, the City does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, or at all, and shall have no liability therefor. The City shall also furnish surveys, legal limitations and utility locations (if known), and a legal description of the Project site.

6.1.2 Excluding permits and fees normally the responsibility of the Contractor, the City shall obtain all approvals, easements, and the like required for construction and shall pay for necessary assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

6.1.3 The City shall furnish the Contractor, free of charge, two copies of the Contract Documents for execution of the Work.

### 6.2 RIGHT TO STOP WORK

6.2.1 If the Contractor persistently fails or refuses to perform the Work in accordance with this Contract, if the Contractor fails to meet milestones set forth in approved construction schedules, if the City has sufficient reason to believe that the Contractor is not and will not complete the Project by the scheduled completion date, or if the best interests of the public health, safety or welfare so require, the City may order the Contractor to stop the Work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or the City orders that Work be resumed. In such event, the Contractor shall immediately obey such order.

### 6.3 CITY'S RIGHT TO PERFORM WORK

6.3.1 If the Contractor's Work is stopped by the City under Paragraph 6.2, and the Contractor fails within seven (7) days of such stoppage to provide adequate assurance to the City that the cause of such stoppage will be eliminated or corrected, then the City may, without prejudice to any other rights or remedies the City may have against the Contractor, proceed to carry out the subject Work. In such a situation, an appropriate Change Order shall be issued deducting from the Contract Price the cost of correcting the subject deficiencies, plus compensation for the Engineer's additional services and expenses necessitated thereby, if any. If the unpaid portion of the Contract Price is insufficient to cover the amount due the City, the Contractor shall pay the difference to the City.

## ARTICLE VII

## THE CONTRACTOR

### 7.1 MUST FOLLOW CONTRACT

7.1.1 The Contractor shall perform no part of the Work at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data or Samples for such portion of the Work. If the Contractor performs any of the Work knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Engineer, the Contractor shall bear responsibility for such performance and shall bear the cost of correction. The Contractor shall perform the Work strictly in accordance with this Contract

### 7.2 USE OF WEB-BASED PROJECT MANAGEMENT SYSTEM

7.2.1 The Contractor shall utilize the City’s Web-based project Management system, “Rowlett Manager” for documentation. Notwithstanding, the use of this system shall not supersede the Contractor’s obligation to provide any written notice required under this Contract. The obligation to utilize “Rowlett Manager” may be waived by the City.

### 7.3 PROSECUTION OF WORK

7.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill, effort and attention. The Contractor shall be responsible to the City for any and all acts or omissions of the Contractor, its employees and others engaged in the Work on behalf of the Contractor.

7.3.2 The Contractor shall give adequate attention to the faithful prosecution of the Work and the timely completion of this Contract, with authority to determine the manner and means of performing such Work, so long as such methods insure timely completion and proper performance.

7.3.3 The Contractor shall exercise all appropriate means and measures to insure a safe and secure jobsite in order to avoid and prevent injury, damage or loss to persons or property.

7.3.4 The City will not interfere with the Contractor's manner and means of performing the Work. However, the City's insistence on strict compliance with the Contract shall not be regarded as an interference with the Contractor's manner and means. In the event that any part of the Work is not in strict compliance with the Contract, the Contractor is and shall be estopped from claiming any interference by the City or Engineer with the Contractor's manner and means of performing that part of the Work.

**7.4 WARRANTY**

7.4.1 The Contractor warrants to the City that all labor furnished to progress the Work under this Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with this Contract. All Work not conforming to these requirements may be considered defective. THE CONTRACTOR WARRANTS AND GUARANTIES THAT IT SHALL COMPLETE THE WORK AND ACHIEVE SUBSTANTIAL COMPLETION BY THE SCHEDULED COMPLETION DATE, STRICTLY IN ACCORDANCE WITH THIS CONTRACT. DEFECTIVE WORK OR MATERIALS SHALL BE FIXED, REPAIRED OR REPLACED FREE OF CHARGE OR COST TO THE CITY.

**7.5 PERMITS; FEES; LICENSES**

The Contractor shall obtain and pay for all permits, fees and licenses necessary and ordinary for the Work. The Contractor shall comply with all lawful requirements applicable to the Work and shall give and maintain any and all notices required by applicable law pertaining to the Work.

**7.6 SUPERVISION**

7.6.1 The Contractor shall employ and maintain at the Project site only competent supervisory personnel. Absent written instruction from the Contractor to the contrary, the superintendent shall be deemed the Contractor's authorized representative at the site and shall be authorized to receive and accept any and all communications from the City or the Engineer.

7.6.2 Key supervisory personnel assigned by the Contractor to this Project are as follows:

| NAME | FUNCTION |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

So long as the individuals named above remain actively employed or retained by the Contractor, they shall perform the functions indicated next to their names unless the City agrees to the contrary in writing. In the event one or more individuals not listed above subsequently assume one or more of those functions listed above, the Contractor shall be bound by the provisions of this Subparagraph 7.6.2 as though such individuals had been listed above.

**7.7 WORK SCHEDULE**

7.7.1 At the pre-construction meeting, the Contractor shall submit to the City and the Engineer for their information, the Contractor's schedule for completing the Work (also referred to herein as the construction schedule). The Contractor's schedule shall be revised no less frequently than monthly (unless the parties otherwise agree in writing) and shall be revised to reflect conditions encountered from time to time and shall be related to the entire Project. Each such revision shall be furnished to the City and the Engineer.

7.7.2 The Contractor's schedule for completing the Work and any revised schedules, shall demonstrate achievement of substantial completion by the scheduled completion date. Failure by the Contractor to strictly comply with the provisions of this Paragraph 7.7 shall constitute a default and a material breach of this Contract.

### 7.8 ON-SITE DRAWINGS

7.8.1 The Contractor shall continuously maintain at the site, for the benefit of the City and the Engineer, one record copy of this Contract marked to record on a current basis changes, selections and modifications made during construction. Additionally, the Contractor shall maintain at the site for the City and Engineer the approved Shop Drawings, Product Data, Samples and other similar required submittals. Upon final completion of the Work, all of these record documents shall be delivered to the City.

### 7.9 RECORD DRAWINGS/PLANS, AS-BUILT PLANS, SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

7.9.1 The Contractor shall submit, with each Application for Payment, As-Built plans for any and each part or portion of the Project that varies from the Engineer's plans and specifications and the Contract Documents.

7.9.2 Shop Drawings, Product Data, Samples and other submittals from the Contractor do not constitute Contract Documents. Their purpose is merely to demonstrate the manner in which the Contractor intends to implement the Work in conformance with information received from the Contract Documents.

7.9.3 The Contractor shall not perform any portion of the Work requiring submittal and review of Shop Drawings, Product Data or Samples unless and until such submittal shall have been approved by the Engineer. Approval by the Engineer, however, shall not be evidence that Work installed pursuant thereto conforms to the requirements of this Contract.

### 7.10 CLEANING THE SITE AND THE PROJECT

7.10.1 The Contractor shall keep the site reasonably clean during performance of the Work. The Contractor shall clean the site and the Project and remove all waste, rubbish, temporary structures, and other materials during construction and, upon completion of construction, shall clean the site and remove all such material together with all of the Contractor's property therefrom. Contractor shall dispose of all refuse at a landfill approved by the Texas Commission on Environmental Quality. The Contractor shall further restore all property damaged during the prosecution of the Work and shall leave the site in a clean and presentable condition. No additional payment shall be made by the City for this work, the compensation having been considered and included in the contract price.

### 7.11 ACCESS TO WORK AND INSPECTIONS

7.11.1 The City and the Engineer shall have access to the Work at all times from commencement of the Work through final completion. The Contractor shall take whatever steps necessary to provide access when requested. When reasonably requested by the City or the Engineer, the Contractor shall perform or cause to be performed such testing as may be necessary or appropriate to insure suitability of the jobsite or the Work's compliance with the Contract requirements.

### 7.12 INDEMNITY AND DISCLAIMER

7.12.1 CITY SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, DEFENDED, HELD HARMLESS AND RELEASED BY CONTRACTOR FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, INJURY OR LOSS TO ANY PROPERTY, OR ECONOMIC LOSS, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE CONTRACTOR, OR PROPERTY, DIRECTLY OR INDIRECTLY ARISING OUT OF, OR OCCASIONED BY THE PERFORMANCE OF CONTRACTOR UNDER THIS CONTRACT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF CITY, WITHOUT WAIVING THE CITY'S GOVERNMENTAL, SOVEREIGN OR

OTHER IMMUNITIES OR DEFENSES AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS CONTRACT THAT THE INDEMNITY PROVIDED FOR HEREIN IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF THE CONTRACTOR'S AS WELL AS THE CITY'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE.

The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

7.12.2 The Contractor will secure and maintain contractual liability insurance to cover this indemnification agreement that will be primary and non-contributory as to any insurance maintained by the City for its own benefit, including self-insurance. In addition, Contractor shall obtain and file with City a standard form Certificate of Insurance evidencing the required coverage.

7.12.3 In claims against any person or entity indemnified under this Paragraph 7.12 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 7.12 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

### 7.13 NONDISCRIMINATION

7.13.1 The Contractor shall not discriminate in any way against any person, employee or job applicant on the basis of race, color, creed, national original, religion, age, sex, or disability where reasonable accommodations can be effected to enable the person to perform the essential functions of the job. The Contractor shall further insure that the foregoing nondiscrimination requirement shall be made a part and requirement of each subcontract on this Project.

### 7.14 PREVAILING WAGE RATES

7.14.1 The Contractor shall comply in all respects with all requirements imposed by any laws, ordinances or resolutions applicable to the Project with regard to the minimum prevailing wage rates for all classes of employees, laborers, subcontractors, mechanics, workmen and persons furnishing labor and services to the Project. The City has adopted a Prevailing Wage Rate Schedule, available to the Contractor by request (or attached to this contract as a part of the exhibits), which specifies the classes and wage rates to be paid to all persons. The Contractor shall pay not less than the minimum wage rates established thereby for each class, craft or type of labor, workman, or mechanic employed in the execution of this Contract. The failure of the Contractor to comply with this requirement shall result in the forfeiture to the City of a sum of not less than Sixty Dollars ($60.00) for each person per day, or portion thereof, that such person is paid less than the prevailing rate. Upon request by the City, Contractor shall make available for inspection and copying its books and records, including but not limited to its payroll records, account information and other documents as may be required by the City to insure compliance with this provision.

### 7.15 JOB SITE SAFETY PRECAUTIONS

7.15.1 The Contractor shall at all times exercise reasonable precautions for the safety of its employees, laborers, subcontractors, mechanics, workmen and others on and near the jobsite and shall comply with all laws, ordinances, regulations, and standards of federal, state and local safety laws and regulations. The Contractor shall provide such machinery guards, safe walk-ways, ladders, bridges, and other safety devices as may be necessary or appropriate to insure a safe and secure jobsite and shall require its subcontractors to comply with this requirement. The Contractor shall immediately comply with any and all safety requirements imposed by the Engineer during the progress of the Work.

### 7.16 WARNING DEVICES AND BARRICADES

7.16.1 The Contractor shall furnish and maintain such warning devices, barricades, lights, signs, pavement markings, and other devices as may be necessary or appropriate or required by the Engineer to protect persons or property in, near or adjacent to

the jobsite. No separate compensation shall be paid to the Contractor for such measures. Where the Work is being conducted in, upon or near streets, alleys, sidewalks, or other rights-of-way, the Contractor shall insure the placement, maintenance and operation of any and all such warning devices as may be required by the City and shall do so until no longer required by the City. Such devices shall be in compliance with and conform to the manual and specifications for the uniform system of traffic control devices adopted by the Texas Department of Transportation.

### 7.17 PROTECTION OF UTILITIES AND OTHER CONTRACTORS

7.17.1 The Contractor shall use best efforts to leave undisturbed and uninterrupted all utilities and utility services provided to the jobsite or which presently exists at, above or beneath the location where the Work is to be performed. In the event that any utility or utility service is disturbed or damaged during the progress of the Work, the Contractor shall forthwith repair, remedy or restore the utility at Contractor's sole expense. The Contractor shall coordinate any utility conflicts with the owner of the utility and no extension of time will be requested or given if adequate coordination is not provided by Contractor.

7.17.2 The Contractor understands and acknowledges that other contractors of the City or of other entities may be present at the jobsite performing other work unrelated to the Project. The Contractor shall use best efforts to work around other contractors without impeding the work of others while still adhering to the scheduled completion date. In the event that the Contractor's work is or may be delayed by any other person, the Contractor shall immediately give notice thereof to the Engineer and shall request a written Change Order in accordance with the procedures set forth by this Contract. The Contractor's failure to provide such notice and to request such Change Order shall constitute a waiver of any and all claims associated therewith.

## ARTICLE VIII

## CONTRACT ADMINISTRATION

### 8.1 THE ENGINEER

8.1.1 When used in this Contract the term "Engineer" does not necessarily denote a duly licensed, trained or certified engineer; as used herein, the term shall be used interchangeably and shall mean a designated Engineer, Engineer, or Contract Administrator (who may not be an architect or engineer) for the City, said person to be designated or re-designated by the City prior to or at any time during the Work hereunder. The Engineer may be an employee of the City or may be retained by the City as an independent contractor but, in either event, the Engineer's duties and authority shall be as set forth hereinafter. The Contractor understands and agrees that it shall abide by the decisions and instructions of the Engineer notwithstanding the contractual relationship between the City and Engineer, the title of Contract Administrator, or the fact that the Engineer is an employee of the City.

In the event the City should find it necessary or convenient to replace the Engineer, the City shall retain a replacement Engineer and the status of the replacement Engineer shall be that of the former Engineer.

### 8.2 ENGINEER'S ADMINISTRATION

8.2.1 The Engineer, unless otherwise directed by the City in writing, will perform those duties and discharge those responsibilities allocated to the Engineer as set forth in this Contract. The Engineer shall be the City's representative from the effective date of this Contract until final payment has been made.

8.2.2 The City and the Contractor shall communicate with each other in the first instance through the Engineer.

8.2.3 The Engineer shall be the initial interpreter of the requirements of the drawings and specifications and the judge of the performance thereunder by the Contractor. The Engineer shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.

8.2.4 The Engineer will review the Contractor's Applications for Payment and will certify to the City for payment to the Contractor, those amounts then due the Contractor as provided in this Contract.

8.2.5 The Engineer shall have authority to reject Work which is defective or does not conform to the requirements of this Contract. If the Engineer deems it necessary or advisable, the Engineer shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.

8.2.6 The Engineer will review and approve, or take other appropriate action as necessary, concerning the Contractor's submittals including Shop Drawings,

Product Data and Samples. Such review, approval or other action shall be for the sole purpose of determining conformance with the design concept and information given through the Contract Documents.

8.2.7 The Engineer will prepare Change Orders and may authorize minor changes in the Work by Field Order as provided elsewhere herein.

8.2.8 The Engineer shall, upon written request from the Contractor, conduct inspections to determine the date of Substantial Completion and the date of final completion, will receive and forward to the City for the City's review and records, written warranties and related documents required by this Contract and will issue a final Certificate for Payment upon compliance with the requirements of this Contract.

8.2.9 The Engineer's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.

### 8.3 CLAIMS BY THE CONTRACTOR

8.3.1 The Engineer shall determine all claims and matters in dispute between the Contractor and City with regard to the execution, progress, or sufficiency of the Work or the interpretation of the Contract Documents, including but not limited to the plans and specifications. Any dispute shall be submitted in writing to the Engineer within seven (7) days of the event or occurrence or the first appearance of the condition giving rise to the claim or dispute and the Engineer shall render a written decision within a reasonable time thereafter. The Engineer's decisions shall be final and binding on the parties. In the event that either party objects to the Engineer's determination as to any submitted dispute, that party shall submit a written objection to the Engineer and the opposing party within ten (10) days of receipt of the Engineer's written determination in order to preserve the objection. Failure to so object shall constitute a waiver of the objection for all purposes.

8.3.2 Pending final resolution of any claim of the Contractor, the Contractor shall diligently proceed with performance of this Contract and the City shall continue to make payments to the Contractor in accordance with this Contract.

8.3.3 CLAIMS FOR CONCEALED, LATENT OR UNKNOWN CONDITIONS - The Contractor expressly represents that it has been provided with an adequate opportunity to inspect the Project site and thoroughly review the Contract Documents and plans and specifications prior to submission of its bid and the City's acceptance of the bid. Subject to the conditions hereof, Contractor assumes full responsibility and risk for any concealed, latent or unknown condition which may affect the Work. No claims for extra work or additional compensation shall be made by Contractor in connection with concealed, latent or unknown conditions except as expressly provided herein. Should concealed, latent or unknown conditions encountered in the performance of the Work (a) below the surface of the ground or (b) in an existing structure be at variance with the conditions indicated by this Contract, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided for in this Contract, be encountered, the Contract Price shall be equitably adjusted by Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the City having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the City and the Engineer written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure by the Contractor to make the written notice and claim as provided in this Subparagraph shall constitute a waiver by the Contractor of any claim arising out of or relating to such concealed, latent or unknown condition and the Contractor thereby assumes all risks and additional costs associated therewith.

### 8.4 EXTRA WORK

8.4.1 The Contractor shall not claim, request or demand any sum from the City for Extra Work or for additional costs, and hereby waives all such claims, requests and demands and any right to assert same, unless the conditions of this subparagraph are strictly complied with. "Extra Work" is defined herein to mean any labor, service, materials, equipment, supplies or charges that are directly or indirectly related to the Work, the Project or the Project site, that is not necessarily or fairly required or implied by the Contract Documents.

8.4.2 The parties acknowledge and agree that there shall be no payment made by the City to the Contractor without a written agreement (either a separate contract or a written Change Order) signed by the parties. Should the Contractor perform Extra Work or be requested to perform Extra Work by the Engineer or City, it shall be the Contractor's obligation and duty to first apply for and obtain a written Change Order, approved by the Engineer and executed by the City. The Contractor's failure to obtain a written, signed Change Order prior to commencement of Extra Work

shall constitute a complete and final waiver of any right for compensation for the Extra Work.

### 8.5 CLAIMS FOR ADDITIONAL COSTS OR TIME; CONTRACT PRICE INCREASE

8.5.1 If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the City therefor, the Contractor shall give the Engineer written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. The failure by the Contractor to give such notice and to give such notice prior to executing the Work shall constitute a waiver of any right to or claim for additional compensation.

8.5.2 In connection with any claim by the Contractor against the City for compensation in excess of the Contract Price, any liability of the City for the Contractor's costs shall be strictly limited to direct costs incurred by the Contractor and shall in no event include indirect costs or consequential damages of the Contractor. The City shall not be liable to the Contractor for claims of third parties, including Subcontractors. The City shall not be liable to the Contractor for any claims based upon delay to the Contractor for any reason whatsoever including any act or neglect on the part of the City.

8.5.3 If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the City or someone acting in the City's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipated, fire or any causes beyond the Contractor's control, then the date for achieving Substantial Completion of the Work shall be extended upon the written notice and claim of the Contractor to the City and the Engineer, for such reasonable time as the Engineer may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven (7) days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Project. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary. If the Contractor fails to make such claim as required in this Subparagraph, any claim for an extension of time shall be waived. The procedures and remedies provided by this provision shall be the sole remedy of Contractor and Contractor shall not assert nor be entitled to any additional delays or damages associated therewith.

### 8.6 FIELD ORDERS

8.6.1 The Engineer shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and not inconsistent with the intent of the Contract. Such changes shall be effected by Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.

### 8.7 MEDIATION

8.7.1 In the event that a dispute arises under the terms of this Contract, following an adverse determination by the Engineer and proper preservation of the issue as required herein, the parties agree to submit to mediation. In such event, the parties shall agree to a designated person to serve as mediator and each party shall be responsible for payment of one-half of the total mediation fees. The parties shall submit the dispute to mediation as soon as practical and in no event later than one (1) year after the Engineer’s written decision on the matter. At least one designated representative of each party must attend and participate in good faith in an effort to resolve the matters in dispute.

8.7.2 In no event shall the foregoing provision justify or authorize any delay in the progress of the Work; the parties shall abide by the decision of the Engineer in accomplishing the timely completion of the Project.

## ARTICLE IX

## SUBCONTRACTORS

### 9.1 DEFINITION

9.1.1 A Subcontractor is a person or entity that has a direct contract with the Contractor to perform a portion of the Work. No Subcontractor shall be in privity with the City.

### 9.2 AWARD OF SUBCONTRACTS

9.2.1 Upon execution of the Contract, the Contractor shall furnish the City, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Project. The City shall promptly reply to the Contractor, in writing, stating any objections the City may have to such proposed Subcontractor. The Contractor shall not enter into a subcontract with a proposed Subcontractor with reference to whom the City has made timely objection. The Contractor shall not be required to subcontract with any party to whom the Contractor has objection.

9.2.2 All subcontracts shall afford the Contractor rights against the Subcontractor which correspond to those rights afforded to the City against the Contractor herein, including those rights afforded to the City by Subparagraph 12.2.1 below. All subcontracts shall incorporate by reference the provisions hereof and shall provide that no claims, causes or demands shall be made by any Subcontractor against the City.

9.2.3 The Contractor shall indemnify, defend and hold harmless the City from and against any and all claims, demands, causes of action, damage, and liability asserted or made against the City by or on behalf of any Subcontractor.

## ARTICLE X

## CHANGES IN THE WORK

### 10.1 CHANGES PERMITTED

10.1.1 Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Contract, by Change Order or by Field Order.

10.1.2 Changes in the Work shall be performed under applicable provisions of this Contract and the Contractor shall proceed promptly with such changes.

### 10.2 CHANGE ORDER DEFINED

10.2.1 Change Order shall mean a written order to the Contractor executed by the City and the Engineer, issued after execution of this Contract, authorizing and directing a change in the Work or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and the Contract Time may be changed only by written Change Order.

### 10.3 CHANGES IN THE CONTRACT PRICE

10.3.1 Any change in the Contract Price resulting from a Change Order shall be determined as follows: (a) by mutual agreement between the City and the Contractor as evidenced by (1) the change in the Contract Price being set forth in the Change Order, (2) such change in the Contract Price, together with any conditions or requirements related thereto, being initialed by both parties, and (3) the Contractor's execution of the Change Order, or (b) if no mutual agreement occurs between the City and the Contractor, then, as provided in Subparagraph 10.3.2 below.

10.3.2 If no mutual agreement occurs between the City and the Contractor as contemplated in Subparagraph 10.3.1 above, the change in the Contract Price, if any, shall then be determined by the Engineer on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, the Contractor shall present, in such form and with such content as the City or the Engineer require, an itemized accounting of such expenditures or savings, plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies, or equipment including delivery costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools whether rented from the Contractor or others, reasonable costs of premiums for all bonds and insurance, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and jobsite field office overhead directly attributable to the change. In no event shall any expenditure or savings associated with the Contractor's home office or other non-jobsite overhead expense be included in any change in the Contract Price. Pending final determination of reasonable expenditures or savings to the City, payments on account shall be made to the Contractor on the Engineer's Certificate for Payment.

10.3.3 If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that application of such unit prices to the quantities of Work proposed will cause

substantial inequity to the City or to the Contractor, the applicable unit prices shall be equitably adjusted.

### 10.4 MINOR CHANGES

10.4.1 The Engineer shall have authority to order minor changes in the Work not involving a change in the Contract Price or an extension of the Contract Time and not inconsistent with the intent of this Contract. Such minor changes shall be made by written Field Order, and shall be binding upon the City and the Contractor. The Contractor shall promptly carry out such written Field Orders.

### 10.5 EFFECT OF EXECUTED CHANGE ORDER

10.5.1 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim against the City for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

### 10.6 NOTICE TO SURETY; CONSENT

10.6.1 The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the City that the surety has been notified of and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

## ARTICLE XI

## UNCOVERING AND CORRECTING WORK

### 11.1 UNCOVERING WORK

11.1.1 If any of the Work is covered contrary to the Engineer's request or to any provisions of this Contract, it shall, if required by the Engineer or the City, be uncovered for the Engineer's inspection and shall be properly replaced at the Contractor's expense without change in the Contract Time or Contract Price.

11.1.2 If any of the Work is covered in a manner consistent with the Engineer’s request or the provisions of this Contract, it shall, if required by the Engineer or City, be uncovered for the Engineer's inspection. If such Work conforms strictly to this Contract, costs of uncovering and proper replacement shall by Change Order be charged to the City. If such Work does not strictly conform to this Contract, the Contractor shall pay the costs of uncovering and proper replacement.

### 11.2 CORRECTING WORK

11.2.1 The Contractor shall immediately proceed to correct Work rejected by the Engineer as defective or failing to conform to this Contract. The Contractor shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections, and reimbursement to the City for the Engineer's services and expenses made necessary thereby.

11.2.2 If within four (4) years after Substantial Completion of the Work any of the Work is found to be defective or not in accordance with this Contract, the Contractor shall correct it promptly upon receipt of written notice from the City. This obligation shall survive final payment by the City and termination of this Contract. With respect to Work first performed and completed after Substantial Completion, this four year obligation to specifically correct defective and nonconforming Work shall be extended by the period of time which elapses between Substantial Completion and completion of the subject Work.

11.2.3 Nothing contained in this Paragraph 11.2 shall establish any period of limitation with respect to other obligations which the Contractor has under this Contract. Establishment of the four year time period in Subparagraph 11.2.2 relates only to the duty of the Contractor to specifically correct the Work.

### 11.3 CITY MAY ACCEPT DEFECTIVE OR NONCONFORMING WORK

11.3.1 If the City chooses to accept defective or nonconforming Work, the City may do so at its sole discretion. In such event, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to

compensate the City for its acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the City, pay the City such remaining compensation for accepting defective or nonconforming Work.

## ARTICLE XII

## CONTRACT DEFAULT AND TERMINATION

### 12.1 TERMINATION BY THE CONTRACTOR

12.1.1 If the Work is stopped for a period of ninety (90) days by an order of any court or other public authority, or as a result of an act of the Government, through no fault of the Contractor or any person or entity working directly or indirectly for the Contractor, the Contractor may, upon fifteen (15) days' written notice to the City and the Engineer, terminate performance under this Contract and recover from the City payment for the actual reasonable expenditures of the Contractor (as limited in Subparagraph 10.3.2 above) for all Work executed and for materials, equipment, tools, construction equipment and machinery actually purchased or rented solely for the Work, less any salvage value of any such items.

12.1.2 If the City shall persistently or repeatedly fail to perform any material obligation to the Contractor for a period of fifteen (15) days after receiving written notice from the Contractor of its intent to terminate hereunder, the City shall have fifteen (15) days to remedy its failure and if not so cured, the Contractor may terminate performance under this Contract by written notice to the Engineer and the City. In such event, the Contractor shall be entitled to recover from the City as though the City had terminated the Contractor's performance under this Contract for convenience pursuant to Subparagraph 12.2.1 hereunder.

### 12.2 TERMINATION BY THE CITY

12.2.1 FOR CONVENIENCE

12.2.1.1 The City may for any reason whatsoever terminate performance under this Contract by the Contractor for convenience. The City shall give written notice of such termination to the Contractor specifying when termination becomes effective.

12.2.1.2 The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Contractor to assign the Contractor's right, title and interest under terminated orders or subcontracts to the City or its designee.

12.2.1.3 The Contractor shall transfer title and deliver to the City such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.

12.2.1.4 (a) The Contractor shall submit a termination claim to the City and the Engineer specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Engineer. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Contractor, an amount derived in accordance with subparagraph (c) below.

(b) The City and the Contractor may agree to the compensation, if any, due to the Contractor hereunder.

(c) Absent agreement to the amount due to the Contractor, the City shall pay the Contractor the following amounts:

(i) Contract prices for labor, materials, equipment and other services accepted under this Contract;

(ii) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit thereon (such profit shall not include anticipated profit or consequential damages), provided however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire

Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

(iii) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 12.2.1.2 of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

12.2.1.5 The total sum to be paid the Contractor under this Subparagraph 12.2.1 shall not exceed the total Contract Price, as properly by amounts withheld by the City and reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

12.2.2 FOR CAUSE

12.2.2.1 The following constitute grounds for termination of this Contract by the City:

(a) the Contractor's failure or refusal to prosecute the Work in a timely manner;

(b) The Contractor abandons the jobsite and fails to resume work within five (5) days of written notice thereof by the City;

(c) the Contractor fails to meet milestones or comply with approved construction schedules;

(d) the Contractor fails to grant or allow access to the jobsite by the City or Engineer;

(e) the Contractor fails to supply enough properly skilled workers, supervisory personnel or proper equipment or materials;

(f) the Contractor fails to make prompt payment to Subcontractors or for materials or labor;

(g) the Contractor persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or,

(h) the Contractor is otherwise guilty of a violation of a material provision of this Contract.

In the event of the occurrence of any one or more of the above events, the City may by written notice to the Contractor, without prejudice to any other right or remedy, terminate the employment of the Contractor, exclude the Contractor from the job site, and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

12.2.2.2 If the unpaid balance of the Contract Price does not exceed the cost of finishing the work, including compensation for the Engineer's additional services and expenses made necessary thereby, such difference shall be paid by the Contractor to the City. This obligation for payment shall survive the termination of the Contract.

12.2.2.3 In the event the employment of the Contractor is terminated by the City for cause pursuant to Subparagraph 12.2.2 and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Subparagraph 12.2.1 and the provisions of Subparagraph 12.2.1 shall apply.

**12.3 USE OF THIRD-PARTY OVERSIGHT OR CONSTRUCTION MANAGER**

12.3.1 Should the City allow the Contractor to continue its performance of Work notwithstanding an event of default specified in Subparagraph 12.2.2.1, or should there be an imminent potential of default, the City, at its sole option and within its sole discretion, may retain a third-party construction manager to document the events of default and oversee further progress of the Work. The use of a third-party construction manager shall not prevent the City from declaring the Contractor to be in default and the City may, at its sole option and within its sole discretion, terminate this Contract at any time. Should the City retain a third-party construction manager, the costs thereof shall be withheld from any amounts due Contractor upon termination. The City's exercise of this option shall be without prejudice to any other right or remedy available to the City by law or under this Contract.

## ARTICLE XIII

## INSURANCE

### 13.1 CONTRACTOR SHALL MAINTAIN INSURANCE

13.1.1 The Contractor at its own expense shall purchase, maintain and keep in force during the life of this contract, adequate insurance that will protect the Contractor and/or any Additional Insured from claims which may arise out of or result from operations under this Contract. The insurance required shall provide adequate protections from all claims, whether such operations be by the Contractor or by any Additional Insured or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone whose acts of any of them may be liable and from any special hazards, such as blasting, which may be encountered in the performance of this contract in the amounts as shown below in Paragraph 13.2.1.

13.1.2 The Contractor shall not commence work on any Contract in the City until the Contractor has obtained all the insurance required under this paragraph and such insurance has been approved by the City.

### 13.2 TYPES AND AMOUNTS OF CONTRACTOR'S INSURANCE

13.2.1. The Contractor shall furnish and maintain during the life of the contract adequate Worker's Compensation and Commercial General Liability (Public) Insurance in such amounts as follows:

| Type of Insurance | Amount |
|---|---|
| Worker's Compensation | As set forth in the Worker's Compensation Act. |
| Commercial General Liability (Public) | $1,000,000 Each Accident/Occurrence.<br>$1,000,000 Aggregate<br>$1,000,000 Products & Completed Operations Aggregate. |
| City's Protective Liability Insurance | $600,000 per occurrence<br>$1,000,000 aggregate |
| Excess/Umbrella Liability | $1,000,000 per occurrence w/drop down coverage<br>Limit of Insurance per Project or City's and Contractor's Protective Liability Insurance for the Project. |
| Automobile Liability | $500,000 Combined single limit per occurrence. |

### 13.3 ADDITIONAL INSURED

13.3.1 The City and the Engineer shall be named as an additional insured on the Commercial General Liability (Public), City's Protective Liability, and Excess/Umbrella Liability Insurance Policies furnished by the Contractor.

### 13.4 WRITTEN NOTIFICATION

13.4.1 Each insurance policy shall contain a provision requiring that thirty (30) days prior to expiration, cancellation, non-renewal or any material change in coverage, a notice there of shall be given by certified mail to the Rowlett City Engineer, 3901 Main Street., P.O. Box 99, Rowlett, TX 75030-0099.

### 13.5 PREMIUMS AND ASSESSMENTS; SUBROGATION

13.5.1 Companies issuing the insurance policies shall have no recourse against the City for payment of any premiums or assessments for any deductibles which are at the sole responsibility and risk of the Contractor. Insurance Companies shall have no right of subrogation against the City or the Engineer.

### 13.6 CERTIFICATE OF INSURANCE

13.6.1 Proof that the insurance is in force shall be furnished to the City on Standard Certificate of Insurance Forms. In the event any insurance policy shown on the Certificate of Insurance has an expiration date that is prior to the completion and final acceptance of the project by the City, the contractor shall furnish the City proof of identical continued coverage no later than thirty(30) days prior to the expiration date shown on the Certificate of Insurance.

### 13.7 PRIMARY COVERAGE

13.7.1 The coverages provided herein shall be primary and noncontributory with any other insurance maintained by the City, for its benefit, including self insurance.

**13.8 WORKER'S COMPENSATION INSURANCE COVERAGE**

13.8.1 The Contractor shall:

(1) provide coverage for its employees providing services on a project, for the duration of the project based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements;

(2) provide a certificate of coverage showing workers' compensation coverage to the governmental entity prior to beginning work on the project;

(3) provide the governmental entity prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project;

(4) obtain from each person providing services on a project, and provide to the governmental entity:

(A) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(B) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project;

(7) post a notice on each project site informing all persons providing services on the project that they are required to be covered, and stating how a person may verify current coverage and report failure to provide coverage. This notice shall comply with the requirements established by the Division of Workers Compensation of the Texas Department of Insurance, or its successor agency.

and

(8) contractually require each person with whom it contracts to provide services on a project, to:

(A) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements for all of its employees providing services on the project, for the duration of the project;

(B) provide a certificate of coverage to the contractor prior to that person beginning work on the project;

(C) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(D) obtain from each other person with whom it contracts, and provide to the Contractor:

(i) a certificate of coverage, prior to the other person beginning work on the project; and

(ii) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(E) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(F) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(G) contractually require each other person with whom it contracts, to perform as required by sub-paragraphs (A) - (G) of this paragraph, with the certificate of coverage to be provided to the person for whom they are providing services.

## ARTICLE XIV

## MISCELLANEOUS

### 14.1 LAWS AND ORDINANCES

14.1.1 The Contractor shall at all times and in all respects observe and comply with all federal, state and local laws, ordinances, and regulations applicable to the Project and Work. The Contractor shall further insure that all Subcontractors observe and comply with said laws, ordinances and regulations.

### 14.2 GOVERNING LAW

14.2.1 The Contract shall be governed by the laws of the State of Texas. Exclusive venue for any causes of action arising under the terms or provisions of this Contract or the Work to be performed hereunder shall be in the state courts of Dallas County, Texas.

### 14.3 SUCCESSORS AND ASSIGNS

14.3.1 The City and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the City.

### 14.4 SURETY BONDS

14.4.1 The Contractor shall furnish separate performance and payment bonds to the City, according to the requirements set out in the bid documents and state statutes to guaranty full and faithful performance of the Contract by the Contractor and the full and final payment of all persons supplying labor or materials to the Project. Each bond required by the bid documents or state statute shall set forth a penal sum in an amount not less than the full Contract Price. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the City and shall be executed by a surety, or sureties, reasonably suitable to the City and authorized to do business in the State of Texas.

14.4.2 If the Contract Price exceeds the sum of $25,000.00, the Contractor, upon execution of the Contract and prior to commencement of the Work, shall furnish to the City a two-year maintenance bond in the amount of one hundred percent (100%) of the Contract Price covering the guaranty and maintenance prescribed herein, written by an approved surety authorized and duly licensed to conduct business in the State of Texas. The cost of said maintenance bond shall be included in the Contractor's unit bid prices and shall be paid by the Contractor.

### 14.5 FORCE MAJEURE

14.5.1 As used herein, "force majeure" means an incident, situation, or act of a third party that is beyond a party's reasonable control such as an act of God, an act of the public enemy, strikes or other labor disturbances (other than strikes within such party's own labor force), hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, and riots. The Contractor will not be liable or responsible for its failure to perform any obligation under this Contract because of an event of Force Majeure, provided, however, that the Contractor submits notice thereof to the City and Engineer within seven (7) days of such an event, obtains a written Change Order, signed by all parties, that allows an extension of the scheduled completion date, and identifies the specific causes and number of days in the Statement of Delay submitted with the next ensuing Application for Payment. Notwithstanding, if the Contractor's failure to perform continues for more than twenty (20) calendar days, the

City may at its option terminate this Agreement immediately and pursue such rights and remedies as may be allowed under Subparagraph 12.2.2 of this Contract.

### 14.6 IMMUNITIES; DEFENSES

14.6.1 Nothing in this Contract shall be deemed to waive any immunity, sovereign, governmental, official, qualified or otherwise, from liability or suit, which the City may have or assert, except as may be provided by law, all such immunities being hereby expressly retained.

### 14.7 NO RIGHTS IN THIRD PARTIES

14.7.1 The indemnification provisions of this Contract and the rights and remedies afforded herein are solely for the benefit of the parties to this Contract. Nothing in this Contract is intended nor shall be construed to grant, create or confer any right, benefit, interest or cause of action in any person not a party to this Contract, or to the public in general.

### 14.8 SEVERABILITY

14.8.1 The provisions of this Contract are herein declared to be severable; in the event that any term, provision or part hereof is determined to be invalid, void or unenforceable, such determination shall not affect the validity or enforceability of the remaining terms, provisions and parts, and this Contract shall be read as if the invalid, void or unenforceable portion had not been included herein.

### 14.9 AMENDMENTS; NO WAIVER

14.9.1 This Contract may be amended by the parties only by a written agreement duly executed by both parties. The failure of the City to object to any nonperformance or nonconforming work or to enforce any provision hereof shall in no event be regarded as or construed to be a waiver, release or modification of any term or provision in this Contract, nor shall such failure to object or enforce estop the City from insisting on strict compliance with this Contract or from recovering damages, costs or expenses arising as a result of such nonperformance or nonconforming work.

### 14.10 NOTICES

14.10.1 All notices required by this Contract shall be in writing and presumed received when deposited in the mail properly addressed to the other party or Engineer at the address set forth herein or set forth in a written designation of change of address delivered to all parties and the Engineer.

EXECUTED in single or multiple originals, this _____ day of _____, 20___.

**CITY OF ROWLETT, TEXAS**

_____
Todd W. Gottel, Mayor

ATTEST:

_____
Laura Hallmark, City Secretary (Rev. 08/13)

**CONTRACTOR**:

_____

_____
(Signature)

_____
(Type/Print Name and Title)

_____
(Street Address)

_____
(City/State/Zip)

# EXHIBIT "A"

# CONSTRUCTION BID AND PROPOSAL

# Proposal Inserted Here

# EXHIBIT "B"

## PERFORMANCE AND PAYMENT BONDS,

## CERTIFICATE OF INSURANCE,
## MAINTENANCE BOND, INDEMNIFICATION AGREEMENT

# PERFORMANCE BOND

**STATE OF TEXAS** §
§ **KNOW ALL MEN BY THESE PRESENTS:**
**COUNTY OF DALLAS** §

That _____ of the City of _____, County of _____, and the State of Texas, as principal and _____ as surety, authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Rowlett, Texas (Owner), in the penal sum of

_____($_____)

for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, by these presents.

**WHEREAS**, The Principal has entered into a certain written Contract with the Owner, dated the ___ day of _____, 2016, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

**NOW, THEREFORE**, if the said Principal shall faithfully perform said Contract and shall in all respects duly and faithfully observe and perform all and singular the work and all covenants, conditions and agreements said Contract to be observed and performed, and according to the true intent and meaning of said Contract and the Plans, Specifications and contract documents therein annexed, then this obligation shall be void, otherwise to remain in full force and effect. It is further agreed that this Bond shall be a continuous obligation against the Principal and each member of said Principal who is a party hereto, and each and all sureties hereon, and that successive recoveries may be had hereon for each and every breach until the full amount hereof shall have been exhausted; and the liability of the sureties on this Bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by the City, nor by the exercise or failure to exercise by or on behalf of the City any right or remedy provided by the Contract or specifications or by any law or ordinance. The penal sum hereof shall increase without notice automatically and correspondingly if and as the price of the Contract is increased.

In the event Principal is declared in default under the Contract, Surety will, within fifteen (15) days of the determination of such default, take over and assume responsibility for completion of such Contract and become entitled to the payment of the balance of the Contract Price, or the Surety shall make other arrangements satisfactory to the City for the completion of the defaulted Work. Conditioned upon the Surety's faithful performance of its obligations, the Surety's liability shall not exceed the penalty of this Bond.

This bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and all liabilities on this Bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in any way affect its obligation on this Bond,

and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the price or work to be performed thereunder. The Surety agrees to pay to the City upon demand all loss and expenses, including attorney's fees and court costs, incurred by the City by reason of or on account of any breach of the obligations of this Bond by the Surety.

**IN WITNESS WHEREOF**, the said Principal and Surety have signed and sealed this instrument this _____day of _____, 2016.

| | |
|---|---|
| _____ | _____ |
| Principal | Surety |
| By_____ | By_____ |
| Title _____ | Title_____ |
| Address _____ | Address_____ |
| _____ | _____ |
| _____ | _____ |

The name and address of the Registered Agent of Surety is:

_____

_____

# PAYMENT BOND

**STATE OF TEXAS** §
§ **KNOW ALL MEN BY THESE PRESENTS:**
**COUNTY OF DALLAS** §

That _____ of the City of _____, County of _____, and the State of Texas, as principal and _____ as surety, authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Rowlett, Texas (Owner), in the penal sum of

_____($_____)

for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, by these presents.

**WHEREAS**, The Principal has entered into a certain written Contract with the Owner, dated the ___ day of _____, 2016, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

**NOW, THEREFORE**, the condition of this obligation is such, that this Bond guarantees the full and proper protection of and prompt payment to all claimants supplying labor and material in the prosecution of the work provided for in said Contract and for the use of each claimant, and that conversely should the Principal faithfully perform said Contract and in all respects duly and faithfully observe and perform all and singular the covenants, conditions and agreements in and by said Contract agreed to by the Principal, and according to the true intent and meaning of said Contract and the Plans, Specifications and contract documents thereto annexed, then this obligation shall be void; otherwise, to remain in full force and effect.

**PROVIDED, HOWEVER**, that this Bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and Article 53.201 of the Property Code, and all liabilities on this bond shall be determined in accordance with the provisions of said chapter and article to the same extent as if they were fully copied at length herein.

Surety, for value received, stipulates and agrees that the bond shall automatically be increased by the amount of any change order or supplemental agreement which increases the terms or price of the Contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same shall in any way affect its obligation on this bond, , but in no event shall a change order or supplemental agreement which reduces the Contract price decrease the penal sum of this Bond, and surety does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder.

**IN WITNESS WHEREOF**, the said Principal and Surety have signed and sealed this instrument this ____day of _____, 2016.

| | |
|---|---|
| _____ | _____ |
| Principal | Surety |
| By_____ | By_____ |
| Title _____ | Title_____ |
| Address _____ | Address_____ |
| _____ | _____ |
| _____ | _____ |

The name and address of the Registered Agent of Surety is:

_____

_____

(Sample Form)

**Certificate of Insurance**

TO: Date:_____

_____ Project No. _____
Owner

Type of _____

_____
Address

THIS IS TO CERTIFY THAT _____

is, at the date of this certificate, insured by this Company with respect to the business operations hereinafter described, for the types of Insurance and in accordance with the provisions of the standard policies used by this Company, and further hereinafter described. Exceptions to standard policy noted on reverse side hereof.

Type of Insurance

| | Policy No. | Effective | Expires | Limits of Liability |
|---|---|---|---|---|
| Worker's Compensation | | | | |
| Public Liability | | | | |
| Contingent Liability | | | | |
| Property Damage | | | | |
| Builder's Risk | | | | |
| Automobile | | | | |
| Other | | | | |

The foregoing Policies (do) (do not) cover all sub-contractors.

Locations Covered:

_____

Descriptions of Operations Covered:

_____

The above referenced policies may not be changed, canceled, or reduced in coverage without at least thirty (30) days advance written notice of such change or cancellation being given to the Owner.

Where applicable local laws or regulations require more than thirty days actual notice of change or cancellation to the insured, the above policies contain such special requirements, either in the body thereof or by appropriate endorsement thereto attached.

_____ By: _____

Name of Insurer Title_____

# MAINTENANCE BOND

**STATE OF TEXAS** §
§ **KNOW ALL MEN BY THESE PRESENTS:**
**COUNTY OF DALLAS** §

That _____ of the City of _____, County of _____, and the State of Texas, as principal and _____ as surety, authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Rowlett, Texas (Owner), in the penal sum of _____($_____)

for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, by these presents.

**WHEREAS**, The Principal has entered into a certain written Contract with the City, dated the ___ day of _____, 2016, which Contract, Plans and Specifications and contract documents are hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

**NOW, THEREFORE,** the condition of this obligation is such that if Contractor shall, for a period of two (2) years from and after the date of final payment for the Work by the City: 1) maintain and keep in good repair, and replace or repair and correct any and all defects arising in the Work, whether resulting from defective materials or defective workmanship; and, 2) make and perform all necessary repairs, reconstruction and renewal of any part of said Work, and furnish the labor and materials to make good and to repair any defective condition growing out of or on account of the breakage or failure of any substance or the improper function of any part of the Work; after such period this obligation shall be null and void; otherwise to remain in full force and effect.

The Contractor shall reimburse the City for the costs of all engineering and special services required to be furnished by the City which are directly attributable to the restoration of the constructed work. Said maintenance contemplates the complete restoration of the constructed work to a functional use during the period set forth herein. It is understood that the purpose of this section is to require the correction of all defective conditions resulting from materials furnished or work and labor performed by the said Contractor under the conditions prescribed by Contract, Plans, Specifications and contract documents; and in case said Contractor shall fail or refuse to perform as provided within ten (10) days after proper written notifications have been furnished to him by the City, it is agreed that the City may do said work and supply such materials and the said Contractor and Sureties herein shall be subject to the damages (including liquidated damages) described in said Contract for each calendar day's failure on its part to comply with the terms of the said provision of said Contract and this Maintenance Bond.

The Surety hereby waives notice of any alteration or extension of time made by the City. Whenever Contractor shall be, and declared by the City to be in default under the Contract, the Surety may promptly remedy the default, or shall promptly: 1) complete the Contract in accordance with its terms and conditions, and 2) hold and save the City harmless from any claims, judgments, or liens arising from the Surety's failure to either remedy the default or to complete the Contract in accordance

with its terms and conditions in a timely manner. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the City named herein.

It is further agreed that the obligations of this Bond shall be continuing against the Principal and Sureties herein, and that successive recoveries may be had for successive breaches until the full amount shall have been exhausted; and it is further understood that the obligation herein to maintain said work shall continue throughout said maintenance period, and the same shall not be changed, diminished, or in any manner affected by any cause during said time.

**IN WITNESS WHEREOF**, the said Principal and Surety have signed and sealed this instrument this ____day of _____, 2016.

| | |
|---|---|
| _____ | _____ |
| Principal | Surety |
| By_____ | By_____ |
| Title _____ | Title_____ |
| Address _____ | Address_____ |
| _____ | _____ |
| _____ | _____ |

Registered Agent of Surety is:

_____

_____

**NOTE: Date of Maintenance Bond must not be prior to date of Contract.**
**NOTE: A Power of Attorney on behalf of the Surety must be attached to the Bond in all cases.**

# PREVAILING WAGE RATES

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Heavy Construction Projects TX150028 1/2/15 TX28**

The following wage rates have been determined by the City of Rowlett to be the prevailing rates applicable to **Heavy Construction work as taken from the General Wage Decision Number #TX150028 1/2/15 TX 28.**

General Decision Number: TX150028 01/02/2015 TX28

Superseded General Decision Number: TX20140028

State: Texas

Construction Type: Heavy

Counties: Collin, Dallas, Denton, Ellis, Kaufman and Rockwall Counties in Texas.

Water and Sewer Lines/Utilities (Including Related Tunneling Where the Tunnel is 48" or Less in Diameter)

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of $10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| Modification Number | Publication Date |
|---|---|
| 0 | 01/02/2015 |

* PLUM0100-002 07/01/2013

| | Rates | Fringes |
|---|---|---|
| Plumbers and Pipefitters | $ 28.88 | 8.83 |

---

SUTX1991-004 09/23/1991

| | Rates | Fringes |
|---|---|---|
| Laborers: | | |
| Common | $ 7.25 | |
| Utility | $ 7.467 | |
| Pipelayer | $ 7.828 | |

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Heavy Construction Projects TX150028 1/2/15 TX28**

| | Rates | Fringes |
|---|---|---|
| Power equipment operators: | | |
| Backhoe | $ 10.804 | |
| Crane | $ 10.942 | |
| Front End Loader | $ 9.163 | |
| Tunneling Machine (48" or less) | $ 9.163 | |
| TRUCK DRIVER | $ 8.528 | |

---

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

==========

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

---

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Heavy Construction Projects TX150028 1/2/15 TX28**

changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

---

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Heavy Construction Projects TX150028 1/2/15 TX28**

a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

==========

END OF GENERAL DECISION

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Highway Construction TX150035 1/2/2015 TX35**

The following wage rates have been determined by the City of Rowlett to be the prevailing rates applicable to **Highway Construction work as taken from the General Wage Decision Number #TX150035 1/2/15 TX35**.

General Decision Number: TX150035 01/02/2015 TX35

Superseded General Decision Number: TX20140035

State: Texas

Construction Type: Highway

Counties: Archer, Callahan, Clay, Collin, Dallas, Delta, Denton, Ellis, Grayson, Hunt, Johnson, Jones, Kaufman, Parker, Rockwall, Tarrant and Wise Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of $10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| Modification Number | Publication Date |
|---|---|
| 0 | 01/02/2015 |

* SUTX2011-007 08/03/2011

| | Rates | Fringes |
|---|---|---|
| CONCRETE FINISHER (Paving and Structures) | $ 14.12 | |
| ELECTRICIAN | $ 19.80 | |
| FORM BUILDER/FORM SETTER | | |
| Paving & Curb | $ 13.16 | |
| Structures | $ 13.84 | |

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Highway Construction TX150035 1/2/2015 TX35**

| | Rates | Fringes |
|---|---|---|
| LABORER | | |
| Asphalt Raker | $ 12.69 | |
| Flagger | $ 10.06 | |
| Laborer, Common | $ 10.72 | |
| Laborer, Utility | $ 12.32 | |
| Pipelayer | $ 13.24 | |
| Work Zone Barricade Servicer | $ 11.68 | |
| POWER EQUIPMENT OPERATOR: | | |
| Asphalt Distributor | $ 15.32 | |
| Asphalt Paving Machine | $ 13.99 | |
| Broom or Sweeper | $ 11.74 | |
| Concrete Pavement Finishing Machine | $ 16.05 | |
| Concrete Saw | $ 14.48 | |
| Crane Operator, Lattice Boom 80 Tons or Less | $ 17.27 | |
| Crane Operator, Lattice Boom over 80 Tons | $ 20.52 | |
| Crane, Hydraulic 80 Tons or Less | $ 18.12 | |
| Crawler Tractor | $ 14.07 | |
| Excavator, 50,000 pounds or less | $ 17.19 | |
| Excavator, over 50,000 pounds | $ 16.99 | |
| Foundation Drill , Truck Mounted | $ 21.07 | |
| Foundation Drill, Crawler Mounted | $ 17.99 | |
| Front End Loader 3 CY or Less | $ 13.69 | |
| Front End Loader, over 3 CY | $ 14.72 | |
| Loader/Backhoe | $ 15.18 | |

Mechanic.....$ 17.68
Milling Machine.....$ 14.32
Motor Grader, Fine Grade....$ 17.19
Motor Grader, Rough.....$ 16.02
Pavement Marking Machine....$ 13.63
Reclaimer/Pulverizer.....$ 11.01
Roller, Asphalt.....$ 13.08
Roller, Other.....$ 11.51
Scraper.....$ 12.96
Small Slipform Machine.....$ 15.96
Spreader Box.....$ 14.73

Servicer.....$ 14.58

Steel Worker (Reinforcing).....$ 16.18

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Highway Construction TX150035 1/2/2015 TX35**

| | Rates | Fringes |
|---|---|---|
| TRUCK DRIVER | | |
| Lowboy-Float | $ 16.24 | |
| Off Road Hauler | $ 12.25 | |
| Single Axle | $ 12.31 | |
| Single or Tandem Axle Dump Truck | $ 12.62 | |
| Tandem Axle Tractor with Semi Trailer | $ 12.86 | |
| Transit-Mix | $ 14.14 | |
| WELDER | $ 14.84 | |

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

==========

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the

cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Highway Construction TX150035 1/2/2015 TX35**

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination



* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division

U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Building Construction TX150291 12/11/2015 TX291**

The following wage rates have been determined by the City of Rowlett to be the prevailing rates applicable to **Building Construction work as taken from the General Wage Decision Number #TX150291 12/11/15 TX291**.

General Decision Number: TX150291 12/11/2015 TX291

Superseded General Decision Number: TX20140291

State: Texas

Construction Type: Building

County: Dallas County in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of $10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| Modification Number | Publication Date |
|---|---|
| 0 | 01/02/2015 |
| 1 | 01/30/2015 |
| 2 | 03/06/2015 |
| 3 | 12/11/2015 |

ASBE0021-011 05/01/2013

| | Rates | Fringes |
|---|---|---|
| ASBESTOS WORKER/HEAT & FROST INSULATOR (Duct, Pipe and Mechanical System Insulation).... | $ 21.52 | 7.15 |

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BOIL0074-003 01/01/2014

| | Rates | Fringes |
|---|---|---|
| BOILERMAKER..... | $ 23.14 | 21.55 |

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CARP1421-002 04/01/2014

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Building Construction TX150291 12/11/2015 TX291**

| | Rates | Fringes |
|---|---|---|
| MILLWRIGHT..... | $ 25.30 | 8.30 |

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ELEV0021-006 01/01/2015

| | Rates | Fringes |
|---|---|---|
| ELEVATOR MECHANIC..... | $ 37.33 | 28.385 |

FOOTNOTES: a - A. 6% under 5 years based on regular hourly rate for all hours worked. 8% over 5 years based on regular hourly rate for all hours worked.

New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day, and Veterans Day.

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ENGI0178-005 06/01/2014

| | Rates | Fringes |
|---|---|---|
| POWER EQUIPMENT OPERATOR | | |
| (1) Tower Crane..... | $ 29.00 | 10.60 |
| (2) Cranes with Pile Driving or Caisson Attachment and Hydraulic Crane 60 tons and above..... | $ 28.75 | 10.60 |
| (3) Hydraulic cranes 59 Tons and under..... | $ 27.50 | 10.60 |

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* IRON0263-005 06/01/2015

| | Rates | Fringes |
|---|---|---|
| IRONWORKER (ORNAMENTAL AND STRUCTURAL)..... | $ 23.00 | 6.55 |

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PLUM0100-005 07/01/2013

| | Rates | Fringes |
|---|---|---|
| HVAC MECHANIC (HVAC Unit Installation Only)..... | $ 26.88 | 8.83 |
| PIPEFITTER (Excludes HVAC Pipe Installation)..... | $ 26.88 | 8.83 |

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SUTX2014-017 07/21/2014

| | Rates | Fringes |
|---|---|---|

| | | |
|---|---|---|
| BRICKLAYER | $ 19.50 | 4.27 |
| CARPENTER, Excludes Drywall Hanging, Form Work, and Metal Stud Installation | $ 17.13 | 2.97 |
| CAULKER | $ 14.71 | 0.00 |
| CEMENT MASON/CONCRETE FINISHER | $ 13.40 | 0.00 |
| DRYWALL HANGER AND METAL STUD INSTALLER | $ 15.45 | 0.00 |
| ELECTRICIAN (Alarm Installation Only) | $ 21.52 | 4.16 |
| ELECTRICIAN (Communication Technician Only) | $ 16.40 | 2.87 |
| ELECTRICIAN (Low Voltage Wiring Only) | $ 20.03 | 3.04 |
| ELECTRICIAN, Excludes Low Voltage Wiring and Installation of Alarms/Sound and Communication Systems | $ 21.51 | 3.69 |
| FORM WORKER | $ 12.32 | 0.00 |
| GLAZIER | $ 16.15 | 2.13 |
| HIGHWAY/PARKING LOT STRIPING: Operator (Striping Machine) | $ 10.04 | 2.31 |
| INSTALLER - SIDING (METAL/ALUMINUM/VINYL) | $ 14.26 | 0.00 |
| INSTALLER - SIGN | $ 15.61 | 0.00 |
| INSULATOR - BATT | $ 13.00 | 0.00 |
| IRONWORKER, REINFORCING | $ 12.24 | 0.00 |
| LABORER: Common or General | $ 11.57 | 0.00 |
| LABORER: Mason Tender - Brick | $ 11.00 | 1.70 |
| LABORER: Mason Tender - Cement/Concrete | $ 10.64 | 0.00 |

LABORER: Pipelayer.....$ 13.00 0.35

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Building Construction TX150291 12/11/2015 TX291**

LABORER: Plaster Tender.....$ 14.50 0.00

LABORER: Roof Tearoff.....$ 11.28 0.00

LABORER: Landscape and
Irrigation.....$ 12.00 0.23

LATHER.....$ 16.00 0.00

OPERATOR:
Backhoe/Excavator/Trackhoe.....$ 13.06 0.00

OPERATOR: Bobcat/Skid
Steer/Skid Loader.....$ 13.93 0.00

OPERATOR: Bulldozer.....$ 18.29 1.31

OPERATOR: Drill.....$ 13.00 0.50

OPERATOR: Forklift.....$ 13.38 0.81

OPERATOR: Grader/Blade.....$ 13.05 0.00

OPERATOR: Loader.....$ 14.02 1.82

OPERATOR: Mechanic.....$ 17.52 3.33

OPERATOR: Paver (Asphalt,
Aggregate, and Concrete).....$ 18.44 0.00

OPERATOR: Roller.....$ 15.04 0.00

PAINTER (Brush, Roller and
Spray, Excluding
Drywalling/Taping).....$ 13.60 2.24

PAINTER: Drywall
Finishing/Taping Only.....$ 14.28 3.04

PLASTERER.....$ 15.37 0.00

PLUMBER (HVAC Pipe
Installation Only).....$ 23.87 6.66

PLUMBER, Excludes HVAC Pipe
Installation.....$ 22.70 5.65

ROOFER.....$ 17.19 0.00

SHEET METAL WORKER (HVAC Duct
Installation Only).....$ 21.10 5.50

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Building Construction TX150291 12/11/2015 TX291**

SHEET METAL WORKER, Excludes
HVAC Duct Installation.....$ 24.88 7.23

SPRINKLER FITTER (Fire
Sprinklers).....$ 21.25 15.55

TILE FINISHER.....$ 11.22 0.00

TILE SETTER.....$ 14.25 0.00

TRUCK DRIVER: 1/Single Axle
Truck.....$ 16.40 0.81

TRUCK DRIVER: Dump Truck.....$ 12.39 1.18

TRUCK DRIVER: Flatbed Truck.....$ 19.65 8.57

TRUCK DRIVER: Semi-Trailer
Truck.....$ 12.50 0.00

TRUCK DRIVER: Water Truck.....$ 12.00 4.11

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WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after
award only as provided in the labor standards contract clauses
(29CFR 5.5 (a) (1) (ii)).

---

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

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"UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

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A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Building Construction TX150291 12/11/2015 TX291**

---

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the

Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:



Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

==========

END OF GENERAL DECISION

# EXHIBIT "D"

# WORKER'S COMPENSATION COVERAGE PROVISIONS

# SECTION WC

## WORKERS' COMPENSATION INSURANCE COVERAGE

**WC.1** **DEFINITIONS**

Certificate of coverage ("certificate"): A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project: Includes the time from the beginning of the work on the project until the contractor's/persons work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in 1.03): Includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, CITY-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries and delivery of portable toilets.

**WC.2** The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

**WC.3** The contractor must provide a certificate of coverage to governmental entity prior to being awarded the contract.

**WC.4** If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

**WC.5** The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, sot he governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project, and,

(2) no later than seven (7) days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

**WC.6** The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

**WC.7** The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the contractor knows or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.

**WC.8** The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, information all persons providing services on the project that they are required to be offered, and stating how a person may verify coverage and report lack of coverage.

**WC.9** The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

(2) provide the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the contractor:

(a) a certificate of coverage, prior to the other person beginning work on the project; and,

(b) a new certificate of coverage showing extension of coverage, prior tot he end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knows or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and,

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1)-(7), with the certificates of coverage to be provided to the person for whom they are providing services.

**WC.10** By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

**WC.11** The contractor's failure to comply with any of these provision is a breach of contract by the contractor which entities the governmental entity to declare the contract void if the contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

**WC.12** The contractor shall indemnify the governmental entity and hold it harmless for any amounts sought against the governmental entity by any employee or independent sub-contractor. The contractor further agrees to assist City in the defense of any attempts to assert a worker's compensation subrogation lien by any medical insurer, including, but not limited to, the release and disclosure of all files and documents that would be relevant or pertinent to the City's defense.

# EXHIBIT "E"

# EQUAL OPPORTUNITY EMPLOYMENT PROVISIONS

# SECTION EEO

## EQUAL EMPLOYMENT OPPORTUNITY

## INDEX


| PARAGRAPH | TITLE |
|---|---|
| EEO.1 | DESCRIPTION |
| EEO.2 | WORKING ENVIRONMENT |
| EEO.3 | ON-THE-JOB TRAINING |
| EEO.4 | REVIEW |
| EEO.5 | DISSEMINATION |
| EEO.6 | RECRUITMENT |
| EEO.7 | INVENTORY |
| EEO.8 | MONITORING |
| EEO.9 | FACILITIES |
| EEO.10 | RECORDS |
| EEO.11 | ADHERENCE |

# SECTION EEO

## EQUAL EMPLOYMENT OPPORTUNITY

### EEO.1 DESCRIPTION

The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The Contractor shall implement affirmative action steps at least as extensive as described herein.

### EEO.2 WORKING ENVIRONMENT

Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two (2) or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

### EEO.3 ON-THE-JOB TRAINING

Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs.

### EEO.4 REVIEW

Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

### EEO.5 DISSEMINATION

Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

### EEO.6 RECRUITMENT

Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one (1) month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

**EEO.7 INVENTORY**

Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

**EEO.8 MONITORING**

Ensure that seniority practices, job classifications, work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

**EEO.9 FACILITIES**

Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

**EEO.10 RECORDS**

Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

**EEO.11 ADHERENCE**

Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

(End of Sample Public Works Contract)

Attachment 5

**STATE OF TEXAS**
**CITY OF ROWLETT**
**AFFIDAVIT**

The undersigned certifies that the RFP prices contained in this RFP have been carefully checked and are submitted as correct and final and if RFP is accepted (within 60 days), agrees to furnish any and/or all items upon which prices are offered, at the price(s) and upon the conditions contained in the Specifications.

BEFORE ME, the undersigned authority, A Notary Public in and for the State of _____, on this day personally appeared _____, who, after having first been duly sworn, upon oath did depose and say;That the foregoing RFP submitted by _____, hereinafter called "Proposer" is the duly authorized agent of said company and that the person signing said proposal has been duly authorized to execute the same. Proposer affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this RFP in collusion with any other Proposer. The Proposer is not a member of any trust, pool, or combination to control the price of products or services RFP on, or to influence any person to RFP or not to RFP thereon. I further affirm that the Proposer has not given, offered to give, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discounts, trip, favor, or service to a public servant in connection with the submitted RFP. The contents of this RFP as to prices, terms or conditions of said RFP have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this RFP.

Name and Address of Proposer:

_____

_____

_____

_____

Telephone number_____ Fax number _____

_____
Signature

Printed Name:_____ Title: _____

SWORN TO AND SUBSCRIBE BEFORE ME THIS _____day of_____, 2016.

_____
Notary Public in and for City, State

Attachment 6 – Residence Certification

**RESIDENCE CERTIFICATION**

Pursuant to Texas Government Code, Section 2252.001 *et seq*., as amended, City of Rowlett requests Residence Certification. Section 2252.001 *et seq.* of the Government Code provides some restrictions on the awarding of governmental contracts; pertinent provisions of Section 2252.001 are stated below:

"Nonresident Proposer " refers to a person who is not a resident.

"Resident Proposer " refers to a person whose principal place of business is in this state, including a Consultant whose ultimate parent company or majority owner has its principal place of business in this state.

☐ I certify that _____ (Company Name) is a Resident Proposer of Texas as defined in Government Code, Section 2252.001.

☐ I certify that _____ (Company Name) is a Nonresident Proposer as defined in Government Code, Section 2252.001 and our principal place of business is _____(City), _____(State).

_____

Signature

Printed Name:_____ Title: _____

Attachment 7

**CITY OF ROWLETT EXPRESSLY REQUESTS THAT PROPOSERS NOT DISCUSS THIS ENGAGEMENT OR THIS PROPOSER'S PLANS, EXPERIENCE OR CREDENTIALS WITH OTHER PROPOSERS OR ANY MEMBER OF CITY COUNCIL, ANY CITY OFFICIAL, OR ANY CITY EMPLOYEE. EXCLUDED ARE PRE-PROPOSAL CONFERENCES, SCHEDULED VENDOR PRESENTATIONS OR VENDOR INTERVIEWS, OR SCHEDULED EQUIPMENT OR SERVICES DEMONSTRATIONS. YOU MAY CONTACT THE PURCHASING DEPARTMENT AT ANY TIME.**

**FROM RFP OPENING DATE THROUGH CITY COUNCIL MEETING FOR SELECTION, VENDORS WILL NOT APPROACH THE CITY EMPLOYEES OR CITY COUNCIL TO DISCUSS MATTERS PERTAINING TO THIS RFP.**

1. Has any individual with the firm submitting this Proposal Response made any contact with any member of City Council, any City Official, or an Evaluation Committee member concerning this Invitation to RFP, other than questions to the City Auditor/Purchasing Officer?

_____

_____

_____

_____

_____

2. Has any individual with the firm submitting this Proposal Response made any contact with any other Proposer concerning this Invitation to RFP?

_____

_____

_____

_____

_____

_____
Signature of Person doing business with the City

Printed Name:_____ Title: _____

Attachment 8 – Certification Regarding Debarment, Suspension Ineligibility

**Certification Regarding Debarment, Suspension Ineligibility**
As is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 76, Government-wide Debarment and Suspension, in the applicant certifies, to the best of his or her knowledge and belief, that both it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
b. Have not within a three-year period preceding this bid/proposal and/or application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, theory, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity with commission of any of the offenses enumerated herein; and
d. Have not within a three-year period preceding this bid/proposal and/or application had one or more public transactions terminated of cause or default.

_____
Signature

Printed Name:_____ Title: _____

Date:_____ Telephone Number: _____

If the Bidder / Proposer is unable to certify to all of the statements in this Certification, such Bidder / Proposer should attach an explanation to this Bid / Proposal.

Attachment 8 – Certification Regarding Debarment, Suspension Ineligibility (page 2)

**SWORN STATEMENT ON DEBARMENT**

This SWORN statement is submitted with project number:

_____

By:

_____

(PRINT INDIVIDUALS NAME AND TITLE)

For:

_____

(PRINT NAME OF ENTITY SUBMITTING SWORN STATEMENT)

With a business address of:

_____

Address

_____

Address

_____

City, State, Zip Code

_____

Telephone Number

If applicable its Federal Employee Identification Number (FEIN) is:

_____

(INDICATE WHICH STATEMENTS APPLY)

_____ Neither the entity submitting this SWORN statement, nor any of its officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime.

_____ The entity submitting this SWORN statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity **HAS BEEN CHARGED WITH AND CONVICTED OF A PUBLIC ENTITY CRIME.**

_____ The entity submitting this SWORN statement is not present on any Federal list of debarred contractors, nor been debarred from any other type of contracting.

_____

Signature

Printed Name:_____ Title: _____

Date:_____ Telephone Number: _____

SWORN TO AND SUBSCRIBE BEFORE ME THIS _____day of_____, 2016.

_____

Notary Public in and for City, State

Attachment 9 – Conflict of Interest Questionnaire

Chapter 176 is a relatively new ethics law that was enacted by HB 914 in 2005. It requires certain local government officials to disclose employment and business relationships with vendors who conduct business with local government entities. After the law was implemented, city officials and others realized that it created several unintended consequences. Consequently, the bill's author sought an opinion from the Texas Attorney General to clarify many provisions of Chapter 176. In response, the Attorney General's Office released Opinion Number GA-0446, which indicated that changes to the law would be desirable. In response, the legislature passed HB 1491 during the 2007 regular legislation session. The bill became effective on May 25, 2007.

Chapter 176 defines a "vendor" as any person who enters or seeks to enter into a contract with the city. The term also includes an agent of a vendor.

Local government officers subject to this law are a city council member, director, superintendent, administrator, president, city manager, or any other person who is designated as the executive officer of the local government entity. A municipal officer's family member would include the officer's spouse, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, or step-child.

The law applies to any written contract for the sale or purchase of real property, goods, or services. A contract for services would include one for skilled or unskilled labor, or for professional services.

A vendor is required to file a conflict of interest questionnaire if the vendor has a business relationship with the city and has:

1) an employment or other business relationship with an officer or an officer's family member that results in that person receiving taxable income that is more than $2,500 in the preceding twelve months; or

2) has given an officer or an officer's family member one or more gifts totaling more than $250 in the preceding twelve months.

A vendor is required to file a questionnaire not later than the seventh business day after the later of the following:

1) the date the vendor begins discussions or negotiations to enter into a contract with the city or submits an application or response to a bid proposal; or

2) the date the vendor becomes aware of a relationship or gives a gift to an officer or officer's family member.

Enclosed is a Conflict of Interest Questionnaire for vendor or other person doing business with local government entity.

Completed questionnaire forms are to be directed to the City Secretary at the address shown below.

**Laura Hallmark, City Secretary**
**City of Rowlett**
**4000 Main Street**
**Rowlett, Texas 75088**

Attachment 9 – Conflict of Interest Questionnaire (page 2)

# CONFLICT OF INTEREST QUESTIONNAIRE

**FORM CIQ**

**For vendor doing business with local governmental entity**

**This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

**OFFICE USE ONLY**

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

Attachment 9 – Conflict of Interest Questionnaire (page 3)

## CONFLICT OF INTEREST QUESTIONNAIRE
## For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

Attachment 10 – Certificate of Interested Parties

**ERTIFICATE OF INTERESTED PARTIES (FORM 1295)**

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity. The disclosure of interested parties will be submitted online via Form 1295 and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

**The Filing Process:**

1. Prior to award by the City of Rowlett Council, your firm will be required to log in to the Texas Ethics Commission https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and fill out the Electronic Filing Application.
2. Once submitted, the system will generate an electronic Form 1295 displaying a "Certificate number". Your firm must print, sign and notarize Form 1295.
3. Within **ten (10) business days** from notification of pending award by the City of Wylie Purchasing Agent, the completed Form 1295 **must** be submitted.
4. Your firm will need to repeat this process and obtain a separate Form 1295 each time you enter into a new contract, renew a contract or make modifications and/or amendments to a Tarrant County contract.

Instructions and information are available at https://www.ethics.state.tx.us/tec/1295-Info.htm or you may call The Texas Ethics Commission at 512-463-5800.

Attachment 10 – Certificate of Interested Parties (page 2)

(To be completed on Texas Ethics Commission website)

## CERTIFICATE OF INTERESTED PARTIES

**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY**

1 **Name of business entity filing form, and the city, state and country of the business entity's place of business.**

2 **Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

3 **Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

4

| Name of Interested Party | City, State, Country (place of business) | Nature of Interest (check applicable) | |
|---|---|---|---|
| | | Controlling | Intermediary |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

5 **Check only if there is NO Interested Party.** ☐

6 **AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

_____
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.

_____
Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath

**ADD ADDITIONAL PAGES AS NECESSARY**

# City of Rowlett

## Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

**AGENDA DATE:** 02/09/16 **AGENDA ITEM:** 3B

### TITLE
Consider action to approve a resolution authorizing the City Manager to negotiate and execute a contract for annual disaster debris monitoring and consulting services.

### STAFF REPRESENTATIVE
Jim Proce, Assistant City Manager
Kim Galvin, Director of Financial Services

### SUMMARY
This item will provide an annual contract for emergency debris monitoring and consulting services. The contract may be renewed each year for four additional years.

### BACKGROUND INFORMATION
This item will provide for the annual contract for emergency debris monitoring and consulting services. A request for proposals (RFP) was advertised on January 14 and 21, 2016. Proposals were initially due on January 29, 2016, with an extension to February 2, 2016. Staff will review the proposals and present them to Council on February 10, 2016.

### DISCUSSION
The objective of the request for proposals for debris monitoring and consulting services was to secure the service of a capable and experienced consultant who could efficiently monitor the removal of large volumes of disaster generated waste from a large area in a timely and cost-effective manner. This contract is intended to pre-position a contract, which will provide the City with a primary consultant that mobilizes to the City, in the event of a disaster, within 24 hours of receipt of a request for services from the City. This contract will remain in place for 12 months and will have provisions for four annual renewals, for a total of five years.

These services will be requested on an as needed basis, and an additional specific incident contract would be negotiated and executed at that time. In regards to the December 26, 2015, Tornado Event, we will request that Council authorize staff to proceed with a specific incident contract also on the agenda tonight.

The scope of work for this contract will include monitoring debris and waste removal and disposal operations performed through the City's Disaster Debris Removal, Reduction, Disposal, and Other Emergency Debris Related Contract. This contract includes debris relative to city streets, roads, and rights-of-way in both the incorporated and unincorporated areas of the City. It also includes public property and facilities as well as private property when necessary to protect the public (life safety) as specifically authorized by the Emergency Management personnel.

The proposals were received on February 2, 2016, and staff recommendations will be presented at the February 10, 2016 Council meeting. Proposals were evaluated using the following criteria:

| | |
|---|---|
| Consultant Experience | 40 points |
| Project Approach | 20 points |
| Capability, Capacity, and Availability | 20 points |
| Pricing | 20 points |
| Total | 100 points |

Because time is of the essence, staff presented the opportunity to award this contract at the earliest possible meeting, following all local and state purchasing guidelines. Contracts will be developed by the City Attorney in conjunction with FEMA legal consultants.

## FINANCIAL/BUDGET IMPLICATIONS

The financial implications of this item will be dependent upon the nature of the incident. Staff will include possible financial implications in all specific incident contracting requests.

## RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN ANNUAL CONTRACT FOR DISASTER DEBRIS MONITORING AND CONSULTING SERVICES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** it is necessary to provide for the monitoring of the removal of debris in the event a disaster occurs; and

**WHEREAS,** the City of Rowlett Purchasing Division opened competitive sealed proposals on February 2, 2016 for annual Debris Monitoring and Consulting Services; and

**WHEREAS,** this contract will be for a period of 12 months and may be renewed for four additional 12 month periods.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:**

**Section 1:** That the City Council of the City of Rowlett does hereby authorize the City Manager to negotiate and execute, subject to city attorney approval, an annual contract for Disaster Monitoring and Consulting Services.

**Section 2:** This resolution shall become effective immediately upon its passage.

## ATTACHMENT

Attachment 1 - Debris Monitoring RFP

# CITY OF ROWLETT, TEXAS

# REQUEST FOR PROPOSAL
# FOR
# DISASTER DEBRIS MONITORING AND CONSULTING SERVICES

## RFP # 2016-14

## Disaster Debris Monitoring and Consulting Services

# CITY OF ROWLETT
# PURCHASING DEPARTMENT
## REQUEST FOR PROPOSAL
## RFP NUMBER :2016-14
## RFP TITLE: DISASTER DEBRIS MONITORING & CONSULTING SERVICES
## DATE DUE: January 29, 2016 DUE NO LATER THAN 10:00 A.M., CST

RFP's will be opened at the City of Rowlett Annex Building located at 4004 Main Street, Rowlett, Texas 75088. (per Purchasing Dept. clock) on deadline due date. RFPs received later than the date and time above will not be considered.

Please return RFP **ORIGINAL AND FOUR (4) COPIES** in sealed envelope. Be sure that return envelope shows the RFP Number, Description and is marked "SEALED RFP".

**RETURN RFP TO**:
Purchasing Agent, **City of Rowlett, 4004 Main Street, Rowlett Texas 75088.**
For additional information or to request addendum contact: purchasing@rowlett.com.

**You must sign below in INK; failure to sign WILL disqualify the offer. All prices must be typewritten or written in ink.**
Company Name:

_____

Company Address:

_____

City, State, Zip Code:

_____

Telephone No._____

E-mail_____

Printed Name:_____Signature:_____

**Is Proposer's principal place of Business within City of Rowlett? Yes - No**
(Your signature attests to your offer to provide the goods and/or services in this RFP according to the published provision of this RFP. When an award letter is issued, this RFP becomes the contract. If a RFP required specific Contract is to be utilized in addition to this RFP, this signed RFP will become part of that contract. When an additional Contract is required a RFP award does not constitute a contract award and RFP / Contract is not valid until contract is awarded by City Council (when applicable) and Purchase Order is issued.

## CHECK LIST

Offeror's are asked to review the package to be sure that all applicable parts are included. If any portion of the package is missing, notify the Purchasing Department immediately. It is the Offeror's responsibility to be familiar with all the Requirements and Specifications. Be sure you understand the following before you return your bid packet.

____ **Cover Sheet**
Your company name, address and your signature (**IN INK**) should appear on this page.
____ **Instructions to Bidders**
You should be familiar with all of the Instructions to Bidders.
____ **Special Requirements**
This section provides information you must know in order to make an offer properly.
____ **Specifications / Scope of Work**
This section contains the detailed description of the product/service sought by the City.

**Attachment**s
____**Attachments A, B, C, D, E, F, G**
Be sure to complete these forms and return with packet.
_____**Bid Guaranty & All Bond Information & Requirements**
This applies only to certain bids/proposals. All public work contracts over $50,000 require a Payment Bond and over $100,000 must also have a Performance Bond in a form approved by the City. Please read carefully and fill out completely.
**Other - Final Reminders To double check before submitting BID/RFP/RFQ**
____ Is your bid sealed with bid #, title, Bidder Name, & return address on outside?
____ Did you complete, sign and submit page 1?
____ Did you provide the number of copies as required on the cover page?
____ Did you visit our website www.rowlett.com for any addendums?

**INSTRUCTIONS FOR SUBMITTING RFP'S**
These General Instructions apply to all offers made to City of Rowlett, Texas (herein after referred to as "City") by all prospective vendors (herein after referred to as "Proposers") on behalf of Solicitations including, but not limited to, Invitations to Bid, Request for Proposals, and Requests for Quotes. Carefully read all instructions, requirements and specifications. Fill out all forms properly and completely. Submit your bid with all appropriate supplements and/or samples. Prior to returning your sealed bid response / submittal, all Addendums - if issued - should be reviewed and downloaded by entering the City Purchasing web www.rowlett.com Addendums Column (updated Addendums). These Addendums must be signed and returned with your bid in order to avoid disqualification. Review this document in its entirety. Be sure your RFP is complete, and double check your Bid / RFP for accuracy. The City of Rowlett is an Equal Employment Opportunity Employer. Be sure your RFP is complete, and double check your RFP for accuracy.

**GOVERNING FORMS:** In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, the City of Rowlett's interpretation shall govern. Where substitutions are used, they must be of equivalent value or service, and specified by the Proposer as such, in the columns to the right on the "Minimum Specifications' Forms". The City's specifications may be exceeded and should be noted by the Vendor as such. Any RFP NOT MEETING the Minimum Requirements specified will be rejected.

**GOVERNING LAW:** This invitation to RFP is governed by the competitive RFP requirements of the Texas Local Government Code, as amended. Offerors shall comply with all applicable federal, state and local laws and regulations. Offeror is further advised that these

requirements shall be fully governed by the laws of the State of Texas and that City of Rowlett may request and rely on advice, decisions and opinions of the Attorney General of Texas and the City Attorney concerning any portion of these requirements. Questions requiring only clarification of instructions will be handled verbally. If any questions results in a change or addition to this RFP, the Change(s) and addition(s) will be forwarded to all vendors involved as quickly as possible in the form of a written addendum only. Verbal changes to Bids/RFP's/RFP' s must be backed-up by written addendum or written Q/A clarifications which would be posted on the City Purchasing Web site. Without written Addendum or written Q / A clarification, verbal changes to Bids / RFP / RFP will not apply. Sign the Vendor's Affidavit Notice, complete answers to Attachments A, B, C, D, E, F, G and return all with your RFP.

**CONFLICT OF INTEREST QUESTIONNAIRE:**
**For vendor or other person doing business with local governmental entity**
This questionnaire must be filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.
**By law this questionnaire must be filed with the records administrator (City Secretary's Office) of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed**. *See* Section 176.006, Local Government Code. A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor. The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.

**DISCLOSURE OF INTERESTS:**
**The following information applies ONLY to an awarded Bidder/Respondent**

**Certificate of Interested Parties (Form 1295)**
In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity. The disclosure of interested parties will be submitted online via Form 1295 and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

**The Filing Process:**

1. Prior to award by the City of Rowlett Council, your firm will be required to log in to the Texas Ethics Commission https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and fill out the Electronic Filing Application.
2. Once submitted, the system will generate an electronic Form 1295 displaying a "Certificate number". Your firm must print, sign and notarize Form 1295.
3. Within **ten (10) business days** from notification of pending award by the City of Rowlett Purchasing Agent, the completed Form 1295 **must** be submitted.
4. Your firm will need to repeat this process and obtain a separate Form 1295 each time you enter into a new contract, renew a contract or make modifications and/or amendments to a City of Rowlett contract.

Instructions and information are available at https://www.ethics.state.tx.us/tec/1295-Info.htm or you may call The Texas Ethics Commission at 512-463-5800.

BIDDERS / PROPOSERS MAY ATTEND PUBLICLY HELD CITY COUNCIL MEETING FOR AWARD OF THIS SOLICITATION. All responding bidders/ proposers are welcome to attend the publicly held City Council meeting relative to the outcome / award of this solicitation. Council Meeting agenda date and times may be obtained at the following web site: www.rowlett.com

OPEN RECORDS ACCESS TO ALL INFORMATION SUBMITTED. All information included will be open to the public, other proposers, media as per the Open Records Act and not be confidential in nature. If you deem any information as confidential, it should not be made part of your RFP package.

PLEASE NOTE CAREFULLY THIS IS THE ONLY APPROVED INSTRUCTIONS FOR USE ON YOUR RFP. ITEMS BELOW APPLY TO AND BECOME A PART OF TERMS AND CONDITIONS OF RFP. ANY EXCEPTIONS THERETO MUST BE IN WRITING.

1. **ORIGINAL AND FOUR (4) COPIES OF RFP MUST BE SUBMITTED** Each RFP shall be placed in a separate envelope completely and properly identified with the name and number of the RFP. RFP's must be in the Purchasing Office BEFORE the hour and date specified.
2. RFP's MUST give full firm name and address of the Proposer. Failure to manually sign RFP will disqualify it. Person signing RFP should show TITLE or AUTHORITY TO BIND THE FIRM IN A CONTRACT.
3. RFP's CANNOT be altered or amended after deadline time. Any alterations made before deadline time must be initiated by Proposer or his authorized agent. No RFP can be withdrawn after opening time without approval by the City Council based on a written acceptable reason.
4. The City is exempt from State Sales Tax and Federal Excise Tax. DO NOT INCLUDE TAX IN RFP. City of Rowlett claims exemption from all sales and/or use taxes under Texas Tax Code, Section 151.309, as amended. Texas Limited Sales Tax Exemption Certificates will be furnished upon written request to the City of Rowlett Purchasing Agent.
5. Written and verbal inquires pertaining to RFP's must give RFP Number and Company.
6. NO substitutions or cancellations permitted without written approval of Purchasing Agent.
7. The City reserves the right to accept or reject all or any part of any RFP, or waive minor technicalities. The City of Rowlett reserves the right to award by item category or by total RFP. Prices should be itemized. City also reserves the right to award either with or without trade-in, if applicable. The City of Rowlett retains the option to re-bid at any time if in its best interest and is not automatically bound to renewal or re-bid. The City reserves the right to add additional City Departments (at a later time during this bid award) as the need arises. The City also reserves the right to consider CO-OP Inter-local Agreements / pricing.
8. RFP unit price on quantity specified – extend and show total. In case or errors in extension, UNIT prices shall govern. RFP's subject to unlimited price increase will not be considered. ALL PRICING WILL REMAIN FIRM UNLESS THIS BID ALLOWS FOR OPEN MARKET PRICE INCREASES (AS SO SPECIFIED WITHIN). When inserting number of days or percentage % in Bid/RFP/RFP (ex: number of days to deliver or install or complete work, etc. or percentage over vendor's cost or percentage discount off list price) avoid using a range (ex: 30-90 days or 15% to 20 % cost plus) but use one entry for number of days or percentage. If a range is used the City will consider the higher number or worst case scenario from the City's standpoint in making RFP comparisons / tabulations.
9. This is a RFP inquiry only and implies no obligation on the part of City of Rowlett.
10. Acceptance of and final payment for the item will be contingent upon satisfactory performance of the product received by City of Rowlett.
11. Partial RFP's will not be accepted unless awarded by complete category or line item. **To be awarded by total RFP.**
12. It is expected that the Proposer will meet all state and federal safety standards and laws in effect on the date of the RFP for the item(s) being specified, and the particular use for which they are meant.
13. It is the responsibility of the bidder or proposer to ask any and all questions the bidder or proposer feels to be pertinent to the bid / proposal. City of Rowlett shall not be required to attempt to anticipate such questions for bidders or proposers. City of Rowlett will endeavor to respond promptly to all questions asked.

**PURCHASE ORDER AND DELIVERY:** The successful offeror shall not deliver products or provide services without a City of Rowlett Purchase Order, signed by an authorized agent of the City of Rowlett Purchasing Department.

**INVOICES AND PAYMENTS:** (a) Seller shall submit separate invoices, in duplicate, on each purchase order after completed. Invoices shall indicate the purchase order number, shall be itemized and transportation charges, if any, shall be listed separately. Payment shall not be due until the above instruments are submitted after delivery or services rendered. Suppliers should keep the Finance Department advised of any changes in your remittance addresses. (b) The City of Rowlett's obligation is payable only and solely from funds available for the purpose of the purchase. Lack of funds shall render this contract null and void to the extend funds are not available and any delivered buy unpaid for goods will be returned to Seller by the City of Rowlett. (c) Do not include Federal Excise, State or City Sales Tax. The City shall furnish tax exemption certificate if required.

Any invoice, which cannot be verified by the contract price and/or is otherwise incorrect, will be returned to the offeror for correction. Under term contracts, when multiple deliveries and/or services are required, the offeror may invoice following each delivery and the City will pay on invoice. Contracts providing for a monthly charge will be billed and paid on a monthly basis only. Prior to any and all payments made for good and/or services provided under this contract, the offeror should provide his Taxpayer Identification Number or social security number as applicable. This information must be on file with the City of Rowlett Finance Department. Failure to provide this information may result in a delay in payment and/or back-up withholding as required by the Internal Revenue Services.

Titles and Invoices: all titles and invoices will be in the name of **City of Rowlett, 4000 Main Street, Rowlett, Texas 75088** and signed ONLY by City personnel. All invoices shall include the RFP number and the purchase order number.

Please note that any payment due under this RFP award will be applied towards any debt, including but not limited to delinquent taxes that is owed to City of Rowlett.

**PAYMENT DISCOUNT**: Indicate the payment discount (s) available depending on the when invoices are paid. For example, 1/30 means a 1% discount if paid within 30 days, 2/15 means a 2% discount if paid within 15 days, etc. Payment in full will be made within thirty (30) days of delivery, inspection, and receipt of invoice. All costs quotations must include all the various features needed to satisfy the requirements. Note: No amounts will be paid for the items in this RFP in excess of the amounts quoted.

# REQUEST FOR QUALIFICATIONS
# RFP#2016-14
# DISASTER DEBRIS MONITORING AND CONSULTING SERVICES
# FOR
# CITY OF ROWLETT, TX

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## DISASTER DEBRIS MONITORING AND CONSULTING SERVICES (DEBRIS MONITORING)
## SECTION I

### PROJECT DESCRIPTION
### A. PURPOSE

This Request for Qualifications (RFP) invites submittals from experienced firms for the provision of Disaster Debris Monitoring and Consulting Services, services in City of Rowlett, Texas, immediately after a tornado, flooding event or other natural or man-made disaster. The objective of the RFP and subsequent contracting activity is to secure the services of a capable and experienced Consultant who is (1) capable of efficiently monitoring the removal of large volumes of disaster-generated waste from a large area in a timely and cost-effective manner. The City intends to enter into a pre-positioned contract with one (1) Primary Consultant who may utilize both local and non-local resources to provide services in the event of activation by the City following a tornado, flood or other natural or man-made disaster. The Consultant will be expected to have an initial management team mobilized to City of Rowlett within 24 hours of receipt of the Notice to Proceed and to have mobilized all appropriate equipment and personnel to the City of Rowlett area within 48 hours of receipt of the Notice to Proceed. The City reserves the right to enter into contracts with more than one Primary Consultant in the event that no one firm can provide all of the necessary services.
The period of the contract will be for a term of one (1) year or twelve (12) months and the option to extend for up to four (4) years (the actual term will be determined on the basis of the City's overall disaster recovery program development) with an annual recertification and price adjustment. The project is referred to as the Disaster Debris Monitoring Contract in the following sections of this RFP.

### B. PROJECT SUMMARY
#### 1. Introduction

The City of Rowlett ("City") is located approximately 20 miles northeast of Dallas on the shores of Lake Ray Hubbard. Once a small farming community, the City has increased in population over the past twelve years. The North Central Texas Council of Governments provided a 2011 estimated population of 56,310. The City is primarily residential but has seen growth in its commercial development over the past few years.

The City provides a full range of municipal services. These services include police and fire protection; the construction and maintenance of streets and infrastructure; parks and recreation; water and sewer; planning and zoning; economic development; and general administrative services.

The City of Rowlett has experienced a recent major storm event that generated very large volumes of debris and waste and prompted extensive pre-planning for recovery activities.

The Disaster Debris Monitoring Contract will encompass the incorporated areas of the City of Rowlett. City of Rowlett's disaster recovery planning includes considerations for removing and processing the volumes and types of debris and wastes expected to be generated by a major disaster such as a tornado, or other natural or man-made hazard that encompasses the procedures for disposing of that material. The planning approach is formulated in part on the concept of strategic pre-positioning of the agreements and resources necessary for timely, coordinated recovery operations, including removal of debris and wastes from public property and right-of-ways throughout the City using City owned and Consultant forces.

The City has identified the need for one or more Primary Consultants to assist City forces in completing debris management operations throughout the City. Primary Consultants will be selected for Debris Removal and Debris Hauling. For the purpose of Debris Monitoring, the Primary Consultant must have the capacity to manage a large workforce and to carry the expenses associated with a major recovery operation prior to the initial City payment and between subsequent payments, as well as the capacity to provide the necessary bonds and insurance. Each Consultant must also have: (1) an established management team, (2) an established network of resources to provide the necessary equipment and personnel, (3) comprehensive workforce management, operations, and safety plans, and (4) demonstrable experience in major disaster recovery cleanup projects. Although a single Primary Consultant is preferred, the City may at its sole discretion award multiple contracts if no single Consultant is capable of providing all of the necessary services.

The Contract(s) to be awarded for this project will be a combination of fixed fee and contingency contracts. The City anticipates a certain level of initial work to establish the procedures for integrating the work into the City’s continuing disaster recovery program planning, along with potential costs for maintaining the program over a period of time. The City anticipates that the bulk of the services to be provided, specially monitoring of debris/waste removal operations will be provided on an incident specific basis with anticipated costs identified by a joint City / Consultant team as part of the initial program planning. In addition, the Primary Consultant(s) selected for the project will be required to participate in certain City-directed disaster recovery training and/or exercises at no additional cost to the City.

**2. Planning Standard for Disaster Debris Monitoring and Consulting Services**

The City has selected a catastrophic tornado that impacts the entire City causing large amounts of vegetative and construction and demolition debris as its planning standard. The estimated debris volume is 5.0 million cubic yards. This is strictly a planning figure for estimating potential removal and disposal needs; it is not a fixed quantity for the purpose of contractual obligations. The actual volume of debris may be greater than or less than the planning volume, and probably will be considerably less. The City's goal is to complete the debris/waste removal and disposal process in 90 days. This assumes that the entire area of the City will be accessible within that period. Due to the potential for flooding, some areas might not be accessible for some time after a major natural disaster. The Consultant must be aware that it might not be possible to initiate operations in all parts of the City simultaneously immediately after a storm.

**3. Disaster Debris Monitoring Requirements**

Planning for post-disaster cleanup operations is a function of the City of Rowlett Office of Emergency Management in conjunction with City Departments / Precincts. The debris management operations will be carried out under the cognizance of the City of Rowlett Office of Emergency Management. The City will be pre-contracting with one primary Contractor for

debris removal operations Citywide. That contractor will also be responsible, under certain conditions, for removal of hazardous, and toxic / hazardous waste associated debris such as construction and demolition debris, vegetative debris and other disaster associated debris caused by the disaster. That contractor is responsible for: (1) clearing roadways, (2) removing debris and certain waste from roadways, public right-of-ways, and public property, (3) operating Temporary Debris Staging and Reduction Areas, (4) volumetric reduction of debris, and ultimate disposal of the debris and waste. The general concept of disaster debris/waste removal operations includes multiple, scheduled passes of each populated area and each right-of-way directed. This will allow citizens to return to their properties and bring materials to the right-of-ways as recovery progresses. The City will prescribe the specific procedures to be followed after ascertaining the scope and nature of the disaster's impacts. Curbside segregation of debris and disaster-generated or -related wastes will be an element of the City's disaster recovery program. The debris management Contractor will be required to aid in the segregation and waste stream management processes. Any hazardous materials and/or industrial wastes encountered by the debris removal Contractor will be set aside for collection and disposal by the Contractor's properly trained and equipped removal team. The City will pre-designate approximately Temporary Debris Staging and Reduction Sites (TDSR) for the sole purpose of the temporary staging and reduction of clean woody debris and construction and demolition materials. The City will also help to identify the public and private landfills that will be used for disposal of storm generated debris. The Primary Consultant will be expected to provide debris monitoring services at each TDSRS and landfill as well as in the field during clearing, loading and hauling operations. The Primary Consultant will be responsible for monitoring all of the Debris Removal / Hauling activities during the course of the recovery/cleanup period.

**4. Contract Activation**

The Primary Consultant holding the Disaster Debris Monitoring Contract will serve as a general Contractor for the purpose of the specified services, and will be able to use his/her own and Subcontractor resources to meet the obligations of the contract. The Consultant will be expected to use fully qualified and properly equipped local firms and personnel to the maximum extent practicable. When a major disaster occurs or is imminent, City of Rowlett will contact the firm(s) holding the Disaster Debris Monitoring Contract(s) to advise them of the City's intent to activate the contract. For a contract in excess of $100,000, a Performance Bond shall be executed in the amount of the contract upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. This bond shall be solely for the protection of City of Rowlett. For a contract in excess of $50,000, a Payment Bond shall be executed in the amount of the contract solely for the protection of all claimants supplying labor or furnishing the material used on this project. The cost for Bond premiums must be included in the Bid Price. ***Note: Payment and Performance Bonds must be issued by an insurance/surety company licensed and authorized by the Texas State Board of Insurance to do business in the State of Texas.***

Personnel and equipment must be in place, fully prepared for the specified services and able to begin operations within 48 hours of the Consultant's receipt of the Notice to Proceed.

# DISASTER DEBRIS MONITORING AND CONSULTING SERVICES (DEBRIS MONITORING) SECTION II

## SCOPE OF WORK

The following General Scope of Work is envisioned for the project and should be considered when responding to the RFP. Nothing in this description shall be construed to limiting the potential scope of work to this description or to requiring that this description be included in the final scope of work for the project. Nothing in the following General Scope of Work should be construed as limiting the types of work that a potential Consultant may address in a response to this Request for Qualifications. Responders should address all services which, on the basis of their experience, are deemed necessary to achieving the City's debris management goals.

## A. GENERAL SCOPE OF WORK – MONITORING

The Consultant shall provide all expertise, effort, personnel, materials, and equipment necessary for monitoring and documenting the removal and lawful disposal of debris and other wastes generated by natural or man-made disasters that impact City of Rowlett, Texas. Specifically, the Consultant will be responsible for monitoring debris and waste removal and disposal operations performed by the City's Debris Removal and Hauling operations relative to:

- City streets, roads and right-of-ways;
- Streets, roads and right-of-ways of all municipalities and communities, incorporated and unincorporated, and rural areas within the City, unless otherwise directed by the City of Rowlett Office of Emergency Management or City Designee;
- Public property and facilities;
- Any other public site as may be directed by the City; and
- Private property when necessary to protect the public (life safety) or to facilitate completion of required work, provided that entry onto private property is specifically authorized by the Office of Emergency Management in conjunction with City personnel.

Services shall be performed on an "as needed basis" when directed by the City of Rowlett Office of Emergency Management. The Office of Emergency Management will provide guidance and direction on priorities and specific needs for the monitoring operations. The Consultant, in concert with Emergency Management, shall determine the method and manner of monitoring the removal and disposal of debris that provide the greatest economy of operations and cost to the City. The Consultant shall then provide for the cost-effective and efficient monitoring of materials accumulated or deposited on public property, as described above and the removal and final disposal of those materials. The Consultant will be expected to provide all personnel, equipment, forms, record keeping materials, supplies and other resources necessary to carry out the specified services and to provide ongoing and periodic reports to the City for its use in providing documentation to State and Federal officials pursuant to Federal reimbursement of eligible recovery costs. The Consultant must be fully cognizant of all pertinent Federal (FEMA, U.S. Army Corps of Engineers, etc.) and State of Texas documentation requirements and procedures and be prepared to assist the City staff in compiling and managing information and data necessary for those purposes. Prior to initiating work under this project, the Consultant shall present to the City of Rowlett Office of Emergency Management or designee for review and discussion a General Operations Plan and sufficient supporting documentation to adequately describe all planned actions for monitoring the removal, handling and eventual disposal of disaster-generated debris and wastes. The Consultant shall agree to execute this plan, with all manners of contingencies recognized, upon being authorized by the City to begin work. When identifying resources to be made available under this contract, the Consultant must use a planning standard approach. Specifically, the Consultant shall identify the expected sources and quantities of debris and

other wastes that are expected to be encountered and the anticipated level of operational resources (personnel, equipment, TDSRS operations, etc.) that will be deployed by the Debris Management contractor. The Consultant must then identify sufficient monitoring resources (personnel, equipment, materials, etc.) to ensure the availability of personnel and equipment to initiate all required activities within 48 hours of being so directed. For this purpose, identification of Consultant/Sub-consultant(s) and a general equipment/personnel inventory will suffice. The Consultant will be responsible for coordinating operations in such a manner as to least interfere with the work of the Debris Removal and Hauling contractor, damage assessment teams, local utility company crews and other recovery operations forces. Such coordination shall be effected through communications with the City of Rowlett Office of Emergency Management, his/her authorized representatives, or other City of Rowlett designated personnel when so authorized by the City. To the extent authorized by the City of Rowlett Office of Emergency Management or designee, the Consultant shall coordinate monitoring operations directly with the Debris Removal and Hauling contractor when necessary to achieve effective and efficient integration of forces. The Consultant shall provide reports, summaries, and analyses of daily activities associated with the debris and waste removal and disposal operations in the form and frequency specified by the City of Rowlett Office of Emergency Management, upon issuance of the authorization to proceed. The Consultant shall be prepared to advise the City of Rowlett Office of Emergency Management and other local officials of the types, scopes, forms, and formats of data and information required by Federal and State agencies and shall provide all pertinent documentation in a manner that satisfies those agencies' requirements.

# DISASTER DEBRIS MONITORING AND CONSULTING SERVICES (DEBRIS MONITORING) SECTION III

## RFP RESPONSE REQUIREMENTS

QUALIFICATION CRITERIA AND INFORMATION REQUIRED:
CONSULTANTS INTERESTED IN PROVIDING DISASTER DEBRIS MONITORING AND CONSULTING SERVICES MUST SUBMIT Six (6) COPIES OF THEIR RESPONSE TO THIS RFP IN THE FOLLOWING FORMAT, UTILIZING NUMBERED TABS FOR EACH OF THE SECTIONS.

## 1. LETTER OF TRANSMITTAL AND AFFIDAVIT

Each proposal must be accompanied by a Letter of Transmittal signed by an authorized representative of the Submitter.
The letter must:
A. Identify the project by name as "Disaster Debris Monitoring and Consulting Services" and RFP
Number.
B. Include the following information:
1. Name of firm or individual
2. Permanent main officer address, telephone number and fax number
3. When organized
4. If it is a disadvantaged business enterprise, the nature of that classification
5. If a corporation, where incorporated
6. How many years the firm has been engaged in business under the present name
7. General types of work performed by the firm
8. Contracts currently on hand or in effect
9. The following questions and the firm's answers:
a. Have you ever failed to complete any work awarded to you? If so, explain.
b. Have you ever defaulted on a contract? If so, explain.
c. Will you, upon request provide a detailed financial statement or any other information required by City of Rowlett?
d. Will you submit updated resumes for all key personnel who might be assigned to this project if you are selected for the work?
e. Will you, upon request, furnish documentation to support the information in your response to the RFP?
C. Provide a synopsis of the Consultant's depth of knowledge of the project's scope and special requirements as the Consultant perceives them.
D. Be signed by an individual, identified by name and title, authorized to represent the Submitter in this matter.
E. Identify the names, titles, telephone, and fax numbers of individuals who are available to be contacted by the City of Rowlett Office of Emergency Management concerning the submittal and for additional information.

## 2. MANDATORY QUALIFICATION AND CONTRACTING CRITERIA.

Provide evidence and statements of compliance/intent in the form of written documentation that the Consultant is capable of entering into a contract with the City by satisfying the Mandatory Qualification and Contracting Requirements that follow:

### Section 1. Qualification Requirements:

A. Consultant must have specific experience providing the specified services following a natural disaster.
Provide a statement of compliance.
B. Consultant must not have been prohibited from doing business with any governmental entity for any reason within the last 10 years. Provide a statement of compliance.

C. Consultant must provide a Letter of Reference from the surety company that will issue the subsequent Performance and Payment Bond for the project, that states the number of years of satisfactory surety credit established by the Consultant, the range of individual job sizes previously bonded, and willingness to issue bonds on behalf of the Consultant for a contract amount no less than $5,000,000. Include the letter as an attachment.
D. Consultant must not be operating under Chapter 11 or any other financial restraints that would preclude his ability to enter into equipment leasing or rental arrangements. Provide a statement of compliance.

**Section 2. Contracting Requirements:**
A. Successful Consultant must, upon award of a contract, secure a Performance and Payment Bond valid for one year and automatically renewed annually for the full term of the contract. Provide a statement that Consultant is capable of securing the required bond.
B. For a contract in excess of $100,000, a Performance Bond shall be executed in the amount of the contract upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. This bond shall be solely for the protection of City of Rowlett. For a contract in excess of $25,000, a Payment Bond shall be executed in the amount of the contract solely for the protection of all claimants supplying labor or furnishing the material used on this project. The cost for Bond premiums must be included in the Bid Price. *Note: Payment and Performance Bonds must be issued by an insurance/surety company licensed and authorized by the Texas State Board of Insurance to do business in the State of Texas.*
C. Successful Consultant must perform as an independent contractor and, as such, must have and maintain complete control over all of its employees and operations. Provide a statement of intent.
D. Successful Consultant must not assign, sublet, or transfer its interest or obligations of this project. Provide a statement of intent.

**Section 3. Insurance Requirements:**
A. Consultant must provide proof of insurance to demonstrate compliance with the City's requirements specified in this package. Provide certification of insurance capacity.
B. Successful Consultant must not begin any work under the contract until he/she has obtained all required insurance and provided the City Contract Administrator with the related certificates and endorsements. Nor shall the Consultant allow any Subcontractor to commence work until all similar insurance required of the Subcontractor has been so obtained. The Consultant may provide insurance coverage for all his Subcontractors, at Consultant's cost. However, all Subcontractors must provide their own Workers' Compensation Insurance per State law. For the duration of the project, the Consultant must provide the insurance listed below and document required coverage with certificates of insurance. Provide statement of compliance.

**Section 4. Use of Subcontractors.**
A. Successful Consultant may use Subcontractors for this project. Consultant must list Subcontractors proposed for this project and their respective duties.
B. No Subcontractor may provide services unless the City consents. The Consultant shall be responsible for completing all contract work even if a Subcontractor has assumed responsibility to complete certain work. Also, the Consultant shall be responsible for the actions and performance of all Subcontractors. Furthermore, the Consultant agrees that any subcontract for this project will include the same mandatory insurance requirements in favor of the City as are specified in the City's contract with the Consultant, unless Consultant provides such coverage for his/her Subcontractors. However, all subcontractors must provide their own Workers' Compensation Insurance per State law. Subcontractor certificates of insurance and endorsements must be collected by the Consultant and made available for City Contract Administrator review upon request. Provide statement of compliance.

**3. PROJECT REQUIREMENTS.**
Provide detailed information on Consultant's ability to satisfy the project requirements.

**Section 1. Experience:**
A. Describe Consultant's overall experience performing large-scale debris removal monitoring and work similar to this project.
B. Describe Consultant's experience during the last 5 years performing large-scale projects or other work similar to this project. The Consultant must identify similar projects that he/she successfully completed, including date and location, nature of work, value of the contract, and the name and telephone
number of the customer's point of contact for reference purposes.
C. Describe Consultant's most recent experience in mobilizing large workforces under routine and emergency conditions.
D. If the Consultant intends to use Subcontractors to assist in the work, the Consultant shall also identify similar work successfully completed by the Subcontractors.
E. Document Consultant’s ability to provide appropriate training for personnel that will be employed for work under this project.

**Section 2. General Project Requirements**
Submittals must acknowledge these basic requirements and base responses to this RFP on these general specifications.
A. City of Rowlett intends to engage a Consultant to assist the City with monitoring the work of the Debris Removal and Hauling Contractor in the field, at Temporary Debris Staging and Reduction Sites (TDSRS), and at disposal sites. Contract monitors are necessary to assure that the terms of the debris and waste management contracts are satisfied by the Debris Removal and Hauling contractor and his subcontractors during the removal and hauling of debris/waste from public access roads, rights-of-way and public property; during handling and processing at TDSRSs; and, at disposal sites. Monitors will be assigned to debris loading areas, TDSRSs, and disposal sites. In addition, roving monitors will be assigned to help verify that the City’s debris management plan and contracts are effectively and efficiently executed.
B. City of Rowlett will assign a Debris Manager (DM) and will establish a Contract Management Center or other operational group setting to provide overall coordination of recovery operations. The Debris Manager will be the primary point of contact for the Consultant and will resolve contract administration issues and disputes. The Monitoring Services Consultant is to provide expertise for and assistance to the City’s Debris Manager and also assists City staff at the Contract Management Center in overseeing and documenting the debris management operations. Services are to be provided in these general task areas, but are not necessarily limited to these task areas:
1. Development of a Monitoring Plan
2. Truck and trailer measurement, certification, marking and tracking
3. Equipment registry and tracking
4. Debris/waste management workforce registry and tracking
5. Field monitoring
6. Debris management tracking
7. Trip ticket management
8. Data administration
9. Invoice reconciliation
10. QA/QC program management
11. Complaint resolution
12. Detailed daily reports on the status, effectiveness, volumes handled, and other pertinent data for all debris operations

13. All monitoring workforce requirements, including but not limited to staffing, training, equipment, safety training and enforcement, mobilization, transportation and logistic support
14. Site Safety Plan preparation and maintenance
15. Compliance with all applicable Federal, State and local rules relative to the monitoring operations
16. Preparation of documentation to support Federal cost reimbursement processes.
17. Related activities for effective and efficient debris management operations deemed necessary or desirable on the basis of the Consultant's experience when authorized by the City Debris Manager.

**Section 3. Preliminary Specifications**
Preliminary Specifications for debris monitoring operations have been developed for this project and are included in Section VI. The City intends to use these Preliminary Specifications as the basis for negotiating a contract for consultant services for this project. The Preliminary Specifications are provided for information only. Submitters are not required to address the Preliminary Specifications in their submittals, but may do so at their option in the appropriate sections of their submittals.

**Section 4. Project Approach:**
A. Provide a synopsis of the Consultant's depth of knowledge of the project's scope and special requirements as the Consultant perceives them.
B. Provide a general description of how the Consultant's intended approach to the work. That description must include a statement of the requirements as Consultant perceives them, resource mobilization strategy, and general field operations strategy. Exceptions to the project work as described by the City must fully be explained.
C. Provide a brief summary of the Project Work Plans (Field Operations, Communications, Work Site Safety, etc.) that will be developed for the project.
D. Describe frequency and nature of meetings anticipated or deemed necessary to address project requirements.

**4. WORKFORCE INFORMATION**
A. Submitter's are encouraged to review City of Rowlett's pre-positioned Debris/Removal and Hauling RFP to ascertain the anticipated scope of work in order to estimate the nature and size of the project workforce that will be required.
B. Submittals must acknowledge these workforce planning standards and must demonstrate the Submitter's ability to satisfy these requirements:
1. Within 24 hours of notification, the Consultant shall provide a sufficient number of professionals and qualified personnel to meet all contract requirements and monitoring needs associated with this project, including, as a minimum forces necessary to:

a. Establish and staff a monitoring workforce management center in the vicinity of a City of Rowlett government office designated by the City at the time of notification
b. Implement a debris/waste contractor equipment and workforce registration and tracking program

2. Within 48 hours of notification, the Consultant shall provide a sufficient number of professionals and qualified personnel to meet all contract requirements and monitoring needs associated with this project, including, as a minimum forces necessary to:

a. Monitor a minimum of 30 debris loading sites
b. Monitor operations at Temporary Debris Staging/Storage and Reduction Sites (TDSRS)
c. Monitor dumping operations at disposal sites
d. Provide roving debris monitors to evaluate the effectiveness of debris, hazardous material and other disaster-related waste removal

3. All personnel shall be a minimum of 18 years of age, be fluent in the English language and have a valid driver's license issued in the United States. The Consultant will be required to

increase its staffing from this point depending on the scope of the debris/waste removal operations, to be consistent with the number of field operations teams deployed by the debris Consultants. At the discretion of the Debris Manager, the Consultant may be required to replace any debris monitor for cause. As part of this proposal, the Consultant must indicate and explain how he/she will ensure the availability of a sufficient number of personnel to support this scope of work and also how additional personnel will be engaged should the scope of operations require additional monitors to meet City needs.

4. The Consultant shall provide all debris monitors with appropriate personal protective equipment to include, but not be limited to, eye protection, hearing protection, safety shoes, safety vests, hard hats, and wet weather clothing, to comply with all applicable Federal, state and local occupational health and safety requirements.

5. The Consultant shall provide debris monitors with necessary transportation, all communications equipment (cell phone, satellite phones, radio, etc.) necessary to remain in contact with their supervisors or other key personnel who in turn are in direct contact with the Contract Management Center. The Consultant shall also provide all required logistical support for the personnel he/she engages, including lodging, meals and other necessary support services. The Consultant's supervisory personnel will be wholly responsible for support the Consultants operations and resolving conflicts within the scope of or in any way associated with those operations.

6. The Consultant shall provide temporary office space and other facilities as necessary to carry out the scope of the work and to support the Consultant's workforce.

7. Upon activation of the contract, the Consultant shall immediately contact the City's Debris Manager to coordinate workforce assignments. It is anticipated that the City's debris management Consultant will establish debris management zones within the City and the Contract will be expected to assign monitors in a manner consistent with the debris removal operations.

C. Submitter's must provide a detailed description of the resources (workforce and equipment) available to be employed on the project, including:

1. Summary of the Submitter's personnel that will be dedicated to the project, including:
    a. The number of management employees that will be assigned to the contract, their job titles, and responsibilities.
    b. The names of and resumes for all members of the Project Management Team.
    c. The name of the Submitter's claims representative.

2. List of the Subcontractors with whom the submitter has agreements for post-disaster support.

**5. CAPABILITY, CAPACITY, AND AVAILABILITY.**

A. Describe how Consultant intends to maintain its capability, capacity, and availability of forces to respond if activated by the City following a tornado/flood/or other natural hazard or man-made disaster. Knowing that the Consultant may have similar contracts in other geographic areas, describe how Consultant will satisfy all contractual obligations for City of Rowlett simultaneously with other obligations.

- Provide detailed resumes for key managers with a reference number for each. Identify all participants as local or non-local and provide percentage of participation in each previous project listed above.
- Identify the engineering and technical staffs who will be working on each project and include responsibility (project engineer, consultant, etc.) and designation of primary contact for City staff.

B. Describe how Consultant intends to complete the project in the timeframe desired by the City. Comment on how Consultant's ability to perform will be affected by a smaller and/or larger disaster event generating significantly smaller or larger volumes of hazardous wastes for removal and disposal.

**6. DESCRIPTION OF MONITORING SERVICES**

A. Submitter must provide a detailed description of the services that Submitter will perform upon issuance of each Notice to Proceed. The description of services shall address all elements of the General Scope of Work described in Section II of this RFP. In addition, the Submitter may include other services which, in the Submitter's experience, are necessary or desirable in carrying out the intent of the proposed Contract and/or achieving the City's stated goals with respect to debris management operations following a disaster.

B. The description of services must, at a minimum, include the following:

1. A detailed description of the method and manner of monitoring the removal and lawful disposal of disaster-generated debris to ensure that the debris removal hauling contractors are performing in accordance with the provisions of the contracts, satisfying applicable local, State and Federal statutory and regulatory requirements and adhering to FEMA guidelines that govern the eligibility of those recovery services for Federal reimbursement of the City's costs. The information provided should demonstrate how the Submitter will satisfy the requirements of the project, including:

a. Scope and sequence of monitoring operations to be performed

b. Manner in which volumes of debris/waste will be estimated in the field, at TDSRS locations, and at landfills or disposal sites

c. Methodology for monitoring the collection, tracking, and disposal of disaster related materials

d. Description of the documentation, accounting, and financial processes, procedures and controls that will be utilized in managing, monitoring and accounting for the resources to be employed

e. Organization Chart that identifies the assignment of specific responsibilities to key personnel to ensure that all management functions are identified and an organization developed to insure that all project requirements are satisfied

f. Furnishing and operating an automated/electronic (paperless) debris tracking system.

2. A summary of the Submitter's project approach and proposed operating procedures relative to these key elements of the project, including at a minimum:

a. Debris removal and hauling contractor workforce and equipment registration and tracking

b. Equipment identification in the field

c. Truck certification, registration, and marking

d. Debris Removal and Hauling Contractor workforce tracking

e. Document management and controls, including Load Tickets and reports

f. Data collection

g. Data assimilation/integration

h. Employment of GIS mapping, use of GPS, and other means of documenting

i. Communications with Debris Removal and Hauling Contractor workforce

j. Assembling the data necessary to prepare the Status Reports described below

k. Database management

l. Quality Assurance (QA) for Loading Site Monitors

m. Quality Assurance for TDSRS Operations Monitors

n. Quality Assurance for Landfill Operations Monitors

o. Complaint tracking and resolution

p. Monitoring workforce health and safety training and compliance monitoring

3. A summary of Submitter's capability to manage data collection and provide status reports and documentation required for the project, including:

a. Morning summaries from the Debris Removal and Hauling Contractor addressing:

- Number of crews and types and quantities equipment to be deployed that day
- Areas where crews and equipment will be assigned
- Status of TDSRS operations, including volumetric reduction methods to be employed
- Changes in operational status or problems encountered since the previous report

- Numbers of monitoring crews to be dispatched and locations where crews will be assigned

b. Evening summaries addressing:

- Overall status of Debris removal operations
- Number of crews and types and quantities of equipment employed that day
- Issues or problems affecting field operations
- Complaint referrals
- Damage referrals or updates
- Monitoring issues
- TDSRS issues
- Overall status of geographic area
- Numbers of monitoring crews deployed and locations where crews were assigned

c. Daily reports that address the types and volumes of debris/waste collected, transported, processed, delivered to disposal sites, etc., on the previous day, broken down by:

- Contractor
- Other forces
- TDSRS
- Community drop off site
- Disposal site
- Locations where debris/waste was collected (or 100% cleared)
- GIS based maps that indicate the overall status of debris/waste removal operations

d. Daily reconciliation of Debris Removal and Hauling Contractor's time and materials summaries, Load Ticket submittals, and invoices, including:

- Review invoice and backup with Debris Removal and Hauling Contractor
- Reconcile invoice with database records
- Provide reviewed and approved invoice to City for payment

**7. AUTOMATED DEBRIS TRACKING AND REPORTING SYSTEMS**

Per FEMA policy document 327 Public Assistance Debris Monitoring Guide, *Recent advances in automated debris management tracking systems have provided real – time and automated tracking and reporting…FEMA embraces technological advancements and recognizes the potential benefits of these automated systems.*

Proposer must demonstrate ownership or licensing of a proprietary automated debris tracking and reporting system. Proposer must demonstrate in its proposal that it maintains on hand sufficient automated debris tracking equipment dedicated to meet the needs of the City. If Proposer is licensing such technology, Proposer must provide a written letter from licensor acknowledging licensor has a minimum of 100 devices on hand for

Proposer's use in the event of a disaster and such devices will be made available for the City's recovery efforts. Proposer shall include graphic illustration and explanation of system capability and be prepared to demonstrate system functionality if requested at the time of proposal evaluation and/or interview. Proposer shall be required to submit hourly rates (in fee schedule) for operations with and without use of the automated system. Proposer's inability to provide **automated system** in a timely manner shall be grounds for

default and the calling of performance bond.

**8. EXCEPTIONS TO RFP REQUIREMENTS**

Submitter's must fully explain any exceptions taken to the requirements of this RFP, including why any of the specified information was not included or why such information should not be considered in selecting a Consultant for the project.

**9. OPTIONAL ADDITIONAL INFORMATION**

A. Submitter's may provide relevant information in addition to the material and information specified in this RFP, to the extent that such information bears directly on the subject of this RFP.

B. Submitter's may not include information on pricing or cost estimates for services addressed in their responses to this RFP.

**10. Pricing Structure for Debris Monitoring Activities**

| Description | UOM | Price |
|---|---|---|
| **Project Manager** | Hourly Rate | |
| **Operations Manager** | Hourly Rate | |
| **Scheduler** | Hourly Rate | |
| **Expediter** | Hourly Rate | |
| **GIS Analyst** | Hourly Rate | |
| **Field Supervisors** | Hourly Rate | |
| **Debris Site / Tower Monitor** | Hourly Rate | |
| **Environmental Specialist** | Hourly Rate | |
| **Project Inspector (Citizen Drop-Off Monitors)** | Hourly Rate | |
| **Field Coordinator (Crew Monitor)** | Hourly Rate | |
| **Load Ticket Data Entry Clerks (QS/QC)** | Hourly Rate | |
| **Billing / Invoice Analyst** | Hourly Rate | |
| **Project Coordinator** | Hourly Rate | |
| **Residential Monitors** | Hourly Rate | |
| **Automated Ticketing Specialist** | Hourly Rate | |
| **Aerial Photographer** | Hourly Rate | |
| **Other Required Positions:**<br><br>**May Use Separate Sheet** | Hourly Rate | |
| **Other Fees (i.e. Bonds / Insurance)**<br><br>**May Use Separate Sheet** | Hourly Rate | |

**DISASTER DEBRIS MONITORING AND CONSULTING SERVICES**
**(DEBRIS MONITORING)**
**SECTION IV**

**EVALUATION OF RESPONSES**
**A. EVALUATION PROCESS**
Consultants will be evaluated for this project solely on the basis of the information submitted in response to the Request for Qualifications. The City will use a two-step evaluation process to identify the Best Qualified responder.
1. Step I. Submitters must demonstrate that they satisfy the mandatory qualification and contracting criteria and project requirements by submitting the information specified in Section III of this RFP. All submittals will be screened for compliance with the mandatory qualification elements, such as the required statements of compliance. Those that satisfactorily complete that screening process will proceed to Step II.
2. Step II. Submitters will be evaluated on the basis of the technical and project performance information they submitted. Step II will result in point awards in the following categories. The point values shown are the maximums associated with each category:

| |
|---|
| **Consultant Experience 40 points** |
| **Project Approach 20 points** |
| **Capability, Capacity and Availability 20 points** |
| **Pricing 20 points** |
| **TOTAL 100 POINTS** |

3. The total points assigned for each proposal will be the basis for identifying and selecting the best qualified submitter.
4. Submission of a response to this RFP implies Submitter's acceptance of the evaluation technique and that subjective judgment must be made by City of Rowlett during the assigning of points.
5. The City reserves the right to deny qualification to any Consultant that, in the opinion of the City, does not satisfy the Mandatory Pre-Qualification Criteria or is not capable of satisfying the Project Requirements. The City may, at its own discretion, waive defects, irregularities, or informalities in the pre-qualification process or in any response to the process that, in the City Contract Administrator's opinion, seems most advantageous to the City and in the best interest of the public.

**B. GENERAL PROVISIONS**
1. Submitter's may request additional information on the project for the purpose of fully understanding the City's disaster recovery preparedness program and the obligations of the successful Consultant. Such requests must be submitted in writing or by facsimile transmission to:

Vicki Alfaro
City of Rowlett Purchasing Department
4004 Main Street
Rowlett, Texas 75088
purchasing@rowlett.com
972-412-6198

All questions must be received in writing no later than 7 calendar days prior to the submission deadline specified for submittal of responses to the RFP. Any information given to one Submitter will be furnished to all prospective Consultants as an addendum to the RFP if the City determines that such information is necessary for Consultants to submit proposals or that the lack of such information would be unfairly prejudicial to uninformed Consultants.

2. The Project Award Schedule, Section V, stipulates the anticipated timeframe for the RFP process and subsequent contracting action. Inclusion of that schedule does not commit the City to selection of a Consultant or award of a contract by any specific date.
3. The City reserves the right to extend the proposal submission deadline, reject all submittals, reissue the RFP package, or cancel the RFP process at any time.
4. In accordance with the Texas Local Government Code, responses to this RFP will be opened in a manner that avoids disclosure of the contents to competing submitters and keeps the submittals secret during the qualification process. All submittals will be open for public inspection after a contract is awarded, but trade secrets and confidential information in the submittals are not open for public inspection. It is specifically provided, however, that each Submitter must identify any information contained in the submittal that the Submitter asserts is either a trade secret or confidential information. This material must be identified conspicuously by marking each page containing this information. In the event such material is not conspicuously identified, then by submitting a response the Submitter agrees that such material will be considered public information.

# DISASTER DEBRIS MONITORING AND CONSULTING SERVICES
# (DEBRIS MONITORING)
# SECTION V

## ANTICIPATED PROJECT SCHEDULE

Issue Request for Qualifications: January 14, 2016
Deadline for Questions: 5:00 P.M., January 22, 2016
Due Date for RFP Consultant Responses: 10:00 A.M., January 29, 2016
Complete Evaluation Process February 1, 2016
City Council Approval: February 2, 2016

**DISASTER DEBRIS MONITORING AND CONSULTING SERVICES**
**(DEBRIS MONITORING)**
**Section VI**

## PRELIMINARY SPECIFICATIONS

### 1. GENERAL

The following preliminary specifications have been developed by City of Rowlett for monitoring of disaster related debris and waste management operations carried out by the City's designated Debris Removal and Hauling Contractor. These Preliminary Specifications will be used in negotiating final specifications for the project once a Consultant has been selected.

### 2. LOADING SITE MONITORING SERVICES

Monitors will be assigned in accordance with the Consultant's Monitoring Plan and shall be responsible for carrying all provisions of this contract without specific additional direction from City of Rowlett. The following minimum conditions apply:

2.1 Consultant shall, within 48 hours, be prepared to provide qualified on site personnel to monitor debris removal operations at debris loading sites located throughout the City of Rowlett. Additional sites may be added as debris removal efforts increase. Each loading site will operate, at a minimum, approximately 12 -14 hours per day, 7 days per week. Exact number and location of loading sites will be determined by Debris Manager in coordination with the debris removal Contractor.

The Consultant will have Loading Site Monitors stationed at each loading site operated by the debris removal Contractor and coordinated with the Debris Management Center the day before beginning the work. The Consultant must be prepared to provide a minimum of two Loading Site Monitors to be stationed at each loading site. Each truck driver will be given a load ticket that validates where the material originated and that it is eligible for pickup. Load tickets will be issued in accordance with established procedures and as a minimum must contain either a street address or the nearest intersection or Global Position Satellite (GPS) location to be valid. The volume of debris hauled will be estimated at the TDSRS by the Disposal Site Monitor. Load Tickets will be provided by the Consultant. Each monitor will be fully accountable for all Load Tickets issued to him/her.

2.2 Consultant shall provide all management, supervision, labor, transportation, mobile communications equipment, all safety equipment, digital cameras, video cameras, and other equipment necessary to initiate debris load tickets to document the removal of eligible debris from public access roadways, public rights-of-way, and public property within City of Rowlett.

2.3 Consultant must be prepared to provide Loading Site Monitors per site per day at a minimum of a 12-14 hours shift. Consultant must provide personnel with transportation to and from the loading site(s), mobile communications equipment necessary to remain in contact with dispatch and supervisor(s) at all times, and all logistic support.

2.4 All Loading Site Monitors must speak English, be a minimum of 18 years of age, and have a valid driver's license issued in the United States.

2.5 All Loading Site Monitors must have experience in at least one of the following:

- Entry level engineer
- Solid waste site operations
- Construction inspector
- Land clearing operations
- Entry level surveyor
- Solid waste collections
- Previous similar monitoring or inspection experience

2.6 Supervisors and all identified Loading Site Monitors must attend a ½-day debris monitor training session to be conducted at a location specified by the Debris Manager before the start of the first shift. Training will be the responsibility of the Consultant and must be approved by the City.

2.7 Monitors must be capable of working in an outside environment and be able to climb a staircase ladder of 10 feet high.

### 3. TDSRS / DISPOSAL SITE MONITORING SERVICES

Monitors will be assigned in accordance with the Consultant's Monitoring Plan and shall be responsible for carrying all provisions of this contract without specific additional direction from City of Rowlett. The following minimum conditions apply:

3.1 The Disposal Site Monitors is to complete the load ticket and estimate volumes that have been transported to TDSRSs or to landfills or other disposal sites for processing, temporary staging/storage, volumetric reduction, recycling, or disposal.

3.2 Consultant shall provide a minimum of two Disposal Site Monitors per TDSRS or disposal site per day for a minimum of a 12-14 hour shift. In the event that 24-hour operations are authorized, Consultant shall provide monitors for 24-hour operations, with no person being assigned to monitoring duties for more than 12 hours in any 24-hour period.
3.3 Consultant shall provide Disposal Site Monitors with transportation to and from the TDSRS and/or landfill sites and mobile communications equipment necessary to remain in contact with dispatch and supervisor(s) at all times, logistic support, and all safety equipment, digital cameras, video cameras, and other equipment necessary to safely perform the site monitoring functions.
3.4 Monitors must speak English, be capable of working in an outside environment, and be able to climb a staircase ladder 10 feet high.
3.5 Monitors must be a minimum of 18 years of age, and have a valid driver's license issued in the United States.
3.6 Monitors must have experience in at least one of the following job categories:

- Entry-level engineer
- Construction inspector
- Entry level surveyor
- Solid waste site operations
- Land clearing operations
- Solid waste collections
- Previous similar monitoring or inspection experience

3.7 Supervisors and all identified Disposal Site Monitors must attend a ½-day debris monitor training session to be conducted at a location specified by the Debris Manager before the start of the first shift. Training will be the responsibility of the Consultant and must be approved by the City.

**4. ROVING DEBRIS MONITOR SERVICES**

Monitors will be assigned in accordance with the Consultant's Monitoring Plan and shall be responsible for carrying all provisions of this contract without specific additional direction from City of Rowlett. The following minimum conditions apply:
4.1 The function of the Roving Debris Monitors is to verify that:
a. All eligible debris is being removed from designated public rights-of-way and public property within designated debris zones in City of Rowlett.
b. Ineligible debris is not being picked up.
c. Debris Removal and Hauling contractors are performing their assigned work in a manner consistent with the terms of their Agreement with the City.
4.2 Consultant shall provide at least one Roving Debris Monitor for each debris pickup zone to monitor and verify eligible debris removal from designated public access roads within the debris pickup zone. The Roving Debris Monitor(s) must be prepared to operate minimum of 12 to 14 hours per day, 7 days per week, consistent with the City's established work schedule for the debris management contractor/consultant.
4.3 Consultant must provide Roving Debris Monitors with transportation, mobile communications equipment, all safety equipment, digital cameras, video cameras, and other equipment necessary to perform the roving debris monitoring functions.
4.4 All Roving Debris Monitors must speak English, be a minimum of 18 years of age, and have a valid driver's license issued in the United States.
4.5 All monitors must have experience in at least one of the following:

- Entry level engineer
- Construction inspector
- Entry level surveyor
- Solid waste site operations
- Land clearing operations
- Solid waste collections
- Previous similar monitoring or inspection experience

4.6 Supervisors and all identified Roving Debris Monitors must attend a ½-day debris monitor training session to be conducted at a location specified by the Debris Manager before the start of the first shift. Training will be the responsibility of the Consultant and approved by the City.
4.7 Consultant shall provide all management, supervision, labor, transportation, and equipment necessary to monitor the operations of the debris removal and disposal Contractor.
4.8 Roving Debris Monitors must be capable of working in an outside environment and be able to climb a staircase ladder of 10 feet high.

**5. DEBRIS MANAGEMENT CONSULTING SERVICES**

5.1 The Consultant shall provide an experienced professional (Consultant) to assist the City in overseeing the debris management operations, including but not limited to clearing, loading, hauling, reduction, TDSRS/landfill operations, and other related activities. The Consultant must have broad debris removal operations management experience, including experience with debris removal operations, oversight of temporary debris storage and reduction sites, debris recycling and disposal. Required experience includes in-depth working knowledge of recovery operations, U.S. Army Corps of Engineers and similar debris management guidelines, and FEMA eligibility and reimbursement guidelines.

5.2 The Consultant will work directly with the City's Debris Manager or as otherwise directed by that official. The Consultant shall perform work as assigned which may include but not be limited to review of debris management plans and procedures, drafting task orders, work plans and reports, audit of debris management Consultant activities, operations, develop information for public dissemination on debris removal, reduction and disposal, and other duties as assigned.

5.3 The Consultant shall be available on site at the Debris Management Center for a minimum of two weeks following mobilization. The Debris Manager will establish the service requirements and length of time those services are needed based on needs of the City.

**6. OPERATIONAL REQUIREMENTS**

6.1 The Consultant will oversee documentation of the equipment and other resources provided by the City's debris management Consultant prior to the clearing, removal or hauling of any debris. At a minimum, the Consultant shall provide all necessary personnel and equipment to:

- Assign a unique number to each truck, trailer or other piece of equipment
- Photograph each piece of equipment
- Accurately measure the inside of each truck/trailer load bed and calculate its full load capacity
- Identify the owner/operator of the equipment
- Ensure that each piece of equipment is clearly labeled on both sides with: the name of the primary Consultant and, if appropriate, the subcontractor; the owner or /operator, as appropriate;
- the equipment number assigned; and, for trucks and trailers, the full load capacity as calculated
- Document all results in a searchable digital data base
- Provide for continuous monitoring and updating as equipment is placed into or removed from service
- Provide daily reports to the City Debris Manager on the types and numbers of equipment in use

6.2 The Consultant will assist the City in managing a Load Ticket Program to document the volume of debris loaded and transported to a TDSRS or landfill site. Each load of eligible debris shall be tracked using a 6-part load ticket to be provided by the Debris Monitoring Consultant (industry standard)

6.3 Operational Requirements of Roving Debris Monitor(s)

- The Roving Debris Monitors will provide general oversight of debris management removal and disposal operations by the City's debris management Consultant.
- The Roving Debris Monitors will be the "eyes and ears" in the field for the Debris Manager.
- Therefore, their observations and reports must be backed up with photographs and video wherever necessary to demonstrate the Consultant's performance.
- The Roving Debris Monitors are expected to make multiple visits to all loading sites and
- TDSRS/landfill sites on a continuing although random basis.

**7. REPORTING**

7.1 The Loading Site Monitors shall also maintain a log that contains the following information:

a. Debris loading site location
b. Loading Site Monitors' Name
c. Supervisor's Name
d. Number of Load Tickets issued during the shift
e. Starting load ticket number ___
f. Ending load ticket number___.
g. Any problems encountered or anticipated

Each Loading Site Monitor shall submit his/her copies of the load tickets and the load ticket log to the designated supervisor at the end of each shift. The Consultant's supervisor shall ensure that the load tickets and log are submitted to the Contract Management Center not later than 9 a.m. the following day along with a summary report that describes the nature of the work

completed on the previous day and the status of debris management operations. The format and content of the daily report shall be as specified by the City's Debris Manager.

7.2 Each Disposal Site Monitor will maintain a log that contains the following information:

a. TDSRS or landfill site location
b. Debris Management Site Monitors' Name
c. Supervisor's Name
d. Truck/trailer number and volume of debris hauled into the site
e. Cumulative total of debris delivered at the site during the shift
f. Any problems encountered or anticipated

Each Disposal Site Monitor will turn in his/her copies of the load tickets and the load ticket log to the designated supervisor at the end of each shift. The Consultant's supervisor will ensure that the load tickets and log are submitted to the Contract Management Center not later than 9 a.m. the following day along with a summary report that describes the nature of the work completed on the previous day and the status of debris management operations. The format and content of the daily
report shall be as specified by the City's Debris Manager.

7.3 Each Roving Debris Monitor(s) will be responsible for providing a detailed report to the designated supervisor at the end of each shift. The Roving Debris Monitor(s) will report any serious or safety related discrepancies observed to their supervisor. The supervisor shall keep Debris Manager informed of situations that impact the execution of the debris removal contract.

7.4 The supervisor will collect all written reports and submit them to the Debris Manager by 9:00 a.m. the following day along with a detailed summary report of the previous day's operations. The format and content of the report will be as specified by the City's Debris Manager.

**8. SAFETY**

8.1 The Consultant shall follow and adhere to all appropriate Federal, state and local occupational health and safe requirements and guidelines.

8.2. The Consultant shall prepare the appropriate Site/Workplace Safety Plans required by current OSHA, Texas or other applicable agency rules, hold appropriate safety training sessions for assigned monitor workforces, and ensure that all personnel engaged in work under the agreement observe the specified safety procedures.

8.3 All Consultant personnel shall properly wear and maintain all appropriate safety equipment whenever engaged in work under the monitoring agreement. The following are mandatory: hardhat, reflective vest, safety shoes, long pants, appropriate cold and rainy weather clothing, eye and hearing protection.

8.4 Safety monitoring of the Debris Monitoring Tower should include assurance to the City that all FEMA regulations are met.

**9. OTHER CONSIDERATIONS**

9.1 The Consultant shall supervise and direct the work, using qualified labor and proper equipment for all tasks. Safety of the Consultant's personnel and equipment is the responsibility of the Consultant. Additionally, the Consultant shall pay for all materials, personnel, taxes, and fees necessary to perform under the terms of this contract.

9.2 The Consultant must be duly licensed in accordance with Federal and state statutory and regulatory requirements to perform the work. The Consultant shall be responsible for determining what permits are necessary to perform under the contract. The Consultant shall obtain all permits necessary to complete the work. Copies of all permits shall be submitted to the Debris Management Center before commencing work.

9.3 The Consultant shall be responsible for promptly responding to any notices of violations issued as a result of the Consultant's or any subcontractors' actions or operations during the performance of this contract. Corrections for any such violations shall be at no additional cost. The City's Debris Manager shall be immediately advice of any such violation or notice of violation and the corrective actions being taken.

9.4 The Consultant shall be responsible for paying any and all costs associated with violations of law or regulation relative to Consultant's activities. Such costs might include but are not limited to site cleanup and remediation; fines, administrative and civil penalties; and third party claims imposed on City of Rowlett by any regulatory agency or by any third party as a result of noncompliance with federal, state, or local environmental laws and regulations or nuisance statutes by Consultant, its subcontractors, or any other persons, corporations or legal entities retained by the Consultant under this contract.

9.5 The Consultant must attend all meetings required by Debris Manager to evaluate the performance of all monitors or to discuss any open contract issues.
9.6 The Consultant must provide sufficient personnel and management to assure the policies and procedures of work meets the requirements and intent of this contract.

**Attachment A**

**RFP 2016-14 Disaster Debris Monitoring and Consulting Services Proposer's**

**Name_____**

**REFERENCES**
Please list three (3) references of current customers who can verify the quality of service your company provides. The City prefers customers of similar size and scope of work to this RFP.

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**REFERENCE ONE**

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ e-mail address: _____

Contract Period: _____ Scope of Work _____

**REFERENCE TWO**

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ e-mail address: _____

Contract Period: _____ Scope of Work _____

**REFERENCE THREE**

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ e-mail address: _____

Contract Period: _____ Scope of Work _____

# Attachment B

**STATE OF TEXAS**
**CITY OF ROWLETT**
**AFFIDAVIT**

The undersigned certifies that the RFP prices contained in this RFP have been carefully checked and are submitted as correct and final and if RFP is accepted (within 60 days), agrees to furnish any and/or all items upon which prices are offered, at the price(s) and upon the conditions contained in the Specifications.

BEFORE ME, the undersigned authority, A Notary Public in and for the State of _____, on this day personally appeared _____, who, after having first been duly sworn, upon oath did depose and say; That the foregoing RFP submitted by _____, hereinafter called "Proposer" is the duly authorized agent of said company and that the person signing said proposal has been duly authorized to execute the same. Proposer affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this RFP in collusion with any other Proposer. The Proposer is not a member of any trust, pool, or combination to control the price of products or services RFP on, or to influence any person to RFP or not to RFP thereon. I further affirm that the Proposer has not given, offered to give, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discounts, trip, favor, or service to a public servant in connection with the submitted RFP. The contents of this RFP as to prices, terms or conditions of said RFP have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this RFP.

Name and Address of Proposer:

_____

_____

_____

_____

Telephone number_____ Fax number _____

_____
Signature

Printed Name:_____ Title: _____

SWORN TO AND SUBSCRIBE BEFORE ME THIS _____day of_____, 2016.

_____
Notary Public in and for City, State

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**Attachment C**

**RESIDENCE CERTIFICATION**
Pursuant to Texas Government Code, Section 2252.001 *et seq*., as amended, City of Rowlett requests Residence Certification. Section 2252.001 *et seq.* of the Government Code provides some restrictions on the awarding of governmental contracts; pertinent provisions of Section 2252.001 are stated below:
"Nonresident Proposer" refers to a person who is not a resident.
"Resident Proposer" refers to a person whose principal place of business is in this state, including a Consultant whose ultimate parent company or majority owner has its principal place of business in this state.

☐ I certify that _____ (Company Name) is a Resident Proposer of Texas as defined in Government Code, Section 2252.001.

☐ I certify that _____ (Company Name) is a Nonresident Proposer as defined in Government Code, Section 2252.001 and our principal place of business is _____(City), _____(State).

_____
Signature

Printed Name:_____ Title: _____

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**Attachment D**

**CITY OF ROWLETT EXPRESSLY REQUESTS THAT PROPOSERS NOT DISCUSS THIS ENGAGEMENT OR THIS PROPOSER'S PLANS, EXPERIENCE OR CREDENTIALS WITH OTHER PROPOSERS OR ANY MEMBER OF CITY COUNCIL, ANY CITY OFFICIAL, OR ANY CITY EMPLOYEE. EXCLUDED ARE PRE-PROPOSAL CONFERENCES, SCHEDULED VENDOR PRESENTATIONS OR VENDOR INTERVIEWS, OR SCHEDULED EQUIPMENT OR SERVICES DEMONSTRATIONS. YOU MAY CONTACT THE PURCHASING DEPARTMENT AT ANY TIME.**

**FROM RFP OPENING DATE THROUGH CITY COUNCIL MEETING FOR SELECTION, VENDORS WILL NOT APPROACH THE CITY EMPLOYEES OR CITY COUNCIL TO DISCUSS MATTERS PERTAINING TO THIS RFP.**

1. Has any individual with the firm submitting this Proposal Response made any contact with any member of City Council, any City Official, or an Evaluation Committee member concerning this Invitation to RFP, other than questions to the City Auditor/Purchasing Officer?

_____

_____

_____

_____

_____

2. Has any individual with the firm submitting this Proposal Response made any contact with any other Proposer concerning this Invitation to RFP?

_____

_____

_____

_____

_____

_____
Signature of Person doing business with the City

Printed Name:_____ Title: _____

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

## Attachment E

**Certification Regarding Debarment, Suspension Ineligibility**
As is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 76, Government-wide Debarment and Suspension, in the applicant certifies, to the best of his or her knowledge and belief, that both it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
b. Have not within a three-year period preceding this bid/proposal and/or application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, theory, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity with commission of any of the offenses enumerated herein; and
d. Have not within a three-year period preceding this bid/proposal and/or application had one or more public transactions terminated of cause or default.

_____
Signature

Printed Name:_____ Title: _____

Date:_____ Telephone Number: _____

If the Bidder / Proposer is unable to certify to all of the statements in this Certification, such Bidder / Proposer should attach an explanation to this Bid / Proposal.

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**Attachment E (page 2)**

**SWORN STATEMENT ON DEBARMENT**

This SWORN statement is submitted with project number: _____

By: _____
(PRINT INDIVIDUALS NAME AND TITLE)

For:_____
(PRINT NAME OF ENTITY SUBMITTING SWORN STATEMENT)

With a business address of:

_____
Address

_____
Address

_____
City, State, Zip Code

_____
Telephone Number

If applicable its Federal Employee Identification Number (FEIN) is: _____

(INDICATE WHICH STATEMENTS APPLY)

_____ Neither the entity submitting this SWORN statement, nor any of its officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime.

_____ The entity submitting this SWORN statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity **HAS BEEN CHARGED WITH AND CONVICTED OF A PUBLIC ENTITY CRIME.**

_____ The entity submitting this SWORN statement is not present on any Federal list of debarred contractors, nor been debarred from any other type of contracting.

_____
Signature

Printed Name:_____ Title: _____

Date:_____ Telephone Number: _____

SWORN TO AND SUBSCRIBE BEFORE ME THIS _____day of_____, 2016.

_____
Notary Public in and for City, State

**Attachment F**
**DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL GOVERNMENT OFFICERS; PROVIDING PUBLIC ACCESS TO CERTAIN INFORMATION**

Chapter 176 is a relatively new ethics law that was enacted by HB 914 in 2005. It requires certain local government officials to disclose employment and business relationships with vendors who conduct business with local government entities. After the law was implemented, city officials and others realized that it created several unintended consequences. Consequently, the bill's author sought an opinion from the Texas Attorney General to clarify many provisions of Chapter 176. In response, the Attorney General's Office released Opinion Number GA-0446, which indicated that changes to the law would be desirable. In response, the legislature passed HB 1491 during the 2007 regular legislation session. The bill became effective on May 25, 2007.

Chapter 176 defines a "vendor" as any person who enters or seeks to enter into a contract with the city. The term also includes an agent of a vendor.

Local government officers subject to this law are a city council member, director, superintendent, administrator, president, city manager, or any other person who is designated as the executive officer of the local government entity. A municipal officer's family member would include the officer's spouse, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, or step-child.

The law applies to any written contract for the sale or purchase of real property, goods, or services. A contract for services would include one for skilled or unskilled labor, or for professional services.

A vendor is required to file a conflict of interest questionnaire if the vendor has a business relationship with the city and has:

1) an employment or other business relationship with an officer or an officer's family member that results in that person receiving taxable income that is more than $2,500 in the preceding twelve months; or

2) has given an officer or an officer's family member one or more gifts totaling more than $250 in the preceding twelve months.

A vendor is required to file a questionnaire not later than the seventh business day after the later of the following:

1) the date the vendor begins discussions or negotiations to enter into a contract with the city or submits an application or response to a bid proposal; or

2) the date the vendor becomes aware of a relationship or gives a gift to an officer or officer's family member.

Enclosed is a Conflict of Interest Questionnaire for vendor or other person doing business with local government entity.

Completed questionnaire forms are to be directed to the City Secretary at the address shown below.

**Laura Hallmark, City Secretary**
**City of Rowlett**
**4000 Main Street**
**Rowlett, Texas 75088**

**Attachment F (page 2)**

# CONFLICT OF INTEREST QUESTIONNAIRE

**FORM CIQ**

**For vendor doing business with local governmental entity**

**This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

**OFFICE USE ONLY**

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

_____
Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

_____ _____
Signature of vendor doing business with the governmental entity Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

**Attachment F (Page 3)**

## CONFLICT OF INTEREST QUESTIONNAIRE
## For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

## Attachment G

## CERTIFICATE OF INTERESTED PARTIES (FORM 1295)

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity. The disclosure of interested parties will be submitted online via Form 1295 and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

**The Filing Process:**

1. Prior to award by the City of Rowlett Council, your firm will be required to log in to the Texas Ethics Commission https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and fill out the Electronic Filing Application.
2. Once submitted, the system will generate an electronic Form 1295 displaying a "Certificate number". Your firm must print, sign and notarize Form 1295.
3. Within **ten (10) business days** from notification of pending award by the City of Rowlett Purchasing Agent, the completed Form 1295 **must** be submitted.
4. Your firm will need to repeat this process and obtain a separate Form 1295 each time you enter into a new contract, renew a contract or make modifications and/or amendments to a City of Rowlett contract.

Instructions and information are available at https://www.ethics.state.tx.us/tec/1295-Info.htm or you may call The Texas Ethics Commission at 512-463-5800.

**Attachment G (page 2)**
**(To be completed on the Texas Ethics Commission website)**

## CERTIFICATE OF INTERESTED PARTIES

**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY**

1 **Name of business entity filing form, and the city, state and country of the business entity's place of business.**

2 **Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

3 **Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

| 4 Name of Interested Party | City, State, Country (place of business) | Nature of Interest (check applicable) | |
|---|---|---|---|
| | | Controlling | Intermediary |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

5 **Check only if there is NO Interested Party.** ☐

6 **AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

_____
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20 _____, to certify which, witness my hand and seal of office.

_____ _____ _____
Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath

**ADD ADDITIONAL PAGES AS NECESSARY**

## TERMS AND CONDITIONS

**ADDENDA:** Bidders are responsible for a thorough review of the contract documents, plans and specifications. Bidders shall assume all risk of any ambiguities. Thus, it is imperative that bidders be familiar with the contract documents as well as the job site.

No interpretation of the meaning of plans, specifications, or other pre-bid documents will be made to any bidder orally.

Every request for such interpretation should be in writing addressed to purchasing@rowlett.com and to be given consideration, must be received at least five days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be mailed by certified mail with return receipt requested to all prospective bidders (at the respective address furnished for such purposes), not later than three days prior to the date fixed for opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

**PREPARATION OF BID:** Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form.

**ADVERTISING:** Seller shall not advertise or publish, without the City of Rowlett's prior consent, the fact that City has entered into this contract, except to the extent necessary to comply with proper request for information from an authorized representative of the federal, state or local government.

**AWARD:** The City of Rowlett may hold all bid submission for a period of sixty (60) days. The City of Rowlett reserves the right to delete any item it considers too expensive. RFP/RFQ prices are to be F.O.B. City of Rowlett. All discounts will be considered in determining the lowest, responsible Proposer. The City of Rowlett reserves the right to award this contract on the basis of EVALUATION CRITERIA (AS STATED IN RFP/RFQ) in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one offeror, and to reject any or all RFP/RFQ's.

**POWER OF ATTORNEY:** Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

**BONDS:** Simultaneously with his delivery of the executed contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract, as specified in the General Conditions included herein. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the City.

Maintenance Bonds to cover defective workmanship of materials are required for all projects in the amounts and time periods to be included in the contract documents.

**CANCELLATION AND TERMINATION:** The City of Rowlett shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof, including warranties of Seller or if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to, and not in lieu of, any other remedies which The City of Rowlett may have in law or equity.

**TERMINATION:** The performance of work under this order may be terminated in whole, or in part, by the City of Rowlett in accordance with this provision. Termination of work hereunder shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to, and not in lieu of, rights of the City of Rowlett set forth. The City of Rowlett reserves the right to terminate the contract for default if offeror breaches any of the terms therein, including warranties of offeror or if the offeror becomes insolvent or commits acts of bankruptcy.

Such right of termination is in addition to and not in lieu of any other remedies which the City of Rowlett may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City of Rowlett's satisfaction and/or to meet all other obligations and requirements. The City of Rowlett may terminate the contract without cause upon thirty (30) days written notice.

**CONTRACT RENEWALS:** Renewals may be made ONLY by City Council approval and agreement between the City of Rowlett and the offeror.

Any price escalations are limited to those stated by the original RFP/RFQ. All Annual RFP/RFQ's with a one (1) year renewal option requires that the awarded Proposer must notify the City of Rowlett of any anticipated price increases to the current Annual RFP/RFQ (in writing) at least two months prior to the annual renewal award date unless otherwise specified within the specific provisions of the RFP.

This allows the City of Rowlett sufficient time to plan for re-advertising for Proposals due to a vendor required price increase. If Vendor fails to notify the City of Rowlett within time noted it shall be assumed that there will be no price increase for the following year's award period if renewed. This procedure does not apply to any Annual RFP/RFQ's which allow for Open Market Price increases or Cost allowance increases during the RFP/RFQ award period (as so specified in the RFP/RFQ documents).

**DISCRIMINATION:** In order to comply with the provisions of fair employment practices, the contractor agrees as follows:
1.) the contractor will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin;
2) in all solicitations or advertisements for employees, the contractor will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, handicap or national origin;
3) the contractor will furnish such relevant information and reports as requested by the City of Rowlett for the purpose of determining compliance with these regulations; and
4) failure of the contractor to comply with these laws will be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part.

**MINIMUM WAGE RATES:** The contractor shall utilize the minimum hourly wage rates listed herein (or in the contract documents, identified under "Prevailing Wage Rates") for the various types of skills and disciplines employed in the construction of this facility.

**DISQUALIFICATION OF OFFEROR:** Upon signing this RFP/RFQ document, an offeror offering to sell supplies, materials, services, or equipment to the City of Rowlett certifies that the offeror has not violated the antitrust laws of this state codified in Texas Business and Commerce Code 15.01, et seq., as amended, or the federal antitrust laws, and has not communicated directly or indirectly the RFP/RFQ made to any competitor or any other person engaged in such line of business. Any or all RFP/RFQ's may be rejected if the City of Rowlett believes that collusion exists among the offerors. RFP/RFQs in which the prices are obviously unbalanced may be rejected. If multiples are submitted by an offeror and after the RFP/RFQ's are opened, one of the RFP/RFQ's are withdrawn, the result will be that all of the RFP/RFQs submitted by that offeror will be withdrawn; however, nothing herein prohibits a vendor from submitting multiples for different products or services.

**EVALUATION:** All proposals will be evaluated in accordance with law and reviewed to assure they are in the best interest of the City of Rowlett. Evaluations shall be based on criteria, bearing on price, and performance of the items/services in the user environment. Any specific criteria section or sections identified elsewhere in this request for proposals may be evaluated by one or more evaluators once the basis and details of this process has been approved by the Purchasing Officer and acknowledged by the Evaluation Committee. Detailed information pertaining to this selective evaluation process is available to offerors and the City Council upon request.

Compliance with all RFP/RFQ requirements, delivery and needs of the using department are considerations in evaluating RFP/RFQ's. Pricing is NOT the only criterion for making a recommendation (see criteria and relative importance of price and other evaluation factors, if any, specified elsewhere in this request for proposals). The City of Rowlett Purchasing Department reserves the right to contact any offeror, at any time, to clarify, verify or request information with regard to any RFP/RFQ. The City of

Rowlett Purchasing Department further reserves the right to hold negotiation discussions with any responsible offeror submitting proposals determined to be reasonably susceptible of being selected for award in accordance with law.

**BID SECURITY:** Each bid must be accompanied by a certified check of the bidder, or a bid bond, duly executed by the bidder as principal and having as surety thereon a surety company approved by the City, in the amount of 5% of the bid. Such checks, or bid bonds will be returned to all except the three lowest bidders within thirty days after the opening of bids, and the remaining checks or bid bonds will be returned promptly after the City and the accepted bidder have executed the contract, or, if no award has been made within 90 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.

**LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT:** The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within 10 days after he has received notice of the acceptance of his bid, shall forfeit to the City, as liquidated damages for such failure or refusal, the security deposited with his bid. This liquidated damage amount is not a penalty but is, instead, a reasonable forecast of actual damages that the City may sustain were the bidder to default.

**TIME OF COMPLETION, EARLY COMPLETION BONUS AND LIQUIDATED DAMAGES:** Bidders must agree to commence work on or before a date to be specified in a written "Notice To Proceed" of the City and to fully complete the project within the specified time as stated in the proposal.
TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THIS PROJECT. THE CITY EMPLOYS A ZERO-TOLERANCE POLICY FOR TIME OF COMPLETION. FAILURE TO MEET THE CONTRACTUAL DEADLINE, OR A DELAY IN MEETING PROJECT SCHEDULES, MAY BE DEEMED A DEFAULT. THE CITY WILL AWARD AN EARLY COMPLETION BONUS IF THE PROJECT IS COMPLETED EARLY. THE EARLY COMPLETION BONUS WILL BE UP TO BUT NOT IN EXCESS OF THE AMOUNT STATED IN THE PROPOSAL.

**NOTICE OF SPECIAL CONDITIONS:** Attention is particularly called to those parts of the contract documents and specifications which deal with the following:

(a) Inspection and testing of materials
(b) Insurance requirements
(c) Wage rates
(d) Stated allowances

**PROTEST PROCEDURES:** Procedure - This protest procedure is available to vendors responding to this Bid.
Protests are made - 1. To the Purchasing Department. Vendor protests shall be received, in writing, by the Purchasing Department within five (5) business days after award. 2. To the City Manager, only after the protest to the Purchasing Department was not resolved satisfactory to the protestor. Protests to the City Manager shall be made within five (5) business days after the vendor has received notification from the City of Rowlett Purchasing Department of his/her decision.
Grounds for protest – 1. Errors were made in computing the score. 2. The City of Rowlett failed to follow procedures established in the Bid, the Purchasing policy: Acquisition or applicable state or federal laws or regulations. 3. Bias, discrimination or conflict of interest on the part of an evaluator. Protests not based on these criteria shall not be considered.
Format and Content - Protesting vendors shall include, in their written protest to the City of Rowlett Purchasing Department, all facts and arguments upon which they rely. Vendors shall, at a minimum, provide: 1. Information about the protesting vendor; name of firm, mailing address, phone number and name of individual responsible for submission of the protest. 2. Information about the acquisition and the acquisition method. 3. Specific and complete statement of the City of Rowlett's action(s) protested. 4. Specific reference to the grounds for the protest. 5. Description of the relief or corrective action requested. 6. For protests to the City Manager, a copy of the Purchasing Department's written decision on the protest.
Review Process – 1. Upon receipt of a vendor protest, the Purchasing Department shall perform an objective review of the protest by individuals not involved in the acquisition protested. The review shall be based on the written protest material submitted by the vendor. A written decision will be delivered to the vendor within five business days after receipt of the protest, unless more time is needed. The protesting vendor shall be notified if additional time is necessary.

Final Determination - The final determination shall 1. Find the protest lacking in merit and uphold the agency's action; or 2.Find only technical or harmless errors in the agency's acquisition process conduct, determine the agency to be in substantial compliance, and reject the protest; or 3. Find merit in the protest and provide the agency options which may include a) Correct its errors and reevaluate all proposals, and/or b) Reissue the vendor solicitation document; or c) Make other findings and determine other courses of action as appropriate.
City Manager Review Process - Protests to the City Manager may be made only after review by City of Rowlett Purchasing Department. Protests of the decisions of City of Rowlett Purchasing Department shall be made by letter to the City Manager, who may establish procedures to resolve the protest. Protests shall be received by the City Manager, within five business days after the decision of Purchasing Department in order to be considered. The resulting decision is final, with no further administrative appeal available.

**FISCAL FUNDING:** A multi-year lease or lease/purchase arrangement (if requested by the Special Requirements/Instructions), or any contract continuing as a result of an extension option, must include fiscal funding out. If, for any reason, funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. After expiration of the lease, leased equipment shall be removed by the offeror from the using department without penalty of any kind or form to the City of Rowlett. All charges and physical activity related to delivery, installation, removal and redelivery shall be the responsibility of the offeror.

**GRATUITIES AND PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** Any elected or appointed official who has any substantial interest, either direct or indirect, in any business entity seeking to contract with the City of Rowlett, shall, before any vote or decision on any matter involving the business entity, file an affidavit stating the nature and extent of interest and shall abstain from any participation in the matter. This is not required if the vote or decision will not have any special effect on the entity other than its effect on the public. However, if a majority of the governing body is also required to file, and do file similar affidavits, than the member is not required to abstain from further participation. Attached and included is a disclosure of all of this Company's business or pecuniary financial relationships with officers or employees of City of Rowlett must be attached and included with RFP/RFQ submitted. The City of Rowlett may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by the City of Rowlett that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent, or representative of the Seller, to any officer or employee of City of Rowlett with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making or any determinations with respect to the performing of such a contract. In the event this contract is cancelled by the City of Rowlett pursuant to this provision, the City of Rowlett shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities. Consistent and continued tie RFP's/RFQ's could cause rejection of RFP/RFQ's by the City of Rowlett and/or investigation for Anti-Trust violations. Proposer guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

**HISTORICALLY UNDERUTILIZED BUSINESS (HUB) CERTIFICATION:** If Proposer is a Certified Historically Underutilized Business (HUB), please include a copy of your HUB Certificate with your Proposal.

**MAINTENANCE:** Maintenance required for equipment RFP/RFQ should be available in the City of Rowlett by a manufacturer authorized maintenance facility. Costs for this service shall be shown on the Pricing/Delivery Information form. If the City of Rowlett opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.

**MATERIAL SAFETY DATA SHEETS:** Under the "Hazardous Communication Act", commonly known as the "Texas Right To Know Act", an offeror must provide to the City of Rowlett with each delivery, material safety data sheets which are applicable to hazardous substances defined in the Act. Failure of the offeror to furnish this documentation will be cause to reject any RFP/RFQ applying thereto.

**NAME BRANDS:** Specifications may reference name brands and model numbers. It is not the intent of the City of Rowlett to restrict these RFP/RFQs in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Offerors may offer items of equal stature and the burden of proof of such stature rests with offerors. The City of Rowlett shall act as sole judge in determining equality and acceptability of products offered.

**PRICING:** Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated on the Pricing/Delivery Information form. Prices shall be all inclusive: No price changes, additions, or subsequent qualifications will be honored during the course of the contract,. All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the contractor and included in the RFP/RFQ prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, offeror MUST indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails.

**RECYCLED MATERIALS:** The City of Rowlett encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. The City of Rowlett will be the sole judge in determining product preference application.

**SCANNED RE-TYPED RESPONSE:** If in its RFP/RFQ response, offeror either electronically scans, retypes, or in some way reproduces the City of Rowlett's published RFP/RFQ package, then in event of any conflict between the terms and provisions of the City of Rowlett's published RFP/RFQ specifications, or any portion thereof, and the terms and provisions of the RFP/RFQ response made by offeror, the City of Rowlett's RFP/RFQ specifications as published shall control. Furthermore, if an alteration of any kind to the City of Rowlett's published RFP/RFQ specifications is only discovered after the contract is executed and is or is not being performed, the contract is subject to immediate cancellation.

**SILENCE OF SPECIFICATIONS:** The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item RFP/RFQ. Substitute items will not be accepted unless approved (in advance).

**SUPPLEMENTAL MATERIALS:** Offerors are responsible for including all pertinent product data in the returned RFP/RFQ package. Literature, brochures, data sheets, specification information, completed forms requested as part of the RFP/RFQ package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the offeror wishes to include as a condition of the RFP/RFQ, must also be in the returned RFP/RFQ package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire RFP/RFQ.

**TITLE TRANSFER:** Title and Risk of Loss of goods shall not pass to the City of Rowlett until the City of Rowlett actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department.

Generally, deliveries may be made between 8:30 a.m. and 4:00 p.m., Monday through Friday. Offerors are advised to consult the using department for instructions. The place of delivery shall be shown under the "Special Requirements/Instructions" section of this RFP/RFQ package and/or on the Purchase Order as a "Deliver To:" address.

**USAGE REPORTS:** The City of Rowlett reserves the right to request, and receive at no additional cost, up to two (2) times during the contract period, a usage report detailing the products and/or services furnished to date under a contract resulting from this RFP. The reports must be furnished no later than five (5) working days after written request and itemize all purchases to date by the City of Rowlett department, description of each item purchased, including manufacturer, quantity of each item

purchased, per unit and extended price of each item purchased, and total amount and price of all items purchased.

**WARRANTY PRICE:** (a) The price to be paid by the City of Rowlett shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, the City of Rowlett may cancel this contract without liability to Seller for breach or Seller's actual expense. (b) The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach or violation of this warranty, the City of Rowlett shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee. Offerors shall furnish all data pertinent to warranties or guarantees which may apply to items in the bid. Offerors may not limit or exclude any implied warranties. Offeror warrants that product sold and services provided to the City of Rowlett shall conform to the standards and laws established by the U.S. Department of Labor, U.S. Department of Homeland Security, Occupational Safety and Health Administration and O.S.H.A. Act of 1970. In the event product does not conform to OSHA Standards, where applicable, the City of Rowlett may return the product for correction or replacement at the offeror's expense. If offeror fails to make the appropriate correction within a reasonable time, the City of Rowlett may correct at the offeror's expense. Offerer warrants that product sold and services provided to the City of Rowlett shall conform to the standards and laws established by the U.S. Department of Homeland Security, Occupational Safety and Health Administration and O.S.H.A. Act of 1970.

**WARRANTY PRODUCTS:** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the City of Rowlett. Seller warrants that the goods furnished will conform to the specifications, drawings and descriptions listed in the RFP/RFQ invitation and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern.

**SAFETY WARRANTY:** Seller warrants that the product sold to the City of Rowlett shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, the City of Rowlett may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by the City of Rowlett will be at Seller's expense. Have you attached the required warranty information to the RFP/RFQ (if applicable)? Yes, No.

**APPLICABLE LAW**
he bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full..

**ASSIGNMENT DELEGATION:** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the City of Rowlett. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph. Any contract entered into pursuant to this request is not assignable, nor the duties thereunder, by either party, without the written consent of the other party in the contract City of Rowlett and the City of Rowlett City Council.

**CONTRACT OBLIGATION:** The City of Rowlett City Council must award the contract and the Council designee must sign the contract before it becomes binding on the City of Rowlett or the offerors. Department heads are NOT authorized to sign agreements for the City of Rowlett. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

**CONDITIONS OF WORK:** Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible, the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor and will be responsible for coordination with utilities on site.

**ERRORS AND OMISSIONS:** Errors and Omissions in the RFP / RFQ of any provision herein described will not be construed as to relieve the Vendor of any responsibility or obligation, requisite to the complete and satisfactory implementation, operation, and support of any and all equipment, systems or services.

At the time of the opening of bids each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve the bidder from any obligation in respect to his bid.

**FORCE MAJEURE:** If, by reason of Force Majeure, either party hereto shall be rendered unable wholly, or in part, to carry out its obligations under this agreement, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely with the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgement of the party having the difficulty.

**HOLD HARMLESS AGREEMENT:** Contractor, the successful offeror, shall indemnify and hold the City of Rowlett harmless rom all claims for personal injury, death and/or property damage resulting directly or indirectly from contractor's performance. Contractor shall procure and maintain, with respect to the subject matter of this RFP/RFQ, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover contractor's liability as may arise directly or indirectly from work performed under terms of this RFP/RFQ. Certification of such coverage must be provided to the City of Rowlett upon request.

**INFRINGEMENTS:** There will be no warranty by the City of Rowlett against infringements. As part of this contract for sales, Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement or the like. The City of Rowlett makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall the City of Rowlett City of Rowlett be liable to Seller for indemnification in the event that Seller is sued on the grounds of infringement or the like. If Seller is of the opinion that an infringement or the like will result, he will notify the City of Rowlett to this effect in writing within two (2) weeks after the signing of this agreement. If the City of Rowlett does not receive notice and is subsequently held liable for the infringement or the like, Seller will hold the City of Rowlett harmless. If Seller in good faith ascertains that production of the goods in accordance with the specifications will result in infringement or the like, this contract shall be null and void, except that the City of Rowlett will pay Seller the reasonable cost of his/her search as to infringement. The contractor agrees to protect the City of Rowlett from claims involving infringement of patents or copyrights.

**WORK ORDER CHANGES:** It is understood that the quantities of work to be done at unit prices is approximate only and are intended principally to serve as a guide in evaluating bids. Any change order will be approved by the City prior to work being started on said change.

It is further agreed that the quantities of work to be done at unit prices and materials to be furnished may be increased or diminished as may be considered necessary, in the opinion of the Engineer, to complete the work fully as planned and contemplated and that all quantities of work, whether increased or decreased, are to be performed at the unit prices set forth except as provided for in the specifications. The City reserves the right to increase or decrease the amount of work to be done by any amount not to exceed twenty-five percent (25%) of the original contract amount. In the event the increase pertains to items not originally bid, the Contractor shall submit a bid in writing to the Engineer for approval.

It is further agreed that lump sum prices may be increased to cover additional work ordered by the Engineer but not shown on the plans or required by the specifications, in accordance with the provisions of the general conditions; similarly, they may be decreased to cover deletion of work so ordered.

The City reserves the right to reject the Contractor's bid on such extra work and secure such work to be done other than by said Contractor.

The time for performance set forth in the contract documents contemplates normal bad weather days and typical construction delays. Extensions in the time for performance may be given or allowed for if and only if the extension is approved by the City and the approval is evidenced by a written and signed Change Order. In the absence of a written, signed Change Order.

**INTERPRETATION PAROLE EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement, even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to Control.

**MODIFICATIONS:** This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents. O.S.H.A: Offeror must meet all Federal and State OSHA requirements.

**RIGHT TO ASSURANCE:** Whenever one (1) party to this contract in good faith has reason to question the other party's intent to perform, he/she may demand that the other party give written assurance of their intent to perform. In the event that a demand is made, and no assurance is given within five (5) days the demanding party may treat this failure as an anticipatory repudiation of the contract.

**SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

**VENUE:** Both parties agree that venue for any litigation arising from this contract shall lie in Dallas County, Texas.

# City of Rowlett

## Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

**AGENDA DATE:** 02/09/16 **AGENDA ITEM:** 3C

### TITLE

Consider action to approve a resolution authorizing the City Manager to negotiate and execute a contract for disaster debris removal, reduction, disposal and other emergency debris related services for the December 26, 2015, Tornado Event for an amount not to exceed $6,000,000.

### STAFF REPRESENTATIVE

Kim Galvin, Director of Financial Services

### SUMMARY

This item will provide disaster debris removal services for the December 26, 2015, Tornado Event for an amount not to exceed $6,000,000.

### BACKGROUND INFORMATION

The annual contract for the disaster debris removal, reduction disposal and other emergency related services was awarded on February 10, 2016. This contract will utilize that annual contract for the specific incident, December 26, 2015, Tornado Event. The annual contract request for proposal was advertised January 14 and 21, 2016, the proposals were received on February 2, 2016, and staff will review the proposals and bring them to Council on February 10, 2016.

### DISCUSSION

The annual Disaster Debris Removal, Reduction, Disposal and Other Emergency Related Services contract was previously considered by Council. The annual contract secured the service of a capable and experienced service provider who could successfully respond to a disaster within specified guidelines, and within FEMA established regulations when appropriate.

The proposals were received on February 2, 2016, and staff recommendations will be presented at the February 10, 2016, Council meeting. Proposals were evaluated using the following criteria:

| | |
|---|---|
| Experience & Past Performance | 25 points |
| Demonstrated Ability to Perform Required Work | 25 points |
| Price | 20 points |
| Safety Record | 20 points |
| Capacity to Respond to Major & Catastrophic Disaster Obligations | 10 points |
| Total | 100 points |

Because time is of the essence, staff presented the opportunity to award this contract at the earliest possible meeting, following all local and state purchasing guidelines. Contracts will be developed by the City Attorney in conjunction with FEMA legal consultants.

## FINANCIAL/BUDGET IMPLICATIONS

Removal, reduction, disposal and other emergency related debris services, based on the estimated cubic yards resulting from the storm should not exceed $6,000,000, based on the estimated cubic yards resulting from the December 26, 2015, Tornado Event. Funding for this item is currently being considered by staff and could come from a variety of sources.

Staff recently reviewed current budgets and identified possible funding sources, including but not limited to: excess fund balance reserves, project funds, state and federal grants, and debt instruments. Some of those identified sources that may be considered include traffic signal funding, parks master plan funding, innovations funding, community enhancement funds, and excess fund balance reserves in the Employee Health Benefit Fund, Drainage Fund, General Fund, and Golf Fund. Staff has also reviewed funding options with First Southwest and may recommend issuing certificates of obligation to fund a portion of the disaster recovery.

At the time of publishing, Governor Abbot had formally requested disaster assistance from the President of the United States. If the federal declaration is granted, many of the disaster related expenses incurred by the City could qualify for federal FEMA grants.

The primary goal of the staff related to funding will be to provide taxpayers with the most cost effective funding available to the City, while ensuring that the future growth of the City is not jeopardized. All funding opportunities available to the City will be considered, and a budget change will be submitted for Council consideration at a later date.

## RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT FOR DISASTER DEBRIS REMOVAL, REDUCTION, DISPOSAL AND OTHER EMERGENCY DEBRIS RELATED SERVICES FOR THE DECEMBER 26, 2015 TORNADO EVENT FOR AN AMOUNT NOT TO EXCEED $6,000,000; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** it is necessary to provide for the debris removal, reduction, disposal and other emergency debris related services for the December 26, 2015 Tornado Event; and

**WHEREAS,** the City of Rowlett City Council awarded the annual contract for Debris Removal, Reduction, Disposal, and Other Emergency Debris Related Services on February 2, 2016; and

**WHEREAS,** this contract will be for the December 26, 2015 Tornado Event.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:**

**Section 1:** That the City Council of the City of Rowlett does hereby authorize the City Manager to negotiate and execute, subject to city attorney approval, a contract

for Disaster Debris Removal, Reduction, Disposal and Other Emergency Debris Related Services for the December 26, 2015 Tornado Event, for an amount not to exceed $6,000,000.

**Section 2:** This resolution shall become effective immediately upon its passage.

**ATTACHMENT**

Attachment 1 – Debris Removal, Reduction, Disposal and Other Emergency Debris Related Services RFP

# CITY OF ROWLETT, TEXAS

# REQUEST FOR PROPOSAL
# FOR
# DISASTER DEBRIS REMOVAL, REDUCTION, DISPOSAL, AND OTHER EMERGENCY DEBRIS RELATED SERVICES

## RFP # 2016-13

## Disaster Debris Removal, Reduction, Disposal, and Other Emergency Debris Related Services

**CITY OF ROWLETT**
**PURCHASING DEPARTMENT**
**REQUEST FOR PROPOSAL (RFP)**
**RFP NUMBER : 2016-13**
**RFP TITLE: DISASTER DEBRIS REMOVAL, REDUCTION, DISPOSAL AND OTHER EMERGENCY DEBRIS RELATED SERVICES**
**DATE DUE: January 29, 2016 DUE NO LATER THAN 10:00 A.M., CST**

RFP's will be opened at the City of Rowlett Annex Building located at 4004 Main Street, Rowlett, Texas 75088. (as per Purchasing Dept. clock) on deadline due date. RFPs received later than the date and time above will not be considered.

Please return RFP **ORIGINAL AND FOUR (4) COPIES** in sealed envelope. Be sure that return envelope shows the RFP Number, Description and is marked "SEALED RFP".

**RETURN RFP TO**:
Purchasing Agent, **City of Rowlett, 4004 Main Street, Rowlett Texas 75088.**
For additional information or to request addendum contact: purchasing@rowlett.com.

**You must sign below in INK; failure to sign WILL disqualify the offer. All prices must be typewritten or written in ink.**

Company Name:

_____

Company Address:

_____

City, State, Zip Code:

_____

Telephone No._____

E-mail_____

Printed
Name:_____Signature:_____

**Is Proposer's principal place of Business within City of Rowlett? Yes - No**
(Your signature attests to your offer to provide the goods and/or services in this RFP according to the published provision of this RFP. When an award letter is issued, this RFP becomes the contract. If a RFP required specific Contract is to be utilized in addition to this RFP, this signed RFP will become part of that contract. When an additional Contract is required a RFP award does not constitute a contract award and RFP / Contract is not valid until contract is awarded by City Council (when applicable) and Purchase Order is issued.

**Terms and Definitions**

Definitions are provided for those terms listed below.

1. *Agreement Execution* – The date on which Service Provider executes and enters into an Agreement with the City to perform the Work.

2. *Agreement Price* – The total monies, adjusted in accordance with any provision herein, payable to the Service Provider under this Agreement.

3. *Authorized Representative* – City employees and/or contracted individuals designated by the City or City Debris Manager.

4. *Chipping or Mulching* – The process of reducing woody material, such as lumber and vegetative debris, by mechanical means into small pieces to be used as mulch or fuel.

5. *Cleanup Crew* – A group of individuals and/or an individual working for the Service Provider collecting disaster debris.

6. *Construction and Demolition Debris (C&D)* – FEMA Publication 325 defines eligible construction and demolition (C&D) debris as damaged components of buildings and structures such as: lumber and wood, gypsum wallboard, glass, metal, roofing material, tile, carpeting and floor coverings, window coverings, plastic pipe, concrete, fully cured asphalt, heating, ventilation and air conditioning systems and their components, light fixtures, small consumer appliances, equipment, furnishings and fixtures that are a result of a disaster. Current eligibility criteria include:

   - Debris must be located within a designated disaster area and be removed from an eligible applicant's improved property or right-of-way.
   - Debris removal must be the legal responsibility of the applicant.
   - Debris must be a result of the major disaster.

7. *Contract* – The Agreement Documents specifically identified and incorporated herein by reference in Section 2, Contract Documents.

8. *Contract Time* – The period of time stated in this Agreement for the completion of the Work.

9. *City* – The City of Rowlett, Texas, a political subdivision of the State of Texas.

10. *City Debris Manager* – The City will designate a Debris Manager, who will lead the debris removal process and provide general oversight for all phases of debris removal operations within the City.

11. *City Approved Final Disposal Site* – A final disposal location approved in writing by the City.

12. *Debris* – Items and materials broken, destroyed or displaced by a natural or man-made federally declared disaster. Examples of debris include, but are not limited to, trees, construction and demolition debris and personal property.

13. *Debris Clearance* – Clearing roads by pushing debris to the roadside to accommodate emergency traffic.

14. *Debris Management Site* (DMS) – A location to temporarily store, reduce, segregate and/or process debris before it is hauled to its final disposition. May also be referred to as a Temporary Debris Storage and Reduction Site (TDSR Site) or Temporary Debris Staging and Processing Facility (TDSPF).

15. *Debris Monitoring* – Actions taken by applicants in order to document eligible quantities and reasonable expenses during debris activities to ensure that the work complies with the contract scope-of-work and/or is eligible for federal or state grant reimbursement.

16. *Debris Removal* – Picking up debris and taking it to a debris management site, composting facility, recycling facility, permanent landfill or other reuse or end-use facility.

17. *Debris Removal Contractor* – Also referred to as the "Service Provider" in this document, conducts debris removal operations per the terms of the contract. Term includes primary contractor(s), subcontractors and individual crews.

18. *Demobilization* – Following the completion of services provided under the resulting contract, the Service Provider will remove all equipment, supplies and other associated materials involved in the services provided to the City. The Service Provider will leave all sites utilized clean and restored to the original state as approved by the City and verified through soil and groundwater samples.

19. *Demolition* – The act or process of reducing a structure, as defined by the State of Texas or local code, to a collapsed state. It contrasts with deconstruction, which is the taking down of a building while carefully preserving valuable elements for reuse.

20. *Department* – The Director or designee of requesting department(s) named in this solicitation.

21. *Disaster Specific Guidance* – Disaster Specific Guidance (DSG) is a policy statement issued in response to a specific post-event situation or need in a state or region. Each DSG is issued a number and is generally referred to, along with their numerical identification.

22. *Drawings* - Collectively, all the drawings, receipt of which is acknowledged by the CITY, listed in this Agreement, and also such supplementary drawings as the Service Provider may issue from time to time in order to clarify or explain such drawing or to show details which are not shown thereon.

23. *Eligible* – Eligible means qualifying for and meeting the most current stipulated requirements (at the time written Release Orders are issued and executed by the City to the Service Provider) of the Public Assistance grant program, FEMA Publication 321, FEMA Publication 322, FEMA Publication 323, FEMA Publication 325 and all current FEMA fact sheets, guidance documents and disaster-specific documents. Eligible also includes meeting any changes in definition, rules or requirements regarding debris removal reimbursement as stipulated by the Federal Emergency Management Agency during the course of a debris removal project.

24. *Emergency Relief Program* – Provides for the funding of emergency roadway clearing and first pass disaster debris removal on federal aid highways.

25. *E*-Scrap – End of life electronics, typically televisions, computers and related components

26. *FEMA Publication 325* – Debris Management Guide – This publication is specifically dedicated to the rules, regulations and policies associated with the debris cleanup process. Familiarity with this publication and any revisions, can aid a local government to limit the amount of non-reimbursable expenses. The Debris Management Guide provides the framework for the debris removal process authorized by the Stafford Act including:

    - Eliminating immediate threats to lives, public health and safety.
    - Eliminating immediate threats of significant damage to improved public or private property.
    - Ensuring the economic recovery of the affected community to the benefit of the community-at-large.

27. *Field Inspector* – Monitor

28. *Force Account Labor* – Labor performed by the applicant's permanent, full time or temporary employees.

29. *Garbage* – Waste that is regularly picked up by an applicant. Common examples of garbage are food, packaging, plastics and papers.

30. *Grinding* – Reduction of disaster-related vegetative debris through mechanical means into small pieces to be used as mulch or fuel. Grinding may also be referred to as chipping or mulching.

31. *Hazardous Hangers* – A Hanger is a hazardous limb that poses significant threat to the public. The current eligibility requirements for hazardous hangers according to FEMA Publication 325 are:

    - The limb must be greater than two inches in diameter;
    - The limb must be suspended in a tree and threatening a public-use area; and
    - The limb must be located on improved public property.

32. *Hazardous Leaners* – A tree is considered hazardous and defined as an eligible leaner when the tree's present state is caused by a disaster, the tree poses a significant threat to the public and the tree is six inches in diameter or greater as measured two feet from the ground. The current eligibility requirements for leaning trees according to FEMA Publication 325 include:

    - The tree has more than 50 percent of the crown damaged or destroyed (requires written documentation from an arborist).
    - The tree has a split trunk or broken branches that expose the heartwood.
    - The tree has fallen or been uprooted within a public use area.
    - The tree is leaning at an angle greater than 30 degrees.

33. *Hazardous Stump* - A stump is defined as hazardous and eligible for reimbursement if all of the following criteria are met. The current eligibility requirements for hazardous hangers according to FEMA Publication 325 are:

    - The stump has 50 percent or more of the root-ball exposed.
    - The stump is greater than 24 inches in diameter when measured 24 inches from the ground.
    - The stump is located on a public right-of-way.
    - The stump poses an immediate threat to public health and safety.

34. *Household Hazardous Waste* – Waste with properties that make it potentially harmful to human health or the environment. Hazardous waste is regulated under the Resource Conservation and Recovery Act (RCRA). In regulatory terms, a RCRA hazardous waste is a waste that appears on one of the four hazardous wastes lists or exhibits at least one of the following four characteristics: ignitability, corrosively, reactivity or toxicity.

    - HHW must be located within a designated disaster area and be removed from an eligible applicant's improved property or right-of-way.
    - HHW removal must be the legal responsibility of the applicant.
    - HHW must be a result of the major disaster.

    The collection of commercial disaster related hazardous waste is generally not eligible for reimbursement. The City of Rowlett may utilize existing environmental contractor to remove this type of waste in a large-scale debris generating event.

35. *Hold Harmless* – Generally, a contractual arrangement whereby one party agrees to hold the other party without responsibility for damage or other liability incurred as a result of a particular action or transaction.

36. *Liaison* – Representative of the City who shall act as a Liaison between the City of Rowlett and the Service Provider for all matters pertaining to this Agreement, including review of Service Provider's plans and work.

37. *Monitor* – Person that observes day-to-day operations of debris removal crews to ensure they are performing eligible work, meeting the City's expectations and contractual requirements and are in compliance with all applicable Federal, State and local regulations. (May also be referred to as a Field Inspector.)

38. *Mutual Aid Agreement* – A written understanding between communities and States obligating assistance during a disaster. See FEMA RP9523.6, Mutual Aid Agreements for Public Assistance and Fire Management Assistance.

39. *National Response Framework (NRF)* – A plan developed to facilitate the delivery of all types of Federal assistance to States following a disaster. It outlines the planning assumptions, policies, concept of operations, organizational structures and specific assignments and agencies involved in Federal assistance to supplement State, tribal and local efforts.

40. *Outbuilding* – Any structure secondary to a house such as a barn, shed or outhouse separated from the main structure.

41. *Recycling* – The recovery or use of wastes as a raw material for making products of the same or different nature as the original product.

42. *Refrigerant* – Ozone depleting compound that must be removed from white goods or other refrigerant containing items prior to recycling or disposal.

43. *Regulated Waste* – Any waste that is regulated by the EPA, TCEQ or local rules/ordinance.

44. *Right of Entry* – As used by FEMA, the document by which a property owner confers to an eligible applicant or its Service Provider or the United States Army Corps of Engineers the right to enter onto private property for a specific purpose without committing trespass.

45. *Right-of-Way* – The portions of land over which facilities such as highways, railroads or power lines are built. It includes land on both sides of the facility up to the private property line.
46. *Scale/Weigh Station* – A scale used to weigh trucks as they enter and leave a landfill. The difference in weight determines the tonnage dumped and a tipping fee is charged accordingly. It also may be used to determine the quantity of debris picked up and hauled.

47. *Service Provider* – The party or parties contracting directly with the City to perform Work pursuant to this Agreement.

48. *Specifications* – The written technical provisions including all appendices thereto, both general and specific, which form a part of the Agreement Documents.

49. *Subservice Provider* – Any person, firm, partnership, joint venture, company, corporation, or entity having a contractual agreement with Service Provider or with any of its subservice providers at any tier to provide a part of the Work called for by this Agreement.

50. *Supplemental Agreement* – A written order to Service Provider signed by the City and accepted by Service Provider, effecting an addition, deletion or revision in the Work, or an adjustment in the Agreement Price or the Contract Time, issued after execution of this Agreement.

51. *Temporary Debris Staging and Processing Facility (TDSPF)* – Site where collected debris is taken by the Service Provider(s) for staging and processing prior to final disposal. May also be referred to as a Debris Management Site (DMS).

52. *Temporary Debris Storage and Reduction Site (TDSR Site)* – TDSR sites are locations designated by the City for the storage and reduction of disaster related debris.

53. *Tipping Fee* – A fee charged by landfills or other waste management facilities based on the weight or volume of debris dumped.

54. *United States Army Corps of Engineers (USACE)* – A component of the United States Army responsible for constructing and maintaining military installations and other government-owned and controlled facilities. The USACE may be used by FEMA when direct Federal assistance, issued through a mission assignment, is needed.

55. *Vegetative Debris* – As outlined in FEMA Publication 325, Eligible Vegetative Debris consists of whole trees, tree stumps, tree branches, tree trunks and other leafy material. Vegetative debris will largely consist of mounds of tree limbs and branches piled along the public ROW by residents and volunteers. Current eligibility criteria include:

    - Debris must be located within a designated disaster area and be removed from an Eligible applicant's improved property or right-of-way.
    - Debris removal must be the legal responsibility of the applicant.
    - Debris must be a result of the major disaster.

56. *Volatile Organic Compounds (VOCs)* – VOCs are hydrocarbon compounds that have a low boiling point which allows them to evaporate quickly. Many VOCs are toxic and ground-water contaminants of concern because they may persist in and migrate with ground-water to a drinking-water supply.

57. *White Goods* – As outlined in FEMA Publication 325, White Goods are defined as discarded disaster related household appliances such as refrigerators, freezers, air conditioners, heat pumps, ovens, ranges, washing machines, clothes dryers and water heaters. White goods can contain ozone-depleting refrigerants, mercury or compressor oils that the federal Clean Air Act prohibits from being released into the atmosphere. The Clean Air Act specifies that only qualified technicians can extract refrigerants from white goods before they can be recycled. The eligibility criteria for white goods are as follows:

    - White goods must be located within a designated disaster area and be removed from an eligible applicant's improved property or ROW.
    - White goods removal must be the legal responsibility of the applicant.
    - White goods must be a result of the major disaster.

58. *Work* – Any and all obligations, duties and responsibilities, including furnishing equipment, engineering, design, workmanship, labor and any other services or things necessary to the successful completion of the Project, assigned to or undertaken by Service Provider under this Agreement.

**Acronyms**

| | |
|---|---|
| ACM | Asbestos Containing Material |
| C&D | Construction and Demolition |
| CBRA | Coastal Barrier Resources Act |
| CBRN | Chemical, Biological, Radiological and Nuclear |
| CBRS | Coastal Barrier Resources System |
| CEI | Construction Engineering and Inspection |
| CFR | Code of Federal Regulations |
| CTS | Central Transfer Station |
| CWA | Clean Water Act |
| DDIR | Detailed Damage Inspection Report |
| DMS | Debris Management Site |
| DOT | Department of Transportation |
| DPW | Department of Public Works |
| DRM | Disaster Recovery Manager |
| DTFL | Debris Task Force Leader |
| EO | Executive Order |
| EMC | Emergency Management Coordinator |
| EPA | Environmental Protection Agency |
| ER | Emergency Relief |
| ESA | Endangered Species Act |
| ESF | Emergency Support Function |
| FEMA | Federal Emergency Management Agency |
| FHWA | Federal Highway Administration |
| FMIS | Fiscal Management Information System |
| TCEQ | Texas Environmental Protection Division |
| TxDOT | Texas Department of Transportation |
| GIS | Geographic Information System |
| GPS | Global Positioning System |
| HHW | Household Hazardous Waste |
| HUD | Department of Housing and Urban Development |
| IA | Individual Assistance |
| ICS | Incident Command System |
| JFO | Joint Field Office |
| MRE | Meals Ready to Eat |
| NEPA | National Environmental Policy Act |
| NHPA | National Historic Preservation Act |
| NRCS | Natural Resources Conservation Service |
| NRF | National Response Framework |
| OCC | Office of Chief Counsel |
| OEM | Office of Emergency Management |
| OSHA | Occupational Safety and Health Administration |
| PA | Public Assistance |
| PDA | Preliminary Damage Assessment |
| PNP | Private Nonprofit |
| PPDR | Private Property Debris Removal |
| PPE | Personal Protective Equipment |
| PW | Project Worksheet |
| RACM | Regulated Asbestos Containing Material |
| RCRA | Resource Conservation and Recovery Act |
| RFB | Request for Bid |
| RFP | Request for Proposals |
| ROE | Right-of-Entry |
| ROW | Right-of-Way |
| RRC | Rapid Response Crew |
| SHPO | State Historic Preservation Officer |
| TDSPF | Temporary Debris Staging and Processing Facility |
| TDSR Site | Temporary Debris Storage and Reduction Site |

| | |
|---|---|
| TSDF | Hazardous Waste Treatment, Storage, and Disposal Facility |
| USACE | United States Army Corps of Engineers |
| USCG | United States Coast Guard |
| USDA | United States Department of Agriculture |
| VOCs | Volatile Organic Compounds |

**PROPOSAL FORMAT**

Proposals must be submitted on 8-1/2" x 11" size paper and should be typed using a minimum10 point standard font with sections and sub-sections identified appropriately. Graphic illustrations (including organizational charts and maps) may be shown on 11" x 17" paper provided it is folded to 8-1/2"x 11" and will count as one page. Promotional literature, brochures, etc. will be considered a part of the 25-page limit. Required submittals A–M, résumés, contribution to local economy information and project references, however, will not be included in the page count. Proposal narratives do not have a page limit restriction. An appendix may be provided that includes résumés and examples of relevant work experience. The proposal narrative and appendices should be bound together in a single submittal. One original of the proposal and seven copies should be submitted (TBD).

The proposal should be divided into nine tabbed sections with references to all parts of this Request for Proposal (RFP) done on a section number/paragraph number/letter basis. The nine sections shall be named:

1. **Required Submittals:**

   A. ***Letter of Transmittal*:** This letter will summarize in a brief and concise manner the Service Provider's understanding of the scope of work and make a positive commitment to perform the work in a professional and timely manner. The letter should name all of the persons authorized to make representations for the Service Provider, including the titles, addresses and telephone numbers of such persons. An authorized agent of the Service Provider must sign the Letter of Transmittal indicating the agent's title or authority. The letter should not exceed two pages in length.

   B. ***Type of Business:*** The Service Provider shall identify the type of business entity involved (e.g., sole proprietorship, partnership, corporation, joint venture, etc.). The Service Provider shall identify whether the business entity is incorporated in Texas, another state, or a foreign country.

   C. ***FEIN:*** Provide the **Federal Employer Identification Number** of the Service Provider.

   D. ***SSN:*** In the case of a sole proprietorship or partnership, provide Social Security numbers for all owners/partners.

   E. ***Principals:*** The proposal must name all persons or entities serving, or intending to serve as principals in the Service Provider's firm. Identify each principal of the firm and any other "key personnel" who will be professionally associated with the development and/or presentation of the proposal.

   F. ***Corporate Information:*** If a Service Provider is a corporation, it shall be certified with the Texas Secretary of State and have a corporate status in good standing, and in the case of out-of-state corporation, they must present evidence of authority to do business in Texas.

   G. ***Summary of Litigation:*** Provide a summary of any litigation, claim(s), or contract dispute(s) filed by or against the Service Provider in the past five years which is related to the services that the Service Provider provides in the regular course of business. The summary shall state the nature of the litigation, claim or contract dispute, a brief description of the case, the outcome or projected outcome, and the monetary amounts involved. State if there are no litigation claim(s) or contract dispute(s) filed by or against the Service Provider in the past five years.

   H. ***License Sanctions:*** List any regulatory or license agency sanctions. State if there are no license sanctions against the Service Provider.

   I. ***Acknowledgment of Addenda:*** Include a signed and dated copy of last addendum issued by the City, if any.

J. ***Past Performance:*** Service Provider(s) must list and provide required information from **all** debris removal projects in excess of 250,000 cubic yards within the past five years. Failure to list and provide the required information from **any** project the Service Provider has managed in excess of 250,000 cubic yards within the past five years may result in proposal rejection. Required information from each project listed includes total cubic yards collected, total dollar amount of each project and corresponding amount reimbursed to the applicant. The Service Provider must also provide a contact person, telephone number, fax number and e-mail address for each project. See below for an example format.

| Project | Date | Total CY | Total Dollar Amount Invoiced | Federal Reimbursement Amount | Contact | Comments |
|---|---|---|---|---|---|---|
| City, State (The City of Rowlett) | MM/YY to MM/YY | 800,000 | $7,590,000 | $7,590,000 | Name<br>Title<br>Phone Number<br>Fax Number<br>E-mail Address | |

***K.*** ***Financial Statements:*** Demonstrate the Respondent's financial ability to provide the Proposed Services to the City for the term of the contract. The Respondent shall provide detailed financial information, including but not limited to the following:

1) Copies of audited financial statements for the entity that is proposed to sign the Agreement, for the most recent three fiscal years. **For the purposes of this RFP, submit proprietary information under separate cover and submit only one statement (no need for reproduction).**

2) If the entity that will sign the Agreement has a parent company or is proposing a joint venture, the parent company or joint venture company(ies) must also provide audited financial statements for the most recent three fiscal years. The parent company must provide a statement indicating its intent and means to provide financial assurance of performance. **For the purposes of this RFP, submit proprietary information under separate cover and submit only one statement (no need for reproduction).**

3) If the entity that will sign the Agreement has been in existence less than three years, the Respondent must provide sufficient financial data to substantiate, to the satisfaction of the City, the Respondent's financial capability and viability of the entity. **For the purposes of this RFP, submit proprietary information under separate cover and submit only one statement (no need for reproduction).**

4) In addition to the audited financial statements, the Respondent must provide a statement from the Chief Financial Officer indicating that there has been no material change in the financial circumstances of the proposing entity (or its parent company or owners if they are providing financial assurance of performance) since the date of the last audited financial statements.

5) Financing of the services and equipment will be the sole responsibility of the successful Respondent. Respondent must demonstrate that it can provide the required financing from either 1) internally generated funds or 2) commitments from external sources.

***L.*** ***Affidavit,*** *see Attachment 5*

***M.*** ***Residence Certification,*** *see Attachment 6*

***N.*** ***Discussions Prior to Selection,*** *see Attachment 7*

***O.*** ***Certification Regarding Debarment,*** *see Attachment 8*

***P.*** ***Conflict of Interest Questionnaire,*** *see Attachment 9*

***Q.*** ***Certificate of Interested Parties,*** *see Attachment 10*

***R.*** ***Other Contractual Obligations:*** Include a list of other contractual obligations at the time of response submittal to The City of Rowlett.

2. **Project Understanding and Technical Approach:** Provide a statement demonstrating an understanding of the services and support required by this RFP. State how the Service Provider will approach the project and the methodology to be used to perform the services described in the Scope of Services. The technical approach must also outline the following:

   A. Ability to manage activation of multiple contracts
   B. Mobilization and demobilization plan
   C. Documenting and resolving damages
   D. Invoicing and data management

3. **Personnel:** A list of personnel assigned to the City in the event of contract activation. Information shall be presented in tabular form. The list shall include but is not limited to:

   - Contact persons, including telephone numbers and e-mail address
   - Project manager – must have five years experience
   - Operations manager – must have three years of experience
   - Other key personnel assigned to the project/this Agreement

   Changes to personnel listed on the proposal at the time of an event must be communicated to the City and are subject to approval by the City. The City of Rowlett also reserves the right to request the substitution of any personnel as the City deems necessary.

4. **Résumés:** Provide résumés for the project manager, operations manager and other key personnel proposed for this program.

5. **Typical Debris Management Site (DMS) Safety Plan and Operational Plan:** Provide a description of the firm's typical DMS safety plan and operational plan. Any changes to the site safety plan or operational plan must be provided to the City and are subject to City's approval. The City of Rowlett also reserves the right to request changes to the Service Provider r(s) site safety plan or operational plan.

6. **Subcontracting Plan:** A subcontracting plan that includes items such as a description of percentage of work to be subcontracted and a list of subcontractors.

7. **Licenses and Certificates:** List any licenses or certifications related to the scope or work described in this RFP. State if the Service Provider does not have any related or applicable licenses or certifications.

8. **Insurance Requirements:** Service Provider must meet the insurance requirements set forth in the Technical Specifications – Insurance Requirements section of the RFP.

9. **Price Proposal:** The Service Provider shall submit Price Proposal forms included in this RFP in a separate and sealed envelope from the proposal document. For any item indicated as $0, an explanation must be provided to explain how this cost will be assessed if the item is encountered.

## TERMS AND CONDITIONS

**ADDENDA:** Bidders are responsible for a thorough review of the contract documents, plans and specifications. Bidders shall assume all risk of any ambiguities. Thus, it is imperative that bidders be familiar with the contract documents as well as the job site.

No interpretation of the meaning of plans, specifications, or other pre-bid documents will be made to any bidder orally.

Every request for such interpretation should be in writing addressed to purchasing@rowlett.com and to be given consideration, must be received at least five days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be mailed by certified mail with return receipt requested to all prospective bidders (at the respective address furnished for such purposes), not later than three days prior to the date fixed for opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

**PREPARATION OF BID:** Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form.

**ADVERTISING:** Seller shall not advertise or publish, without the City of Rowlett's prior consent, the fact that City has entered into this contract, except to the extent necessary to comply with proper request for information from an authorized representative of the federal, state or local government.

**AWARD:** The City of Rowlett may hold all bid submission for a period of sixty (60) days. The City of Rowlett reserves the right to delete any item it considers too expensive. RFP/RFQ prices are to be F.O.B. City of Rowlett. All discounts will be considered in determining the lowest, responsible Proposer. The City of Rowlett reserves the right to award this contract on the basis of EVALUATION CRITERIA (AS STATED IN RFP/RFQ) in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one offeror, and to reject any or all RFP/RFQ's.

**POWER OF ATTORNEY:** Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

**BONDS:** Simultaneously with his delivery of the executed contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract, as specified in the General Conditions included herein. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the City.

Maintenance Bonds to cover defective workmanship of materials are required for all projects in the amounts and time periods to be included in the contract documents.

**CANCELLATION AND TERMINATION:** The City of Rowlett shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof, including warranties of Seller or if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to, and not in lieu of, any other remedies which The City of Rowlett may have in law or equity.

**TERMINATION:** The performance of work under this order may be terminated in whole, or in part, by the City of Rowlett in accordance with this provision. Termination of work hereunder shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to, and not in lieu of, rights of the City of Rowlett set forth. The City

of Rowlett reserves the right to terminate the contract for default if offeror breaches any of the terms therein, including warranties of offeror or if the offeror becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the City of Rowlett may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City of Rowlett's satisfaction and/or to meet all other obligations and requirements. The City of Rowlett may terminate the contract without cause upon thirty (30) days written notice.

**CONTRACT RENEWALS:** Renewals may be made ONLY by City Council approval and agreement between the City of Rowlett and the offeror.

Any price escalations are limited to those stated by the original RFP/RFQ. All Annual RFP/RFQ's with a one (1) year renewal option requires that the awarded Proposer must notify the City of Rowlett of any anticipated price increases to the current Annual RFP/RFQ (in writing) at least two months prior to the annual renewal award date unless otherwise specified within the specific provisions of the RFP.

This allows the City of Rowlett sufficient time to plan for re-advertising for Proposals due to a vendor required price increase. If Vendor fails to notify the City of Rowlett within time noted it shall be assumed that there will be no price increase for the following year's award period if renewed. This procedure does not apply to any Annual RFP/RFQ's which allow for Open Market Price increases or Cost allowance increases during the RFP/RFQ award period (as so specified in the RFP/RFQ documents).

**DISCRIMINATION:** In order to comply with the provisions of fair employment practices, the contractor agrees as follows:

1.)the contractor will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin;

2) in all solicitations or advertisements for employees, the contractor will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, handicap or national origin;

3) the contractor will furnish such relevant information and reports as requested by the City of Rowlett for the purpose of determining compliance with these regulations; and

4) failure of the contractor to comply with these laws will be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part.

**MINIMUM WAGE RATES:** The contractor shall utilize the minimum hourly wage rates listed herein (or in the contract documents, identified under "Prevailing Wage Rates") for the various types of skills and disciplines employed in the construction of this facility.

**DISQUALIFICATION OF OFFEROR:** Upon signing this RFP/RFQ document, an offeror offering to sell supplies, materials, services, or equipment to the City of Rowlett certifies that the offeror has not violated the antitrust laws of this state codified in Texas Business and Commerce Code 15.01, et seq., as amended, or the federal antitrust laws, and has not communicated directly or indirectly the RFP/RFQ made to any competitor or any other person engaged in such line of business. Any or all RFP/RFQ's may be rejected if the City of Rowlett believes that collusion exists among the offerors. RFP/RFQs in which the prices are obviously unbalanced may be rejected. If multiples are submitted by an offeror and after the RFP/RFQ's are opened, one of the RFP/RFQ's are withdrawn, the result will be that all of the RFP/RFQs submitted by that offeror will be withdrawn; however, nothing herein prohibits a vendor from submitting multiples for different products or services.

**EVALUATION:** All proposals will be evaluated in accordance with law and reviewed to assure they are in the best interest of the City of Rowlett. Evaluations shall be based on criteria, bearing on price, and performance of the items/services in the user environment. Any specific criteria section or sections identified elsewhere in this request for proposals may be evaluated by one or more evaluators once the basis and details of this process has been approved by the Purchasing Officer and acknowledged by the Evaluation Committee. Detailed information pertaining to this selective evaluation process is available to offerors and the City Council upon request.

Compliance with all RFP/RFQ requirements, delivery and needs of the using department are considerations in evaluating RFP/RFQ's. Pricing is NOT the only criterion for making a recommendation

(see criteria and relative importance of price and other evaluation factors, if any, specified elsewhere in this request for proposals. ). The City of Rowlett Purchasing Department reserves the right to contact any offeror, at any time, to clarify, verify or request information with regard to any RFP/RFQ. The City of Rowlett Purchasing Department further reserves the right to hold negotiation discussions with any responsible offeror submitting proposals determined to be reasonably susceptible of being selected for award in accordance with law.

**BID SECURITY:** Each bid must be accompanied by a certified check of the bidder, or a bid bond, duly executed by the bidder as principal and having as surety thereon a surety company approved by the City, in the amount of 5% of the bid. Such checks, or bid bonds will be returned to all except the three lowest bidders within thirty days after the opening of bids, and the remaining checks or bid bonds will be returned promptly after the City and the accepted bidder have executed the contract, or, if no award has been made within 90 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.

**LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT:** The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within 10 days after he has received notice of the acceptance of his bid, shall forfeit to the City, as liquidated damages for such failure or refusal, the security deposited with his bid. This liquidated damage amount is not a penalty but is, instead, a reasonable forecast of actual damages that the City may sustain were the bidder to default.

**TIME OF COMPLETION, EARLY COMPLETION BONUS AND LIQUIDATED DAMAGES:** Bidders must agree to commence work on or before a date to be specified in a written "Notice To Proceed" of the City and to fully complete the project within the specified time as stated in the proposal.
TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THIS PROJECT. THE CITY EMPLOYS A ZERO-TOLERANCE POLICY FOR TIME OF COMPLETION. FAILURE TO MEET THE CONTRACTUAL DEADLINE, OR A DELAY IN MEETING PROJECT SCHEDULES, MAY BE DEEMED A DEFAULT. THE CITY WILL AWARD AN EARLY COMPLETION BONUS IF THE PROJECT IS COMPLETED EARLY. THE EARLY COMPLETION BONUS WILL BE UP TO BUT NOT IN EXCESS OF THE AMOUNT STATED IN THE PROPOSAL.

**NOTICE OF SPECIAL CONDITIONS:** Attention is particularly called to those parts of the contract documents and specifications which deal with the following:

(a) Inspection and testing of materials
(b) Insurance requirements
(c) Wage rates
(d) Stated allowances

**PROTEST PROCEDURES:** Procedure - This protest procedure is available to vendors responding to this Bid.
Protests are made - 1. To the Purchasing Department. Vendor protests shall be received, in writing, by the Purchasing Department within five (5) business days after award. 2. To the City Manager, only after the protest to the Purchasing Department was not resolved satisfactory to the protestor. Protests to the City Manager shall be made within five (5) business days after the vendor has received notification from the City of Rowlett Purchasing Department of his/her decision.
Grounds for protest – 1. Errors were made in computing the score. 2. The City of Rowlett failed to follow procedures established in the Bid, the Purchasing policy: Acquisition or applicable state or federal laws or regulations. 3. Bias, discrimination or conflict of interest on the part of an evaluator. Protests not based on these criteria shall not be considered.
Format and Content - Protesting vendors shall include, in their written protest to the City of Rowlett Purchasing Department, all facts and arguments upon which they rely. Vendors shall, at a minimum, provide: 1. Information about the protesting vendor; name of firm, mailing address, phone number and name of individual responsible for submission of the protest. 2. Information about the acquisition and the acquisition method. 3. Specific and complete statement of the City of Rowlett's action(s) protested. 4. Specific reference to the grounds for the protest. 5. Description of the relief or corrective action requested. 6. For protests to the City Manager, a copy of the Purchasing Department's written decision on the protest.

Review Process – 1. Upon receipt of a vendor protest, the Purchasing Department shall perform an objective review of the protest by individuals not involved in the acquisition protested. The review shall be based on the written protest material submitted by the vendor. A written decision will be delivered to the vendor within five business days after receipt of the protest, unless more time is needed. The protesting vendor shall be notified if additional time is necessary.
Final Determination - The final determination shall 1. Find the protest lacking in merit and uphold the agency's action; or 2.Find only technical or harmless errors in the agency's acquisition process conduct, determine the agency to be in substantial compliance, and reject the protest; or 3. Find merit in the protest and provide the agency options which may include a) Correct its errors and reevaluate all proposals, and/or b)Reissue the vendor solicitation document; or c) Make other findings and determine other courses of action as appropriate.
City Manager Review Process - Protests to the City Manager may be made only after review by City of Rowlett Purchasing Department. Protests of the decisions of City of Rowlett Purchasing Department shall be made by letter to the City Manager, who may establish procedures to resolve the protest. Protests shall be received by the City Manager, within five business days after the decision of Purchasing Department in order to be considered. The resulting decision is final, with no further administrative appeal available.

**FISCAL FUNDING:** A multi-year lease or lease/purchase arrangement (if requested by the Special Requirements/Instructions), or any contract continuing as a result of an extension option, must include fiscal funding out. If, for any reason, funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. After expiration of the lease, leased equipment shall be removed by the offeror from the using department without penalty of any kind or form to the City of Rowlett. All charges and physical activity related to delivery, installation, removal and redelivery shall be the responsibility of the offeror.

**GRATUITIES AND PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** Any elected or appointed official who has any substantial interest, either direct or indirect, in any business entity seeking to contract with the City of Rowlett, shall, before any vote or decision on any matter involving the business entity, file an affidavit stating the nature and extent of interest and shall abstain from any participation in the matter. This is not required if the vote or decision will not have any special effect on the entity other than its effect on the public. However, if a majority of the governing body is also required to file, and do file similar affidavits, than the member is not required to abstain from further participation. Attached and included is a disclosure of all of this Company's business or pecuniary financial relationships with officers or employees of City of Rowlett must be attached and included with RFP/RFQ submitted. The City of Rowlett may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by the City of Rowlett that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent, or representative of the Seller, to any officer or employee of City of Rowlett with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making or any determinations with respect to the performing of such a contract. In the event this contract is cancelled by the City of Rowlett pursuant to this provision, the City of Rowlett shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities. Consistent and continued tie RFP's/RFQ's could cause rejection of RFP/RFQ's by the City of Rowlett and/or investigation for Anti-Trust violations. Proposer guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

**HISTORICALLY UNDERUTILIZED BUSINESS (HUB) CERTIFICATION:** If Proposer is a Certified Historically Underutilized Business (HUB), please include a copy of your HUB Certificate with your Proposal.

**MAINTENANCE:** Maintenance required for equipment RFP/RFQ should be available in the City of Rowlett by a manufacturer authorized maintenance facility. Costs for this service shall be shown on the Pricing/Delivery Information form. If the City of Rowlett opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.

**MATERIAL SAFETY DATA SHEETS:** Under the "Hazardous Communication Act", commonly known as the "Texas Right To Know Act", an offeror must provide to the City of Rowlett with each delivery, material safety data sheets which are applicable to hazardous substances defined in the Act. Failure of the offeror to furnish this documentation will be cause to reject any RFP/RFQ applying thereto.

**NAME BRANDS:** Specifications may reference name brands and model numbers. It is not the intent of the City of Rowlett to restrict these RFP/RFQs in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Offerors may offer items of equal stature and the burden of proof of such stature rests with offerors. The City of Rowlett shall act as sole judge in determining equality and acceptability of products offered.

**PRICING:** Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated on the Pricing/Delivery Information form. Prices shall be all inclusive: No price changes, additions, or subsequent qualifications will be honored during the course of the contract,. All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the contractor and included in the RFP/RFQ prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, offeror MUST indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails.

**RECYCLED MATERIALS:** The City of Rowlett encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. The City of Rowlett will be the sole judge in determining product preference application.

**SCANNED RE-TYPED RESPONSE:** If in its RFP/RFQ response, offeror either electronically scans, retypes, or in some way reproduces the City of Rowlett 's published RFP/RFQ package, then in event of any conflict between the terms and provisions of the City of Rowlett 's published RFP/RFQ specifications, or any portion thereof, and the terms and provisions of the RFP/RFQ response made by offeror, the City of Rowlett 's RFP/RFQ specifications as published shall control. Furthermore, if an alteration of any kind to the City of Rowlett 's published RFP/RFQ specifications is only discovered after the contract is executed and is or is not being performed, the contract is subject to immediate cancellation.

**SILENCE OF SPECIFICATIONS:** The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item RFP/RFQ. Substitute items will not be accepted unless approved (in advance).

**SUPPLEMENTAL MATERIALS:** Offerors are responsible for including all pertinent product data in the returned RFP/RFQ package. Literature, brochures, data sheets, specification information, completed forms requested as part of the RFP/RFQ package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the offeror wishes to include as a condition of the RFP/RFQ, must also be in the returned RFP/RFQ package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire RFP/RFQ.

**TITLE TRANSFER:** Title and Risk of Loss of goods shall not pass to the City of Rowlett until the City of Rowlett actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department.

Generally, deliveries may be made between 8:30 a.m. and 4:00 p.m., Monday through Friday. Offerors are advised to consult the using department for instructions. The place of delivery shall be shown under the "Special Requirements/Instructions" section of this RFP/RFQ package and/or on the Purchase Order as a "Deliver To:" address.

**USAGE REPORTS:** The City of Rowlett reserves the right to request, and receive at no additional cost, up to two (2) times during the contract period, a usage report detailing the products and/or services furnished to date under a contract resulting from this RFP. The reports must be furnished no later than five (5) working days after written request and itemize all purchases to date by the City of Rowlett department, description of each item purchased, including manufacturer, quantity of each item purchased, per unit and extended price of each item purchased, and total amount and price of all items purchased.

**WARRANTY PRICE:** (a) The price to be paid by the City of Rowlett shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, the City of Rowlett may cancel this contract without liability to Seller for breach or Seller's actual expense. (b) The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach or violation of this warranty, the City of Rowlett shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee. Offerors shall furnish all data pertinent to warranties or guarantees which may apply to items in the bid. Offerors may not limit or exclude any implied warranties. Offeror warrants that product sold and services provided to the City of Rowlett shall conform to the standards and laws established by the U.S. Department of Labor, U.S. Department of Homeland Security, Occupational Safety and Health Administration and O.S.H.A. Act of 1970. In the event product does not conform to OSHA Standards, where applicable, the City of Rowlett may return the product for correction or replacement at the offeror's expense. If offeror fails to make the appropriate correction within a reasonable time, the City of Rowlett may correct at the offeror's expense. Offerer warrants that product sold and services provided to the City of Rowlett shall conform to the standards and laws established by the U.S. Department of Homeland Security, Occupational Safety and Health Administration and O.S.H.A. Act of 1970.

**WARRANTY PRODUCTS:** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the City of Rowlett. Seller warrants that the goods furnished will conform to the specifications, drawings and descriptions listed in the RFP/RFQ invitation and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern.

**SAFETY WARRANTY:** Seller warrants that the product sold to the City of Rowlett shall conform to the standards promulgated by the U.S.Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, the City of Rowlett may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by the City of Rowlett will be at Seller's expense. Have you attached the required warranty information to the RFP/RFQ (if applicable)? Yes, No.

**APPLICABLE LAW**
he bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full..

**ASSIGNMENT DELEGATION:** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the City of Rowlett. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph. Any contract entered into pursuant to this request is not assignable, nor the duties thereunder, by either party, without the written consent of the other party in the contract City of Rowlett and the City of Rowlett City Council.

**CONTRACT OBLIGATION:** The City of Rowlett City Council must award the contract and the Council designee must sign the contract before it becomes binding on the City of Rowlett or the offerors. Department heads are NOT authorized to sign agreements for the City of Rowlett. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

**CONDITIONS OF WORK:** Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible, the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor and will be responsible for coordination with utilities on site.

**ERRORS AND OMISSIONS:** Errors and Omissions in the RFP / RFQ of any provision herein described will not be construed as to relieve the Vendor of any responsibility or obligation, requisite to the complete and satisfactory implementation, operation, and support of any and all equipment, systems or services.

At the time of the opening of bids each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve the bidder from any obligation in respect to his bid.

**FORCE MAJEURE:** If, by reason of Force Majeure, either party hereto shall be rendered unable wholly, or in part, to carry out its obligations under this agreement, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely with the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgement of the party having the difficulty.

**HOLD HARMLESS AGREEMENT:** Contractor, the successful offeror, shall indemnify and hold the City of Rowlett harmless rom all claims for personal injury, death and/or property damage resulting directly or indirectly from contractor's performance. Contractor shall procure and maintain, with respect to the subject matter of this RFP/RFQ, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover contractor's liability as may arise directly or indirectly from work performed under terms of this RFP/RFQ. Certification of such coverage must be provided to the City of Rowlett upon request.

**INFRINGEMENTS:** There will be no warranty by the City of Rowlett against infringements. As part of this contract for sales, Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement or the like. The City of Rowlett makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall the City of Rowlett City of Rowlett be liable to Seller for indemnification in the event that Seller is sued on the grounds of infringement or the like. If Seller is of the opinion that an infringement or the like will result, he will notify the City of Rowlett to this effect in writing within two (2) weeks after the signing of this agreement. If the City of Rowlett does not receive notice and is subsequently held liable for the infringement or the like, Seller will hold the City of Rowlett harmless. If Seller in good faith ascertains that production of the goods in accordance with the specifications will result in infringement or the like, this contract shall be

null and void, except that the City of Rowlett will pay Seller the reasonable cost of his/her search as to infringement. The contractor agrees to protect the City of Rowlett from claims involving infringement of patents or copyrights.

**WORK ORDER CHANGES:** It is understood that the quantities of work to be done at unit prices is approximate only and are intended principally to serve as a guide in evaluating bids. Any change order will be approved by the City prior to work being started on said change.

It is further agreed that the quantities of work to be done at unit prices and materials to be furnished may be increased or diminished as may be considered necessary, in the opinion of the Engineer, to complete the work fully as planned and contemplated and that all quantities of work, whether increased or decreased, are to be performed at the unit prices set forth except as provided for in the specifications. The City reserves the right to increase or decrease the amount of work to be done by any amount not to exceed twenty-five percent (25%) of the original contract amount. In the event the increase pertains to items not originally bid, the Contractor shall submit a bid in writing to the Engineer for approval.

It is further agreed that lump sum prices may be increased to cover additional work ordered by the Engineer but not shown on the plans or required by the specifications, in accordance with the provisions of the general conditions; similarly, they may be decreased to cover deletion of work so ordered.

The City reserves the right to reject the Contractor's bid on such extra work and secure such work to be done other than by said Contractor.

The time for performance set forth in the contract documents contemplates normal bad weather days and typical construction delays. Extensions in the time for performance may be given or allowed for if and only if the extension is approved by the City and the approval is evidenced by a written and signed Change Order. In the absence of a written, signed Change Order.

**INTERPRETATION PAROLE EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement, even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to Control.

**MODIFICATIONS:** This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents. O.S.H.A: Offeror must meet all Federal and State OSHA requirements.

**RIGHT TO ASSURANCE:** Whenever one (1) party to this contract in good faith has reason to question the other party's intent to perform, he/she may demand that the other party give written assurance of their intent to perform. In the event that a demand is made, and no assurance is given within five (5) days the demanding party may treat this failure as an anticipatory repudiation of the contract.

**SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

**VENUE:** Both parties agree that venue for any litigation arising from this contract shall lie in Dallas City, Texas.

## EVALUATION METHOD

Proposals will be evaluated and scored by the Proposal Evaluation Committee based on the scoring criteria as outlined in this document.

The Evaluation Committee will review all proposal materials. The selection committee **may** invite any number of the highest rated firms to participate in onsite interviews. All expenses related to the participation in the onsite interviews are the responsibility of the consultant with no obligation to the City. The decision to interview and the number of firms to interview is at the sole discretion of the evaluation committee. The interview (if required) will be evaluated and scored, and this score will be added to the overall score. The consultant(s) with the highest score(s) will be recommended for award contingent upon approval by the City of Rowlett City Council. The City reserves the right to negotiate with the selected firm(s) for rates and concessions that are in the best interest of the City. Upon the City's award of the contract, the City will present a contract for execution to the selected consultant(s). If execution of this contract with the selected consultant(s) is unsuccessful, the City will negotiate with the second ranked consultant(s) and so on until a satisfactory agreement has been reached.

There will be no bias in terms of a solution and/or a solution framework so as to afford all consultants an even playing field when the proposals are evaluated. The City reserves the right to ask for additional information and clarification from or about any or all consultants.

Please make sure the contact information for the references you provide is correct. References are usually contacted via e-mail and it is very important that they reply in a timely manner.

**EVALUATION CRITERIA**

The following criteria and weights shall be utilized in the evaluation of the proposals:

| CRITERIA | MAXIMUM POINTS |
|---|---|
| ***EXPERIENCE AND PAST PERFORMANCE***<br>• Experience of the firm/individual's, credentials and training<br>• List and description of similar services and how they relate to the City's needs, past performance and demonstrated experience | **25** |
| ***DEMONSTRATED ABILITY TO PERFORM THE REQUIRED WORK***<br>• Understanding of the scope of the project; approach to the project<br>• Financial Stability<br>• Include references and appropriateness of fleet | **25** |
| ***PRICE PROPOSAL*** | **20** |
| ***SAFETY RECORD*** | **20** |
| ***CAPACITY TO RESPOND TO MAJOR AND CATASTROPHIC DISASTER AND OTHER CONTRACTUAL OBLIGATIONS*** | **10** |
| ***TOTAL POSSIBLE SCORE*** | **100** |

**Background**
The City of Rowlett, Texas is requesting proposals from qualified individuals/firms for a stand-by contract for the clearance, demolition, removal, reduction, and disposal of disaster debris as directed by the City in order to eliminate immediate threat to the public health and safety. Also required is the elimination of immediate threats of significant damage to improved public or private property and that which is considered essential to ensure economic recovery of the affected community. Service Providers shall provide disaster recovery technical program management assistance to City officials. Work under this proposal will be utilized on an "as needed" basis or when notice to proceed is given to the successful proposer(s).

The Service Provider shall have an excellent understanding of the documentation involved for the reimbursement from FEMA, FHWA, or other federal agency, and the state relief programs to make the process of cost recovery efficient and accurate. The processes and documentation required will be in strict compliance with FEMA, FHWA, or other federal agency, and other state relief programs regulations regarding eligibility.
A primary, secondary, and tertiary Service Provider may be selected to provide differing elements or levels of scope of work in accordance with the capabilities and extent of involvement each respondent proposes.

**Term of Agreement**
The contract will be a one year contract utilized on an "as needed basis" with the option to be renewed for four additional one-year periods if mutually agreed upon by both parties, within budgetary limitations, and at the same terms and conditions.

**Annual Coordination Meeting**
The successful Service Provider(s) shall be required to attend an annual coordination meeting with the City at no additional cost to the City.

**Description of Designated Areas**

A. The designated area for debris removal (the City right-of-way) is bounded by the City limits of the City and includes public property and Right-of-Way (ROW), City parks and City debris staging areas within the City and *may* include private segments within the jurisdictional boundaries of the City. The City Debris Manager may also authorize the Service Provider to perform debris removal on non-City roadways or other areas, as directed in writing by the City Debris Manager.

B. The City Debris Manager will authorize and approve which services the Service Provider shall provide from the scope of services and which zones/areas must be prioritized.

C. All debris identified by the City Debris Manager shall be removed. The number of complete passes the Service Provider shall conduct through the City is at the discretion of the City Debris Manager. Partial removal of debris piles is strictly prohibited. The Service Provider shall not move from one designated work area to another designated work area without prior approval from the City or its authorized representative. Any eligible debris, such as fallen trees, which extends onto the ROW from private property, shall be cut at the point where it enters the ROW, and that part of the debris which lies within the ROW shall be removed. The Service Provider shall not enter onto private property during the performance of this contract unless specifically authorized by the City Debris Manager in writing.

D. Loose leaves and small debris shall be removed within the designated area. No debris shall be left on the road surface. No single piece of debris larger than three inches in any dimension shall be left at the point of collection.

E. Service Provider shall deliver all disaster related debris to the City approved Debris Management Site (DMS) or City approved Final Disposal Site that has been approved to receive disaster-generated debris and adhere to all local, state and federal regulations.

F. All Final Disposal Sites must be approved, in writing, by the City Debris Manager. The Service Provider will be responsible for the handling, reduction and final haul-out and disposal of all reduced and unreduced debris. DMS operations and remediation must comply with all local,

state and federal safety and environmental standards. The Service Provider reduction, handling, disposal and remediation methods must be approved, in writing, by the City Debris Manager.

G. Payment for disposal costs such as tipping fees incurred by the Service Provider at a City approved Final Disposal Site that meet local, state and federal regulations for disposal will be reimbursed by the City as a pass through cost. Prior to reimbursement by the City, the Service Provider must furnish an invoice in hard copy and electronic format matching scale/weigh tickets numbers with load ticket or haulout ticket numbers and other applicable information. The Service Provider will also be required to provide proof of Service Provider payment to the City approved Final Disposal Site.

H. The Service Provider shall conduct the work so as not to interfere with the disaster response and recovery activities of local, state and federal governments or agencies, or of any public utilities.

I. The City reserves the right to inspect DMS, verify quantities and review operations at any time.

**Debris Management Sites**

The Service Provider is responsible for providing a sufficient number of DMS to support the event in which the contract is activated. The proposed DMS must be approved by the City. Depending on the event, the City may provide the Service Provider with DMS locations within the City. The cost associated with acquiring, preparing, leasing, renting, operating, and remediating land used as DMS in the City is a cost borne by the Service Provider and compensated based on the Service Provider's bid for site management and reduction of debris.

The Service Provider will prepare and maintain the DMS facility(ies) to accept and process all eligible storm debris. Preparation and maintenance of facilities shall include the following:

- Maintaining the DMS approach and interior road(s) for all weather conditions for the entire period of debris hauling, including provision of crushed concrete for any roads that require stabilization for ingress and egress.
- Ensuring only Service Provider vehicles and others specifically authorized by the City will be allowed to use the DMS.
- Providing DMS utilities which include but are not limited to water, lighting, and portable toilets.
- Providing traffic control which includes but is not limited to traffic cones and staff with traffic flags.
- Providing DMS dust control and erosion control which includes but is not limited to an operational water truck, silt fencing, and other best management practices.
- Providing DMS fire protection which includes but is not limited to an operational water truck (sufficient and equipped for fire protection), fire breaks, and a site foreman.
- Providing 24-hour site security for each DMS.
- Restoring the site to its original condition prior to site use. Site remediation includes returning original site grade, sod, and other physical features. Site remediation also includes returning the site to its original condition as verified through soil and groundwater samples. Site remediation does not include restoring fencing, concession stands, lighting, and other permanent structures that may have to be demolished at the City's direction.

The City may also establish designated homeowner drop-off sites. The Service Provider will be responsible for removing all debris from those sites daily.

The Service Provider's Operations Manager will assign a Foreman to the (each) DMS, who will be responsible for the management of all operations of the site, including traffic control, dumping operations, segregation of debris, grinding, fire protection, and safety. The DMS Foreman will be responsible for monitoring and documenting equipment and labor time and providing the daily operational report to the Service Provider's Operation Manager, who will in turn provide this information to the City. These daily reports must meet the requirements of FEMA or other federal agency, and other reimbursement and regulatory governmental agencies.

The Service Provider will be responsible for returning all utilized DMS to their original condition prior to site use. DMS remediation will include, but is not limited to, returning the original site grade, fill dirt, base material, sod, and other physical features. DMS site remediation will also include returning all utilized sites to their original condition as verified through soil and groundwater samples. DMS remediation will abide by all state and federal environmental regulatory requirements and is subject to final approval by the City and the Texas Commission on Environmental Quality (TCEQ). All debris, mulch, etc is to be removed adequately; fill dirt and/or other base material (if required) must meet standards for intended use; new sod or seeding must meet standards for intended use.

**Scope of Services**

Under this contract, work shall consist of coordinating and mobilizing an appropriate number of cleanup crews, as determined by the City Debris Manager. Work shall also include the clearing and removing of any and all "Eligible" debris as most currently defined (at the time written notice to proceed is issued to the Service Provider) by the Public Assistance grant program guidelines, Federal Emergency Management Agency (FEMA) Publication 321 – Public Assistance Policy Digest, FEMA Publication 322 – Public Assistance Guide, FEMA Publication 323 – Public Assistance Applicant Handbook, FEMA Publication 325 – Debris Management Guide, all applicable state and federal Disaster Specific Guidance (DSG) documents, FEMA fact sheets and policies and as directed by the City Debris Manager. Eligible also includes meeting any changes in definition, rules or requirements regarding debris removal reimbursement as stipulated by FEMA during the course of a debris removal project. The aforementioned definition of "eligible" applies to all uses throughout Scope of Services items 1 through 17. Work will include: 1) examining debris to determine whether or not debris is eligible; 2) loading the debris; 3) hauling debris to City approved DMS(s) or City approved Final Disposal Site(s); 4) reducing disaster related debris; 5) hauling reduced debris to a City approved Final Disposal Site; and 6) disposing of reduced debris at a City approved Final Disposal Site. Debris not defined as eligible by FEMA Publication 325 or state or federal DSGs or policies will not be loaded, hauled or dumped under this contract unless written instructions are given to the Service Provider by the City Debris Manager. It shall be the Service Provider's responsibility to load, transport, reduce and properly dispose of any and all disaster generated debris which is the result of the event under which the Service Provider was issued notice to proceed, unless otherwise directed by the City Debris Manager, in writing.

City personnel will complete the initial debris clearance for access from public streets, including the moving of debris to unblock a street. The City intends to perform debris clearance for access within its own forces or under existing contracts between the City and local firms. However, in a significant disaster, these resources may be insufficient to perform the clearance activities in a timely manner and the Service Provider may be directed to perform them.

After activation of the contract and after a preliminary damage assessment, the City and the Service Provider, together, will establish a schedule of events depending on the severity of the disaster surrounding the City. This schedule of events shall include the dates for the:

- Last pass of the removal of public and/or private vegetative debris
- Last pass of the removal of construction and demolition debris

These last pass dates shall be very important to both the City and the Service Provider because of the liquidated damages that may be implemented, if the Service Provider does not meet these dates.

Scope of services under this contract includes, but is not limited to:

1. **Emergency Road Clearance**
   At the request of the City this contract, work shall consist of all labor, equipment, fuel and associated costs necessary to clear and remove debris from City roadways, to make them passable immediately following a declared disaster. All roadways designated by the City Debris Manager shall be clear and passable within 70 working hours of the issuance of Release Orders from the City to conduct emergency roadway clearance work. The City may choose to extend the Service Provider's 70-hour limit through a written request. This may include roadways in municipalities within the City or other governmental agencies under the legal responsibility of the City. Clearance of these roadways will be performed as identified by the City Debris Manager. The Service Provider shall assist the City and its representatives in ensuring proper

documentation of emergency road clearance activities by documenting the type of equipment and/or labor utilized (i.e., certification), starting and ending times, and zones/areas worked. Services performed under this Contract element will be compensated using Schedule 2 – Hourly Labor and Equipment Price Schedule.

**2. ROW Vegetative Debris Removal**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to pick up and transport disaster-related vegetative debris existing on the City ROW to a City approved DMS or a City approved Final Disposal Site in accordance with all federal, state and local rules and regulations.

a. For the purposes of this contract, vegetative debris that is piled in immediate close proximity to the street, and is accessible from the street with loading equipment (i.e., not behind a fence or other physical obstacle) will be removed.

b. Removal of vegetative debris existing in the City will be performed as identified by the City Debris Manager.

c. Once the debris removal vehicle has been issued a load ticket from the City's authorized representative, the debris removal vehicle will proceed immediately to a City approved DMS or a City approved Final Disposal Site. The debris removal vehicle will not collect additional debris once a load ticket has been issued.

d. All debris will be removed from each location before proceeding to the next location unless directed otherwise by the City or its authorized representative.

e. Entry onto private property for the removal of vegetative hazards will only be permitted when directed by the City or its authorized representative. The City will provide specific Right-of-Entry (ROE) legal and operational procedures.

f. The Service Provider must provide traffic control as conditions require or as directed by the City Debris Manager.

**3. ROW C&D Debris Removal**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to pick up and transport Construction and Demolition (C&D) debris existing on the City ROW to a City approved DMS or City approved Final Disposal Site in accordance with all federal, state and local rules and regulations.

a. For the purposes of this contract, C&D debris that is piled in immediate close proximity to the street, and is accessible from the street with loading equipment (i.e., not behind a fence or other physical obstacle) will be removed.

b. Removal of C&D debris existing in the City ROW will be performed as identified by the City Debris Manager.

c. Once the debris removal vehicle has been issued a load ticket from the City's authorized representative, the debris removal vehicle will proceed immediately to a City approved DMS or a City approved Final Disposal Site. The debris removal vehicle will not collect additional debris once a load ticket has been issued.

d. All debris will be removed from each location before proceeding to the next location unless directed otherwise by the City or its authorized representative.

e. Entry onto private property for the removal of C&D hazards will only be permitted when directed by the City or its authorized representative. The City will provide specific ROE legal and operational procedures.

f. The Service Provider must provide traffic control as conditions require or directed by the City Debris Manager.

**4. Demolition, Removal, Transport and Disposal of Non-RACM Structures**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to decommission, demolish and dispose of Non-Regulated Asbestos Containing Material (Non-RACM) structures on private property within the jurisdictional limits of the City. Under this service, work will include Asbestos Containing Material (ACM) testing, decommissioning, structural demolition, debris removal and site remediation. Further, debris generated from the demolition of Non-RACM structures, as well as scattered C&D debris on private property, will be transported to a City approved Final Disposal Site in accordance with all federal, state and local rules and regulations.

a. Decommissioning consists of the removal and disposal of all HHW, E-Scrap, White Goods, and Waste Tires from a Non-RACM structure at a properly sanctioned facility in accordance with all applicable federal, state and local rules and regulations.

b. Any structurally unsound and unsafe structures will be identified and presented to the City for direction regarding decommissioning.

c. Removal and transportation of Non-RACM demolished structures and scattered C&D debris on private property will be performed as directed in writing by the City Debris Manager.

d. Once the debris removal vehicle has been issued a load ticket from the City's authorized representative, the debris removal vehicle will proceed immediately to a City approved Final Disposal Site. The debris removal vehicle will not collect additional debris once a load ticket has been issued.

e. Entry onto private property for the removal of C&D hazards will only be permitted when directed in writing by the City or its authorized representative. The City will provide specific Right-of-Entry (ROE) legal and operational procedures for private property debris removal programs if requested.

f. The Service Provider is required to strictly adhere to any and all local, state and federal regulatory requirements for the demolition, handling and transportation of Non-RACM structures (such as obtaining demolition permits, etc.).

**5. Demolition, Removal, Transport and Disposal of RACM Structures**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to decommission, demolish and dispose of RACM structures on private property within the jurisdictional limits of the City. Under this service, work will include ACM testing, decommissioning, structural demolition, debris removal and site remediation. Further, debris generated from the demolition of structures, as well as scattered C&D debris on private property, will be transported to a City approved Final Disposal Site in accordance with all federal, state and local rules and regulations.

a. Decommissioning consists of the removal and disposal of all HHW, E-Waste, White Goods, and Waste Tires from a RACM structure at a properly sanctioned facility in accordance with all applicable federal, state and local rules and regulations.

b. Any structurally unsound and unsafe structures will be identified and presented to the City for direction regarding decommissioning.

c. Removal and transportation of RACM demolished structures and scattered C&D debris on private property will be performed as directed in writing by the City Debris Manager.

d. Once the debris removal vehicle has been issued a load ticket from the City's authorized representative, the debris removal vehicle will proceed immediately to a City approved Final Disposal Site that accepts RACM debris. The debris removal vehicle will not collect additional debris once a load ticket has been issued.

e. Entry onto private property for the removal of C&D hazards will only be permitted when directed in writing by the City or its authorized representative. The City will provide specific ROE legal and operational procedures for private property debris removal programs if requested.

f. The Service Provider is required to strictly adhere to any and all local, state and federal regulatory requirements for the demolition, handling and transportation of RACM structures (such as obtaining demolition permits, burrito wrapping of debris, etc.).

**6. DMS(s) Management, Operations and Reduction Through Grinding**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to manage and operate DMS(s) for the acceptance, management, segregation, staging and reduction through grinding of disaster related debris. Grinding must be approved by the City Debris Manager prior to commencement of reduction activities. The DMS(s) layout and ingress and egress plan must be approved by the City Debris Manager.

a. The management of DMS(s) includes assistance in obtaining necessary local, state and federal permits or approval and operating in accordance with all rules and regulations of local, state and federal regulatory agencies which may include, but are not limited, to the U.S. Environmental Protection Agency (EPA) and TCEQ. The Service Provider shall also be responsible for any and all costs associated with third-party groundwater and soil testing.

b. The Service Provider is responsible for operating the DMS(s) in accordance with Occupational Safety and Health Administration (OSHA), EPA and TCEQ guidelines.

c. Debris at DMS(s) will be clearly segregated and managed independently by debris type (C&D, vegetative debris, Household Hazardous Waste (HHW) etc.), program (ROW collection, private property debris removal, etc.) and applicant(s).

d. All un-reduced storm debris must be staged separately from reduced debris at the DMS(s).

e. The Service Provider is responsible for all associated costs necessary to provide DMS(s) utilities such as, but not limited to, water, lighting and portable toilets.

f. The Service Provider is responsible for all associated costs necessary to provide DMS(s) traffic control such as, but not limited to, traffic cones and staff with traffic flags.

g. The Service Provider is responsible for all associated costs necessary to provide DMS(s) dust control and erosion control such as, but not limited to, an operational water truck, silt fencing and other best management practices (BMPs).

h. The Service Provider is responsible for all associated costs necessary to provide DMS(s) fire protection such as, but not limited to, an operational water truck (sufficient and equipped for fire protection), fire breaks and a site foreman.

i. The Service Provider is responsible for all associated costs necessary to provide qualified personnel, as well as lined containers or containment areas, for the segregation of visible contaminants that may be mixed with disaster debris. The Service Provider is also responsible for all associated costs necessary for contaminant disposal at a permitted Hazardous Waste Treatment, Storage and Disposal Facility (TSDF), as requested by the City. The cost associated with qualified personnel and lined containers/containment areas for contaminant segregation, as well as contaminant disposal from DMS locations, is a cost reflected in this scope of services item 13.

j. The Service Provider is responsible for providing 24-hour DMS(s) security.

k. The Service Provider will only permit Service Provider vehicles and others specifically authorized by the City or its authorized representative on site(s).

l. The Service Provider shall provide a tower(s) from which the City or its authorized representative can make volumetric load calls. The tower(s) provided by the Service Provider will at a minimum meet the specifications provided in the Technical Specifications of this RFP (See pages 36, Debris Site Tower Specifications).

Upon completion of haul-out activities, the Service Provider will be responsible for remediating the physical features of the site to its original condition prior to site use. Site remediation will include, but is not limited to, returning the original site grade, sod, and other physical features. Site remediation does not include restoring fencing, concession stands, lighting, and other permanent structures that may have been demolished at the City's direction for DMS operations. All debris, mulch, etc is to be removed adequately; fill dirt and/or other base material (if required) must meet standards for intended use; new sod or seeding must meet standards for intended use. Site remediation will also include returning all utilized sites to their original condition as verified through soil and groundwater samples. Site remediation will abide by all state and federal environmental regulatory requirements and is subject to final approval by the City and TCEQ.

**7. DMS(s) Management, Operations and Reduction Through Air Curtain Incinerators**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to manage and operate DMS(s) for the acceptance, management, segregation, staging and reduction through an Air Curtain Incinerator (ACI) of disaster related debris. ACI reduction must be approved by the City Debris Manager, Division of Forestry, TCEQ and any other applicable regulatory agencies as required prior to commencement of reduction activities. DMS(s) layout and ingress and egress plan must be approved by the City Debris Manager.

a. The management of DMS(s) includes assistance in obtaining necessary local, state and federal permits or approval and operating in accordance with all rules and regulations of local, state and federal regulatory agencies which may include, but are not limited, to EPA and TCEQ. The Service Provider shall also be responsible any and all costs associated with third-party groundwater and soil testing.

b. The Service Provider is responsible for operating the DMS(s) in accordance with OSHA, EPA and TCEQ guidelines.

c. Debris at DMS(s) will be clearly segregated and managed independently by debris type (C&D, vegetative debris, Household Hazardous Waste (HHW) etc.), program (ROW collection, private property debris removal, etc.) and applicant(s).

d. All un-reduced storm debris must be staged separately from reduced debris at the DMS(s).

e. The Service Provider is responsible for all associated costs necessary to provide DMS(s) utilities such as, but not limited to, water, lighting and portable toilets.

f. The Service Provider is responsible for all associated costs necessary to provide DMS(s) traffic control such as, but not limited to, traffic cones and staff with traffic flags.

g. The Service Provider is responsible for all associated costs necessary to provide DMS(s) dust control and erosion control such as, but not limited to, an operational water truck, silt fencing and other BMPs.

h. The Service Provider is responsible for all associated costs necessary to provide DMS(s) fire protection such as, but not limited to, an operational water truck (sufficient and equipped for fire protection), fire breaks and a site foreman.

i. The Service Provider is responsible for providing 24-hour DMS(s) security and fire tender.

j. The Service Provider will only permit Service Provider vehicles and others specifically authorized by the City or its authorized representative on site(s).

k. The Service Provider shall provide a tower(s) from which the City or its authorized representative can make volumetric load calls. The tower(s) provided by the Service Provider will at a minimum meet the specifications provided in the Technical Specifications of this RFP (See pages 36 Debris Site Tower Specifications).

l. The Service Provider is responsible for all associated costs necessary to test residual ash from processing for arsenic and other Volatile Organic Compounds (VOCs) as deemed necessary based on DMS operations.

Upon completion of haul-out activities, the Service Provider will be responsible for remediating the site to its original condition prior to site use. Site remediation will include, but is not limited to, returning the original site grade, sod, and other physical features. Site remediation does not include restoring fencing, concession stands, lighting, and other permanent structures that may have been demolished at the City's direction for DMS operations. All debris, mulch, etc is to be removed adequately; fill dirt and/or other base material (if required) must meet standards for intended use; new sod or seeding must meet standards for intended use. Site remediation will also include returning all utilized sites to their original condition as verified through soil and groundwater samples. Site remediation will abide by all state and federal environmental regulatory requirements and is subject to final approval by the City and TCEQ.

**8. DMS(s) Management, Operations and Reduction Through Controlled Open Burning**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to manage and operate DMS(s) for the acceptance, management, segregation, staging and reduction through controlled open air burning of disaster related debris. Controlled open air burning must be approved by the City Debris Manager, Division of Forestry, TCEQ and any other applicable regulatory agencies as required prior to commencement of reduction activities. DMS(s) layout and ingress and egress plan must be approved by the City Debris Manager.

a. The management of DMS(s) includes assistance in obtaining necessary local, state and federal permits or approval and operating in accordance with all rules and regulations of local, state and federal regulatory agencies which may include, but are not limited, to EPA and TCEQ. The Service Provider shall also be responsible for any and all costs associated with third-party groundwater and soil testing.

b. The Service Provider is responsible for operating the DMS(s) in accordance with OSHA, EPA and TCEQ guidelines.

c. Debris at DMS(s) will be clearly segregated and managed independently by debris type (C&D, vegetative debris, Household Hazardous Waste (HHW) etc.), program (ROW collection, private property debris removal, etc.) and applicant(s).

d. All un-reduced storm debris must be staged separately from reduced debris at the DMS(s).

e. The Service Provider is responsible for all associated costs necessary to provide DMS(s) utilities such as, but not limited to, water, lighting and portable toilets.

f. The Service Provider is responsible for all associated costs necessary to provide DMS(s) traffic control such as, but not limited to, traffic cones and staff with traffic flags.

g. The Service Provider is responsible for all associated costs necessary to provide DMS(s) dust control and erosion control such as, but not limited to, an operational water truck, silt fencing and other BMPs.

h. The Service Provider is responsible for all associated costs necessary to provide DMS(s) fire protection such as, but not limited to, an operational water truck (sufficient and equipped for fire protection), fire breaks and a site foreman.

i. The Service Provider is responsible for all associated costs necessary to provide qualified personnel, as well as lined containers or containment areas, for the segregation of visible HHW/contaminants that may be mixed with disaster debris. The Service Provider is also responsible for all associated costs necessary for HHW/contaminant disposal at a permitted TSDF, as requested by the City. The cost associated with qualified personnel and lined containers/containment areas for HHW/contaminant segregation, as well as HHW/contaminant disposal from DMS locations, is a cost reflected in this scope of services item 13. Depending on the volume of HHW per DMS location, the City may choose to collect and dispose of HHW segregated from disaster debris at DMS locations.

j. The Service Provider is responsible for providing 24-hour DMS(s) security and fire tender.

k. The Service Provider will only permit Service Provider vehicles and others specifically authorized by the City or its authorized representative on site(s).

l. The Service Provider shall provide a tower(s) from which the City or its authorized representative can make volumetric load calls. The tower(s) provided by the Service Provider will at a minimum meet the specifications provided in the Technical Specifications of this RFP (See pages 36, Debris Site Tower Specifications).

m. The Service Provider is responsible for all associated costs necessary to test residual ash from processing for arsenic and other VOCs as deemed necessary based on DMS operations.

n. Upon completion of haul-out activities, the Service Provider will be responsible for remediating the site to its original condition prior to site use. Site remediation will include, but is not limited to, returning the original site grade, sod, and other physical features. Site remediation does not include restoring fencing, concession stands, lighting, and other permanent structures that may have been demolished at the City's direction for DMS operations. All debris, mulch, etc is to be removed adequately; fill dirt and/or other base material (if required) must meet standards for intended use; new sod or seeding must meet standards for intended use. Site remediation will also include returning all utilized sites to their original condition as verified through soil and groundwater samples. Site remediation will abide by all state and federal environmental regulatory requirements and is subject to final approval by the City and TCEQ.

**9. Haul-Out of Reduced Debris to a City Approved Final Disposal Site**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and associated costs necessary to load and transport reduced material such as ash, compacted C&D or mulch existing at a City approved DMS(s) to a City approved Final Disposal Site in accordance with all federal, state and local rules and regulations. The Service Provider shall not receive any payment from the City for haul-out or load tickets related to reduced or un-reduced debris transported and disposed of at a non-City approved Final Disposal Site.

**10. Removal of Hazardous Leaning Trees and Hanging Limbs**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to remove all hazardous trees six inches or greater in diameter, measured four-and-a-half feet from the base of the tree and hazardous hanging limbs two inches or greater in diameter when measured at the break existing on the City ROW. Debris generated from the removal of hazardous trees and hanging limbs two inches or greater existing in the City ROW will be placed in the safest possible location on the City ROW and subsequently removed in accordance with scope of services, item 2, under the terms, conditions and procedure described in "ROW Vegetative Debris Removal." Hazardous leaning trees less than six inches in diameter, measured four-and-a-half feet from the base of the tree, will be flush cut, loaded and removed in accordance with the terms, conditions, and compensation schedule for scope of services item 2. The City will not compensate the Service Provider for cutting leaning trees less than six inches in diameter on a unit rate basis. The collection of all hazardous leaning trees and hazardous hanging limbs must be performed on the same day as the cut work. If there is insufficient room for safe placement along the City ROW then The Service Provider must load the resulting debris as hazardous leaning tree or hazardous hanging limbs as they are removed.

a. Hazardous trees will be identified by the City or its authorized representative for removal. Removal and placement of hazardous trees six inches or greater in diameter existing on the City ROW or private property will be performed as identified by the City Debris Manager. All disaster specific eligibility guidelines regarding size and diameter of leaning trees will be communicated to the Service Provider, in writing, by the City Debris Manager. In order for leaning or hazardous trees to be removed and eligible for reimbursement, the tree must satisfy a minimum of one of the following requirements:

1. The tree is leaning in excess of 30 degrees in a direction that poses an immediate threat

to public health, welfare and safety.

2. The tree is dead, twisted or mangled as a direct result of the storm and a certified Arborist can attest to the fact that the tree will die, and potentially create a falling hazard to the public.

3. Over 50 percent of the tree crown is damaged or broken and heartwood is exposed.

4. The tree has a split trunk that exposes heartwood.

b. Removal and placement of hazardous hanging limbs two inches or greater in diameter existing on the City ROW or private property will be performed as identified by the City Debris Manager. All disaster specific eligibility guidelines regarding size and diameter of limbs will be communicated to the Service Provider, in writing, by the City Debris Manager. In order for hanging limbs to be removed and eligible for payment, the limb must satisfy all of the following requirements:

1. The limb is greater than two inches in diameter.

2. The limb is still hanging in a tree and threatening a public-use area.

3. The limb is located on improved public property.

**11. Removal of Hazardous Stumps**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary to remove hazardous uprooted stumps greater than 24 inches in diameter, measured 24 inches from the base of the tree existing on the City ROW. Further, debris generated from the removal of uprooted stumps existing on the City ROW will be transported to a City approved DMS or a City approved Final Disposal Site in accordance with all federal, state and local rules and regulations. Hazardous stumps measured 24 inches from the base of the tree and 24 inches or less in diameter will be considered normal vegetative debris and removed in accordance with scope of services item 2. The diameter of stumps less than 24 inches will be converted into a cubic yardage volume based on the published FEMA stump conversion table (See Attachment 1 – FEMA Stump Conversion Table) and removed under the terms and conditions of scope of services item 2.

a. Hazardous stumps will be identified by the City or its authorized representative for removal. Removal and transportation of hazardous uprooted stumps existing on the City ROW or private property will be performed as identified by the City Debris Manager. All disaster specific eligibility guidelines regarding size and diameter of hazardous stumps will be communicated to the Service Provider, in writing, by the City Debris Manager. In order for hazardous stumps to be removed and eligible for reimbursement, the stump must satisfy the following criteria:

1. Fifty percent or more of the root ball is exposed.

2. The stump is on City ROW and poses an immediate threat to public health, safety or welfare.

Tree stumps that are not attached to the ground will be considered normal vegetative debris and subject to removal under the terms and conditions of scope of services item 2. Stumps with less than 50 percent of the root ball exposed shall be flush cut to the ground. The stump portion of the tree will not be removed but the residual debris (i.e. tree trunk) will be removed under the terms and conditions of scope of services, item 2. The cubic yard volume of unattached stumps will be based off of the diameter conversion using the published FEMA stump conversion table (See Attachment 1 – FEMA Stump Conversion Table).

The City or its authorized representative will measure and certify all eligible stumps prior to removal.

**12. Sand, Silt, and Debris Removal from Detention/Retention Structures**

Under this element, work shall consist of all labor, equipment, fuel, traffic control costs, and other associated costs necessary to collect sand, silt, and debris from City detention/retention

structures and transport to a City approved final disposal site in accordance with all federal, state, and local rules and regulations.

a. For the purposes of this element, sand, silt, and debris existing in City detention/retention structures will be removed to a depth designated by the City or the City's authorized representative.

b. Once the debris removal vehicle has been issued a load ticket from the City's authorized representative, the debris removal vehicle will proceed immediately to a City approved final disposal site. The debris removal vehicle will not collect additional debris once a load ticket has been issued.

**13. Household Hazardous Waste Removal Transport and Disposal**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary for the removal, transportation and disposal of HHW from the ROW to a permitted TSDF.

a. The removal, transportation and disposal of HHW includes obtaining all necessary local, state and federal handling permits and operating in accordance with all rules and regulations of local, state and federal regulatory agencies.

b. All HHW shall be managed as hazardous waste and disposed of at a permitted TSDF.

**14. ROW White Goods Debris Removal**

Under this contract, work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary for the collection of white goods from the ROW, removal of refrigerants, transportation to a City approved DMS, decontamination, and transportation to a City approved facility for recycling or final disposal. The facility for recycling or final disposal site must be approved in writing by the City. White goods containing refrigerants must first have such refrigerants removed by the Service Provider's qualified technicians prior to mechanical loading.

White goods can be collected without first having refrigerants removed if the white goods are manually placed into a hauling vehicle with lifting equipment so that the elements containing refrigerants are not damaged.

a. The removal, transportation, and recycling or final disposal of white goods includes obtaining all necessary local, state and federal handling permits and operating in accordance with all rules and regulations of local, state and federal regulatory agencies.

    - All white goods containing food items shall be decontaminated in accordance with local, state and federal law prior to recycling.

b. The Service Provider shall recycle or dispose of all white goods in accordance with all rules and regulations of local, State and federal regulatory agencies.

c. Refrigerant containing items will have such refrigerants removed prior to mechanical loading or will be manually loaded and hauled to a City approved DMS for refrigerant removal by the Service Provider's qualified technicians.

**15. Dead Animal Carcasses**

Under this element, work shall consists of all labor, equipment, fuel, traffic control costs and other associated costs necessary for the removal, transportation, and lawful disposal of dead animal carcasses from the ROW to a City approved Final Disposal Site. The Service Provider shall coordinate activities the City of Rowlett and appropriate state agencies, if needed.

a. Disposal of animal carcasses must be compliant with the Texas Department of Agriculture and TCEQ rules for handling, solid waste, and air quality.

**16. Other Debris Removal Work**

Neither the Service Provider nor any subcontractors shall solicit work from private citizens or others to be performed in the designated work areas during the term of this agreement. The City reserves the right to require the Service Provider to dismiss or remove from the project any

workers as the City sees necessary. Any debris removal vehicles dismissed from the project must have their issued placard removed and destroyed.

**TECHNICAL SPECIFICATIONS**

**Notice to Proceed**

The City shall issue official written notice to proceed for the services referenced in this contract. Notice to proceed shall be sent via electronic transmission (facsimile, e-mail, etc.). If the Service Provider's authorized representative is on site in the City then the written notice to proceed may be hand delivered. Under no circumstances shall the City be liable for any services rendered unless the written notice to proceed has been sent and received by the Service Provider(s). The Service Provider(s) must acknowledge receipt of the written notice to proceed.

**Changes in Scope of Work**

The City Administrator or Assistant City Administrator may request changes in the scope of work to be performed. Such changes, including increase or decrease in compensation must be mutually agreed upon and incorporated by written amendment to the agreement.

**Insurance Requirements**

The bidder, acting as an independent contractor, must provide the following insurance, which must be kept in force during the term of the contract. Performance under the contract will not start until this obligation has been met.

Worker's CompensationAs set forth in the Worker's Compensation Act.

Commercial General: $1,000,000 Each Accident/Occurrence.

Liability (Public): $1,000,000 Aggregate

$1,000,000 Products & Completed Operations Aggregate.

City's Protective: $600,000 per occurrence

Liability Insurance: $1,000,000 aggregate

Excess/Umbrella Liability:$1,000,000 per occurrence w/drop down coverage

Limit of Insurance per Project or City's and Contractor's Protective
Liability Insurance for the Project.

Automobile Liability$500,000 Combined single limit per occurrence.

The successful contactor must provide insurance certificates satisfactory to the City of Rowlett within five (5) working days after notification of award. Generally with a carrier authorized to do business in Texas and rated "A" or better in the current Best Key Rating Guide. Failure to supply such insurance shall be a breach of contract. All policies shall be of the "occurrence type" and The City of Rowlett shall be listed as an additional insured (to the extent Contractor/City are indemnified pursuant to the indemnity provisions herein) on all certificates of insurance. Additional Insured Clauses does not apply to Workers' Compensation and Employer's Liability. A waiver of Subrogation Clause, naming the City of Rowlett "shall be included" on all types of coverages.

Thirty (30) days prior written notice to the City of cancellation or material change endorsement shall be attached to all policies.

Insurance certificate to be submitted to: The City of Rowlett, Purchasing Division, 4004 Main Street, Rowlett, Texas 75088. Bid number shall be included on certificate.

**Indemnity**

The successful contractor shall defend, indemnify and save harmless The City of Rowlett and all its officers, agents and employees who are participating in this contract from all suits, actions, or other

claims of any character, name and description brought for or on account of any negligent act or fault of the contractor, or of any agent, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from bid award. Successful bidder shall pay any judgment with cost which may be obtained against The City of Rowlett and participating entities growing out of such injury or damages.

**Drug Free Workplace**
In the interest of job safety and to protect the general public, other contractors and the City's employees from the consequences of accidents that are caused by worker abuse of controlled substances on City construction projects, the bidder certifies by submission of its bid that it will make a good faith effort to maintain a drug-free jobsite.

**Mobilization**
Within 18 hours of notice to proceed from the City, the Service Provider will mobilize an Operations Manager to the City. The Operations Manager will assist the City in planning for the operation and mobilization of Service Provider personnel and equipment necessary to perform the work. If the Service Provider does not send an Operations Manager within 18 hours after the all by the City, the City may then go to the next RFP-approved Service Provider for their services instead of using the first Service Provider.

Within 36 hours of notice to proceed from the City, the Service Provider shall mobilize equipment and resources in the City to begin debris removal operations as directed by the City Administrator. As part of the Service Provider's mobilization effort the Service Provider(s) shall provide an on-site office trailer for the duration of the project or as directed by the City.

**Safety**
The Service Provider(s) shall be solely responsible for maintaining safety at all work sites including DMS(s) and debris collection sites. The Service Provider(s) shall take all reasonable steps to insure safety for both workers and visitors to DMS(s) and debris collection sites. Safety at DMS(s) and debris collection sites includes traffic control such as traffic cones and flag personnel. The Service Provider(s) will also be solely responsible to ensure that all OSHA requirements are met and a safety officer assigned to the project for the duration of this contract.

**On-Site Project Manager**
The Service Provider(s) shall provide an on-site project manager to the City. The project manager shall provide a telephone number to the City with which he or she can be reached for the duration of the project. The project manager will be expected to have daily meetings with the City Debris Manager and/or City authorized representatives. Daily meeting topics will include, but not limited to, volume of debris collected, completion progress, City coordination and damage repairs. Frequency of meetings may be adjusted by the City Debris Manager. The Service Provider(s)' project manager must be available 24 hours a day, or as required by the City Debris Manager.

**Equipment**

a. All trucks and other equipment must be in compliance with all applicable local, state and federal rules and regulations. Any truck used to haul debris must be capable of rapidly unloading its load without the assistance of other equipment, be equipped with a tailgate that will effectively contain the debris during transport and permit the truck to be filled to capacity.

b. Sideboards or other extensions to the bed are allowable provided they meet all applicable rules and regulations, cover the front and both sides and are constructed in a manner to withstand severe operating conditions. The sideboards are to be constructed of two-inch by six-inch boards or greater and not to extend more than two feet above the metal bedsides. Trucks or equipment certified with sideboards must maintain such sideboards and keep them in good repair. In order to ensure compliance, equipment will be inspected by the City's authorized representatives prior to its use by the Service Provider(s).

c. Debris shall be reasonably compacted into the hauling vehicle. Any debris extending above the top of the bed shall be secured in place so as to prevent it from falling off. Measures must be taken to avoid the debris blowing out of the hauling vehicle during transport to a City approved

DMS or a City approved Final Disposal Site.

d. Trucks or equipment designated for use under this contract shall not be used for any other work. The Service Provider(s) shall not solicit work from private citizens or others to be performed in the designated work area during the period of this contract. Under no circumstances will the Service Provider(s) mix debris hauled for others with debris hauled under this contract.

e. Equipment used under this contract shall be rubber tired and sized properly to fit loading conditions. Excessive size equipment (100 cubic yards and up) and non-rubber tired equipment must be approved for use on the road by the City Debris Manager.

f. Hand loaded vehicles are prohibited unless pre-authorized, in writing, by the City Debris Manager, following the event. All hand-loaded vehicles will receive an automatic 50 percent deduction for lack of compaction.

**Traffic Control**
The Service Provider(s) shall mitigate the impact of their operations on local traffic to the fullest extent practical. The Service Provider(s) is responsible for establishing and maintaining appropriate traffic controls in all work areas, including DMS(s) and debris collection sites. The Service Provider(s) shall provide sufficient signing, flagging and barricading to ensure the safety of vehicular and pedestrian traffic in all work areas. All work shall be done in conformity with all applicable local, state and federal laws, regulations, and ordinances governing personnel, equipment and work place safety. Any notification of a deficiency in traffic control or other safety items shall be immediately corrected by the Service Provider(s). No further work shall take place until the deficiency is corrected. Neither the City Debris Manager nor the authorized representative shall sign any additional load or unit rate tickets until the safety item is corrected. The expense incurred by the Service Provider for traffic control is an overhead expense contemplated as part of the Service Provider's compensation under the terms and conditions of scope of services.

**Rapid Response Crew**
Service Provider(s) shall be required to provide the City with access to one or more Rapid Response Crews (RRC) as directed by the City. The purpose of the RRC is to respond immediately to disaster related debris piles as directed by the City Debris Manager or the City's authorized representative. The RRC assists in the overall cleanup effort by responding to and collecting disaster related debris which the City deems a priority for overall City recovery.

**Work Hours**
The Service Provider(s) shall conduct those debris removal operations generating noise levels above that normally associated with routine traffic flow, during daylight hours only. Work may be performed seven days per week. Adjustments to work hours, as local conditions may dictate, shall be coordinated between the City and the Service Provider(s). Unless otherwise directed, the Service Provider must be capable of conducting volumetric reduction operations at DMS locations on a 24 hour, 7 days a week basis.

**Time of Completion**
The services shall commence upon written notice to proceed from the City Administrator or his designee. For each event in which the contract is activated the City and the Service Provider will develop a project completion date. The project completion date may be revised if mutually agreed upon by the City and the Service Provider.

**Liquidated Damages**
Should the Service Provider fail to complete requirements set forth in this scope of work, the City will suffer damage. The amount of damage suffered by the City is difficult, if not impossible to determine at this time. Therefore the Service Provider shall pay the City, as liquidated damages, the following:

a. The Service Provider shall pay the City, as liquidated damages, $5,000.00 per calendar day of delay to mobilize in the City with the resources required to begin debris removal operations, within 36 hours of notice to proceed.

b. The Service Provider shall pay the City, as liquidated damages, $1,000.00 per load of disaster

debris collected in the City that is not disposed of at a City approved DMS or City approved Final Disposal Site. Application of liquidated damaged does not release the Service Provider of all liability associated with hauling and depositing material to an unauthorized location.

c. The Service Provider shall pay the City, as liquidated damages, $500.00 per incident where the Service Provider fails to repair damages that are caused by the Service Provider or subcontractor(s). Application of liquidated damages does not release the Service Provider from the responsibility of resolving or repairing damages.

d. The Service Provider shall pay the City, as liquidated damages, $500.00 per calendar day of delay to complete the project by the agreed upon project completion date.

e. The Service Provider shall pay the City, as liquidated damages, $500.00 per calendar day of delay to remediate each DMS to the original condition based on the completion date set forth by the City and Service Provider per DMS.

f. The Service Provider shall pay the City, as liquidated damages, $100.00 per incident where the Service Provider fails provide sufficient documentation to the City to support FEMA eligibility of the work performed. Additionally no payment will be made for the work performed. This liquidated damage will only apply when the contract is activated for a FEMA eligible disaster.

The amounts specified above are mutually agreed upon as reasonable and proper amount of damage the City should suffer by failure of the Service Provider to complete requirements set forth in the scope of work.

**Damages**

The Service Provider(s) shall repair any damages caused by the Service Provider's equipment in a timely manner at no expense to the City. If there is disagreement between a resident and Service Provider(s) as to the repair of damages, the City shall decide and make the final determination on the repair. Any damages to private property shall be repaired at the Service Provider's expense. Failure to restore damage to public property or private property to the satisfaction of the City will result in the City withholding retainage money in an amount sufficient to make necessary repairs.

To the extent that the City deems the Service Provider(s) negligent in management practices, the City may withhold from retainage money or invoice the Service Provider(s) for time and material costs associated with resolving issues or damages related to the Service Provider's work.

**Existing Utilities**

a. Some trees and debris that are to be removed under this contract may be blocked or entangled with overhead power, telephone and television cables. In this case, it shall be Service Provider's responsibility to coordinate directly with the utility owners to arrange for the removal of the debris without damage to the overhead and underground utility lines (i.e. water and sewer). The Service Provider(s) shall pay all such costs to the utility company for any adjustments.

b. The City may choose either to have the Service Provider(s) make the necessary repairs or have the Service Provider(s) pay all costs incurred to repair damaged utilities that are a result of the Service Provider, as determined by the affected utility company. Repairs to all municipal and privately owned utilities shall be made by the Service Provider(s).

**Debris Site Tower Specifications**

a. The Service Provider(s) shall provide as many towers as designated by the City at each dumpsite for the use of City authorized representatives during their inspection of dumping operations. If ingress and egress of a DMS is of significant distance that the City or its authorized representative are unable to verify the entering and exiting trucks, then the Service Provider(s) may be required to provide a second tower. The inspection platform of the tower shall be constructed at a minimum height of 10 feet from surrounding grade to finish floor level, have a minimum 8 feet by 8 feet of usable floor area, be covered by a roof with 2 feet overhangs on all sides and be provided with appropriate railings and a stairway. Platform shall be enclosed, starting from platform floor level and extending up 4 feet on all 4 sides. The expense incurred by the Service Provider for the construction of towers is an overhead expense contemplated as part of the Service Provider's compensation under the terms and conditions of scope of work.

b. Care shall be taken to place tower(s) at a sufficient distance away from any reduction/dumping operations. If necessary, dumping operations may be temporarily suspended by the City Debris Manager due to unsuitable conditions at the tower.

**Facilities at DMS Locations**
The Service Provider(s) shall provide as many portable toilets as designated by the City at each dumpsite for the use of City authorized representatives during their inspection of dumping operations. The toilet shall be provided prior to start of any dumping operations and kept in a sanitary condition by the Service Provider(s) throughout the duration of dumping operations. The expense incurred by the Service Provider(s) for the operation of portable toilets is an overhead expense contemplated as part of the Service Provider's compensation under the terms and conditions of scope of work.

**Ownership of Debris**
All debris residing in the City ROW and City provided DMS(s) shall be the property of the City until final disposal at a properly permitted disposal site.

**Environmental Protection**

a. Any and all fluids or chemicals (work-related materials such as oil-dri, absorbents, etc.) used by the Service Provider(s) must be used and disposed of in accordance with all rules and regulations of local, state and federal regulatory agencies.

b. Service Provider(s) and subcontractors shall not perform maintenance on over-the-road equipment at DMSs. Maintenance of equipment that typically remain at the DMS (e.g., track hoes, front end loaders, grinders, etc.) may be conducted at the DMS provided best management practices are followed and all wastes are managed and disposed of in accordance with all rules and regulations of local, state and federal regulatory agencies.

c. The Service Provider(s) shall, at its own expense, ensure that noise and dust pollution is minimized to comply with all local and state ordinances and the approval of the City Debris Manager. The Service Provider(s) shall comply in a timely manner with all directions of the City Debris Manager regarding the use of a water truck or other approved dust abatement measures.

d. The Service Provider(s) shall comply with all laws, rules, regulations and ordinances regarding environmental protection.

e. The Service Provider(s) shall immediately report and document all incidents to the City Debris Manager or the authorized representative that affect the environmental quality of DMS(s) such as, but not limited to, hydraulic fluid leaks, oil spills or fuel leaks.

f. The Service Provider must notify the City regarding any fluid or chemical spillage so that the City or its authorized representative can review and approve of the cleanup.

**Documentation and Measurement**

a. The Service Provider is responsible for ensuring that all labor and equipment used for Emergency Push activities is certified and that logs are kept for starting days/times, ending days/times, and zones, areas, and streets worked.

b. All Service Provider(s) trucks used for collection and hauling of debris from the City ROW to City approved DMSs or City approved Final Disposal Sites shall be measured (inside bed measurements) and certified for cubic yard volume by the City or City-authorized representative. The Service Provider shall provide a representative to attest to the certification/measuring process. It is the Service Provider's responsibility to verify the accuracy of truck certifications within 48 hours of truck certification (and notify the City of any discrepancies). Placards will be attached to both sides of each certified truck and shall clearly state the truck measurement in cubic yards, Service Provider name, assigned truck number, and other pertinent information, as determined by the City Debris Manager. If a vehicle is

working under multiple contracts or for multiple communities, it must be re-certified and issued a new placard by a City authorized representative each time it returns to work from other contracts or communities.

c. The Service Provider(s) is responsible for ensuring that all subcontractors maintain a valid driver's licenses and equipment legally fit for travel on the road.

d. Load tickets will be provided by the City or its authorized representative for recording volumes of debris removal. Unit rate tickets will be provided by the City or its authorized representative for documenting unit rate services, such as hanger or leaning tree removal. Only tickets designated and approved by the City will be authorized for use.

- Each ticket shall be of a type that consists of one original and four carbon-copy duplicates.
- Each ticket shall be used to document the location the disaster related debris was collected (i.e., street address) and the amount picked up, hauled, reduced and disposed of. Service Provider(s) are responsible for ensuring all load and unit rate tickets capture location debris or work was completed, collection/disposal date, disposal location, percentage load call or measurement and City authorized representative name and signature. No payment will be made by the City for incomplete load or unit rate tickets submitted for payment.
- Load tickets will be issued by an authorized representative of the City at the collection site. The City authorized representative will complete the applicable portion of the load ticket, and provide all five copies to the vehicle operator. Upon arrival at the DMS or City approved Final Disposal Site, the vehicle operator will present the five copies of the load ticket to the City authorized representative on site. Trucks with less than full capacities will be adjusted down by visual inspection. This determination will be made by the City authorized representative present at the DMS or City approved Final Disposal Site. The City authorized representative will validate, enter the estimated debris quantity and sign the load ticket. The City will keep the original copy, two copies will be given back to the vehicle operator and the remaining two copies will be provided to the Service Provider.
- Loads of processed (e.g., chipped) debris being hauled from a DMS to a City approved Final Disposal Site will follow the same load ticket procedures. A City authorized representative will initiate the load ticket at the DMS. Another City authorized representative will validate and sign the ticket at the City approved Final Disposal Site.
- The Service Provider(s) shall give written notice of the location for work scheduled 24 hours in advance.

**Payment**

a. The City, or its authorized representative, will monitor, verify and document with load tickets or unit rate tickets the completion of all work, as defined in the scope of work. The Service Provider(s) will be provided with copies of this documentation. These documents will be used by the Service Provider as backup data for invoice submittals. Work not ticketed or not authorized by the City will not be approved for payment. Additionally, any ticket submitted for payment must be properly completed. Tickets missing loading address, truck number, certified capacity, collection monitor signature, disposal site, load call or disposal monitor signature will not be paid, nor will the City be responsible for unpaid incomplete tickets.

b. Private property debris removal operations will be invoiced separately from ROW collection removal operations. The City reserves the right to request additional invoice separation by debris type (C&D, vegetative debris, Household Hazardous Waste (HHW) etc.), program (ROW collection, private property debris removal, etc.).

c. Invoices shall be submitted to the City's authorized representative on a bi-weekly basis. All invoices must be submitted in electronic copy (Microsoft Excel format) of the invoice detail. Electronic invoices should be sent via e-mail to kgalvin@rowlett.com and rowlettoem.com. The invoice detail must consist of a tabular report listing all ticket information required by the City. Invoice detail submittals will be checked against City records. City records are the basis of all payment approvals. Only 100 percent accurate and complete invoices shall be forwarded by the City authorized representative to the City for payment.

d. A 10 percent retainage will be withheld from each reconciled invoice until the end of the project. In order to recover the retainage, the Service Provider(s) must successfully complete, and receive a letter of completion from the City, for all work zones. Retainage will be held until final reconciliation is complete. Portions of the retainage may be held by the City to repair damages caused by the Service Provider(s) to public or private property.

e. No separate payment will be made for mobilization and demobilization operations. These costs are to be included in the respective unit prices bid for debris removal and will not be adjusted based on the total amount of debris actually removed in the contract.

f. The Service Provider is responsible for payment to all subcontractors utilized for the services rendered within this scope of work. The Service Provider shall execute release waivers with all subcontractors to release the City from payment to subcontractors directly. The release waivers for all subcontractors shall be provided to the City prior to final retainage release.

g. Payment for disposal cost incurred by the Service Provider(s) at the City approved Final Disposal Sites will be made at the cost incurred by the Service Provider. The Service Provider(s) must submit a copy of all applicable disposal site permits, a copy of the invoice(s) received by the City approved Final Disposal Site, an electronic copy tabulating all scale or load tickets issued by the City approved Final Disposal Site, and proof of Service Provider payment to the City approved Final Disposal Site.

h. Service Provider(s) must submit a final invoice within 30 days of completion of scope of work. Completion of scope of work will be acknowledged, in writing, by the City Debris Manager. The final invoice must be marked "FINAL INVOICE" and no additional payments will be made after the Service Provider's final invoice.

i. When this contract is activated for an event funded by state or federal funds, the Service Provider will comply with all requirements of the state or federal government applicable to the use of the funds. Additionally, when this contract is activated for an event funded by state or federal funds, the City will only pay for those items deemed eligible by the Federal Emergency Management Agency (FEMA), unless the City otherwise agrees in writing.

j. The Service Provider will retain all records pertaining to the services and the contract for these services and make them available to the City for a period of seven years following receipt of final payment for the services referenced herein.

**Price Re-determination**

Price re-determination shall only be considered by the City 45 days prior to the anniversary date of initial contract award and subsequent renewals and shall be substantiated in writing (i.e. Manufacturer's direct cost, postage rates, Railroad Commission rates, Federal/State minimum wage law; Federal/State unemployment taxes; F.I.C.A.: Insurance Coverage rates, etc.). The City of Rowlett reserves the right to reject any/all of the price re-determination as it deems to be in the best interest of the City.

**Inter-local Agreements**

Bidder shall state on the Cooperative Inter-local Purchasing form whether they will agree to other governmental entities entering into inter-local agreements on this price agreement at the same prices and conditions with the exception of deliveries being ordering agencies location as opposed to within The City of Rowlett.

Attachment 1 – FEMA Stump Conversion Table

# Stump Conversion Table

**Diameter to Volume Capacity**

The quantification of the cubic yards of debris for each size of stump in the following table was derived from FEMA field studies conducted throughout the State of Florida during the debris removal operations following Hurricanes Charley, Frances, Ivan and Jeanne. The following formula is used to derive cubic yards:

$$\frac{[(\text{Stump Diameter}^2 \times 0.7854) \times \text{Stump Length}] + [(\text{Root Ball Diameter}^2 \times 0.7854) \times \text{Root Ball Height}]}{46656}$$

0.7854 is one-fourth Pi and is a constant.
46656 is used to convert cubic inches to cubic yards and is a constant

The formula used to calculate the cubic yardage used the following factors, based upon findings in the field:

- Stump diameter measured two feet up from ground
- Stump diameter to root ball diameter ratio of 1:3.6
- Root ball height of 31"

| Stump Diameter (Inches) | Debris Volume (Cubic Yards) | Stump Diameter (Inches) | Debris Volume (Cubic Yards) |
|---|---|---|---|
| 6 | 0.3 | 46 | 15.2 |
| 7 | 0.4 | 47 | 15.8 |
| 8 | 0.5 | 48 | 16.5 |
| 9 | 0.6 | 49 | 17.2 |
| 10 | 0.7 | 50 | 17.9 |
| 11 | 0.9 | 51 | 18.6 |
| 12 | 1 | 52 | 19.4 |
| 13 | 1.2 | 53 | 20.1 |
| 14 | 1.4 | 54 | 20.9 |
| 15 | 1.6 | 55 | 21.7 |
| 16 | 1.8 | 56 | 22.5 |
| 17 | 2.1 | 57 | 23.3 |
| 18 | 2.3 | 58 | 24.1 |
| 19 | 2.6 | 59 | 24.9 |
| 20 | 2.9 | 60 | 25.8 |
| 21 | 3.2 | 61 | 26.7 |
| 22 | 3.5 | 62 | 27.6 |
| 23 | 3.8 | 63 | 28.4 |
| 24 | 4.1 | 64 | 29.4 |
| 25 | 4.5 | 65 | 30.3 |
| 26 | 4.8 | 66 | 31.2 |
| 27 | 5.2 | 67 | 32.2 |
| 28 | 5.6 | 68 | 33.1 |
| 29 | 6 | 69 | 34.1 |
| 30 | 6.5 | 70 | 35.1 |
| 31 | 6.9 | 71 | 36.1 |
| 32 | 7.3 | 72 | 37.2 |
| 33 | 7.8 | 73 | 38.2 |
| 34 | 8.3 | 74 | 39.2 |
| 35 | 8.8 | 75 | 40.3 |
| 36 | 9.3 | 76 | 41.4 |
| 37 | 9.8 | 77 | 42.5 |
| 38 | 10.3 | 78 | 43.6 |
| 39 | 10.9 | 79 | 44.7 |
| 40 | 11.5 | 80 | 45.9 |
| 41 | 12 | 81 | 47 |
| 42 | 12.6 | 82 | 48.2 |
| 43 | 13.3 | 83 | 49.4 |
| 44 | 13.9 | 84 | 50.6 |
| 45 | 14.5 | | |

Attachment 2 – Schedule 1 Unit Rate Price Schedule

| **UNIT RATE PRICE SCHEDULE**<br>Reference to RFP Scope of Services. If a Vendor elects to "No Bid" individual service offerings their proposal may be considered non-responsive by the City. Vendors are requested to provide a cost for ancillary items; however these costs will not be used for evaluative purposes. Work shall consist of all labor, equipment, fuel, traffic control costs and other associated costs necessary. | | | |
|---|---|---|---|
| **1 Vegetative Debris Removal**<br>Work consists of the collection and transportation of eligible vegetative debris on the PROPERTY or public property to a City approved debris management site (DMS) or City approved final disposal site. | **Estimated Quantity (CY)** | **$ Per Cubic Yard** | **Total** |
| Removing debris from public property and ROW and hauling to DMS | 200,000 | | |
| **2 C&D Debris Removal**<br>Work consists of the collection and transportation of eligible C&D on the PROPERTY or public property to a City approved final disposal site. | **Estimated Quantity (CY)** | **$ Per Cubic Yard** | **Total** |
| Removing C&D debris from PROPERTY or public property and hauling to DMS | 200,000 | | |
| **3 Debris Removal from Canals / Waterways**<br>Work consists of the collection and transportation of eligible debris from City maintained canals and waterways to a City approved final disposal site. | **Estimated Quantity (CY)** | **$ Per Cubic Yard** | **Total** |
| Removing debris from City maintained canals/waterways and hauling to DMS | 100,000 | | |
| **4 DMS Operation and Reduction Through Grinding**<br>Work consists of managing and operating DMS for acceptance and reduction of eligible vegetative disaster related debris through grinding. The costs associated with acquiring, preparing, leasing, renting, operating, and remediating land used as DMS is reflected in this bid. | **Estimated Quantity (CY)** | **$ Per Cubic Yard** | **Total** |
| | 200,000 | | |

| **5 Haul-out of Reduced Debris to a City Approved Final Disposal Site**<br>Work consists of loading and transporting reduced eligible disaster related debris at a City approved DMS to a City designated final disposal site. | **Estimated Quantity (CY)** | **$ Per Cubic Yard** | **Total** |
|---|---|---|---|
| | 70,000 | | |
| **6 Removal of Hazardous Trees and Limbs**<br>Work consists of removing eligible hazardous trees or limbs and placing them on the safest possible location on the City PROPERTY for collection under the terms and conditions of Scope of Services Item 2, Vegetative Debris Removal. | **Estimated Quantity** | **$ Per Tree** | **Total** |
| 6 inch to 12.99 inch diameter | 200 | | |
| 13 inch to 24.99 inch diameter | 100 | | |
| 25 inch to 36.99 inch diameter | 50 | | |
| 37 inch to 48.99 inch diameter | 10 | | |
| 49 inch and larger diameter | 1 | | |
| Hanger Removal (per Tree) | 1,900 | | |
| **7 Removal of Hazardous Stumps**<br>Work consists of removing eligible hazardous stumps and transporting resulting debris from the PROPERTY to a City approved DMS. Rate includes removal, backfill of stump hole, reduction, and final disposal. | **Estimated Quantity** | **$ Per Stump** | **Total** |
| 24.1 inch to 36.99 inch diameter | 50 | | |
| 37 inch to 48.99 inch diameter | 10 | | |
| 49 inch and larger diameter | 1 | | |

| | | | |
|---|---|---|---|
| **8 PROPERTY White Goods Debris Removal** Work consists of the removal of eligible White Goods from the PROPERTY to a City approved DMS site or City approved facility for recycling. Contractor shall be responsible for recovering/disposing refrigerants as required by law as well as unit decontamination in a contained area. The Contractor shall also be responsible for the transportation of eligible White Goods from the City approved DMS to a City approved facility for recycling. | **Estimated Quantity** | **$ Per Unit** | **Total** |
| AC Units, Refrigerators and freezers requiring refrigerant recovery and decontamination | 50 | | |
| Washers, dryers, stoves, ovens, and hot water heaters | 50 | | |
| **Total** | **$ _____** | | |
| **SCHEDULE 2 (REVISED) - UNIT RATE PRICE SCHEDULE CONTINUED** | | | |
| Ancillary Options - The Following Items are not included in the Price Evaluation | | | |
| **9 Household Hazardous Waste Removal, Transport, and Disposal**<br><br>Work consists of the collection, transportation, and disposal of household hazardous waste from the PROPERTY to a City approved permitted hazardous waste facility or MSW type I landfill. | **Estimated Quantity** | **$ Per Pound** | **Total** |
| | 2000 | | |
| **10 E-Waste Removal**<br>Work consists of the recovery and disposal of televisions, computers, computer monitors, and microwaves unless otherwise specified in writing by the City. | **Estimated Quantity** | **$ Per Unit** | **Total** |
| | 2000 | | |
| **11 Abandoned Vehicle Removal**<br>Work consists of the removal and transport of eligible abandoned vehicles. | **Estimated Quantity** | **$ Per Unit** | **Total** |

| | | | |
|---|---|---|---|
| Passenger Car | 300 | | |
| Single Axle | 10 | | |
| Double Axle | 5 | | |
| **12 Dead Animal Carcasses**<br>Work consists of the recovery and disposal of dead animal carcasses. | **Estimated Quantity** | **$ Per Pound** | **Total** |
| | 25 | | |

Attachment 3 –Hourly Labor and Equipment Price Schedule (To be included under separate cover)

| **Hourly Labor and Equipment Price Schedule<br>These costs are in addition to the removal & disposal costs submitted in Attachment 2.** | | | |
|---|---|---|---|
| **Equipment Type With Operator** | **Estimated Hours** | **Hourly Labor Rate** | **Total** |
| Air Curtain Burner, Self-Contained System | 200 | | |
| 50’ Bucket Truck | 200 | | |
| Crash Truck w/Impact Attenuator | 100 | | |
| Dozer, Tracked, D3 or Equivalent | 210 | | |
| Dozer, Tracked, D4 or Equivalent | 210 | | |
| Dozer, Tracked, D5 or Equivalent | 210 | | |
| Dozer, Tracked, D8 or Equivalent | 210 | | |
| Dump Truck, 5+/-CY | 280 | | |
| Dump Truck, 16 +/- CY | 280 | | |
| Dump Truck, 20 +/- CY | 280 | | |
| Dump Truck, 38 +/- CY | 280 | | |
| Generator, 5.5 kW, List kW Capacity | 140 | | |
| Generator, 200 kW, List kW Capacity | 140 | | |
| Generator, 2,500 kW, List kW Capacity | 140 | | |
| Light Plant with Fuel and Support | 280 | | |
| Grader w/12’ Blade (Min. 30,000 LB) | 140 | | |
| Hydraulic Excavator, 1.5 CY | 280 | | |
| Hydraulic Excavator, 2.5 CY | 280 | | |
| Knuckleboom Loader | 350 | | |
| Lowboy Trailer w/Tractor | 100 | | |
| Mobile Crane up to 15 Ton | 100 | | |
| Pump, 95 HP (Minimum 25’ Intake and 200’ Discharge to Include Fuel and Support Personnel) | 280 | | |
| Pump, 200 HP (Minimum 25’ Intake and 200’ Discharge to Include Fuel and Support Personnel) | 280 | | |
| Pump, 650 HP (Minimum 25’ Intake and 200’ Discharge to Include Fuel and Support Personnel) | 280 | | |
| Vac Truck (Mist Capacity), List Capacity | 280 | | |
| Pickup Truck, ½ ton | 70 | | |
| Pickup Truck, 1 Ton | 100 | | |
| Passenger Vehicle | 70 | | |

| | | | |
|---|---|---|---|
| Skid-Steer Loader, 1,500 LB Operating Capacity (w/ utility grapple) | 140 | | |
| Skid-Steer Loader, 2,500 LB Operating Capacity (w/ utility grapple) | 140 | | |
| Compact Track Loader, 1,500 LB Operating Capacity (w/ utility grapple) | 100 | | |
| Compact Track Loader, 2,500 LB Operating Capacity (w/ utility grapple) | 70 | | |
| Tub Grinder, 800 to 1,000 HP | 200 | | |
| Hydraulic Excavator, 1.5 cy (w/ thumb) | 280 | | |
| Hydraulic Excavator, 2.5 cy (w/ thumb) | 280 | | |
| Truck, Flatbed, 5 ton | 200 | | |
| Articulated, Telescoping Scissor Lift for Tower, 15 hp/37 ft lift | 140 | | |
| Water Truck, 2500 gal (Non-Potable, Dust Control and Pavement Maintenance) | 210 | | |
| Wheel Loader, 3 CY, 152 HP | 140 | | |
| Wheel Loader, 4.0 CY, 200 HP | 140 | | |
| Wheel Loader-Backhoe,1.5 CY, 95 HP | 140 | | |
| Other – Please List | | | |
| | | | |
| | | | |
| | | | |
| | | | |

| Labor Category | Estimated Hours | Hourly Labor Rate | Hourly Labor Rate |
|---|---|---|---|
| Operations Manager w/Cell Phone and .5 ton Pickup | 140 | | |
| Crew Foreman w/Cell Phone and 1 ton Equipment Truck w/small tools and misc supplies in support of crew | 280 | | |
| Tree Climber/Chainsaw and Gear | 350 | | |
| Laborer w/Chain Saw | 350 | | |
| Laborer w/Small Tools, Traffic Control, or Flag person | 350 | | |
| Bonded and Certified Security Personnel | 200 | | |
| Other – Please List | | | |
| | | | |
| | | | |
| | | | |
| | | | |

| Crew Category | Estimated Hours | Hourly Labor Rate | Total |
|---|---|---|---|
| Wheel Loader, 2.5 CY, 950 or Similar w/Operator, Foreman with Support Vehicle and Small Equipment, Laborer w/Chain Saw, and 2 Laborers w/Small Tools. | 350 | | |
| Other – Please List | | | |
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| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

**Labor & Equipment Total:** _____

Attachment 4 – Sample Public Works Contract

# CITY OF ROWLETT, TEXAS

# PUBLIC WORKS CONSTRUCTION PROJECT

## Insert name of bid,
## bid #,
## Vendor name

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# City of Rowlett, Texas

This Agreement is made by and between the City of Rowlett, Texas, a home-rule municipality (hereinafter referred to as the "City") and ***[ENTER CONTRACTOR LEGAL NAME]***, (hereinafter referred to as the "Contractor") for construction of ***[ENTER PROJECT NAME]***, (hereinafter referred to as the "Project"), the City and the Contractor hereby agreeing as follows:

## ARTICLE I

## THE CONTRACT AND THE CONTRACT DOCUMENTS

### 1.1 THE CONTRACT

1.1.1 The contract between the City and the Contractor, of which this agreement (sometimes referred to herein as the "Contract") is a part, consists of the Contract Documents. It shall be effective on the date this Agreement is executed by the last party to execute it.

### 1.2. THE CONTRACT DOCUMENTS

1.2.1 The Contract Documents consist of this agreement, the General Conditions, the Special Conditions, the Invitation to Bid, Requirements and Instructions to Bidders, the Specifications, the Drawings, the Shop Drawings, the Project Manual, all Change Orders and Field Orders issued hereafter, the addenda, exhibits and attachments thereto, any other amendments hereto executed by the parties hereafter, together with the following (if any):

### 1.3 ENTIRE AGREEMENT

1.3.1 This Contract, together with the Contractor's performance and payment bonds for the Project, all General Conditions, Special Conditions, Plans and Specifications, and Addenda attached thereto, constitute the entire and exclusive agreement between the City and the Contractor with reference to the Project. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the City and Contractor not expressly made a part hereof.

### 1.4 NO PRIVITY WITH OTHERS

1.4.1 Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the City and any person or entity other than the Contractor.

### 1.5 INTENT AND INTERPRETATION

1.5.1 The intent of this Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by the Contractor for the Contract Price.

1.5.2 This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

1.5.3 When a word, term or phrase is used in this Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.

1.5.4 The word "City" includes the City of Rowlett, Texas, a municipal corporation, and its public officials, officers, employees, agents and employees. The word "Contractor" includes the Contractor and its officers, employees, agents and representatives. The word "include", "includes", or "including", as used in this subparagraph and in this Contract, shall be deemed to be followed by the phrase, "without limitation".

1.5.5 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

1.5.6 Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

1.5.7 The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents, the Shop Drawings, the Product Data, and any Plans and Specifications, and shall give written notice to the City of any inconsistency, ambiguity, error or omission which the Contractor may discover with respect to these documents before proceeding with the affected Work. The issuance, or the express or implied approval by the City or the Engineer of the Contract Documents, Shop Drawings or Product Data, shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The City has requested the Engineer to only prepare documents for the Project, including the Drawings, Plans and Specifications for the Project, which are accurate, adequate, consistent, coordinated and sufficient for construction. HOWEVER, THE CITY MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS. THE CONTRACTOR ASSUMES ALL RISK OF ERRORS, AMBIGUITIES AND INACCURACIES. By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the City concerning such documents as no such representation or warranties have been or are hereby made. Further, the Contractor represents and warrants that it has had a sufficient opportunity to inspect the Project site and assumes any and all responsibility for inadequacies or ambiguities in the plans, drawings or specifications as well as for latent conditions of the site where the work is to be performed.

1.5.8 As between numbers and scaled measurements on the Drawings and in the Design, the numbers shall govern, as between larger scale and smaller scale drawings, the larger scale shall govern.

1.5.9 Neither the organization of any of the Contract Documents into divisions, sections, paragraphs, articles, (or other categories), nor the organization or arrangement of the Design, shall control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors.

### 1.6 OWNERSHIP OF CONTRACT DOCUMENTS

1.6.1 The Contract Documents, and each of them individually and collectively, shall remain the property of the City. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided, however, that in no event shall Contractor use, or permit to be used, any or all of such Contract Documents on other projects without the City's prior written authorization.

## ARTICLE II

## THE WORK

**2.1** The Contractor shall perform all of the Work required, implied or reasonably inferable from this Contract.

### 2.2 WORK

2.2.1 The term "Work" shall mean whatever is done by or required of the Contractor to perform and complete its duties under this Contract, including the following: construction of the whole or a designated part of the Project; furnishing of any required surety bonds and insurance, and the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, permits and licenses required of the Contractor, power, water, fuel, heat, light, cooling and all other utilities as required by this Contract. The Work to be performed by the Contractor is generally described as follows:

Approximate quantities for construction of ***[ENTER PROJECT NAME]*** include ***[ENTER MAJOR BID ITEMS AND QUANTITIES]***; in the lump sum of $_____ in accordance with the specifications.

2.2.2 The Contractor shall be responsible for paying for and procuring all materials and labor and furnishing all services necessary or appropriate for the full performance of the Work and the for the full completion of the Project. All materials shall be new and materials and workmanship shall be of good quality. Upon request, the Contractor shall furnish

satisfactory proof of the type, kind, and quality of materials.

## ARTICLE III

## CONTRACT TIME

### 3.1 SUBSTANTIAL COMPLETION

3.1.1 "Substantial Completion" shall mean that stage in the progression of the Work when the Work is sufficiently complete in accordance with this Contract that the City can enjoy beneficial use or occupancy of the Work and can utilize the Work for its intended purpose, even though minor miscellaneous work and/or adjustment may be required.

### 3.2 TIME

3.2.1 The Contractor shall commence the Work within 10 days of receipt of a written Notice to Proceed, and shall achieve Substantial Completion of the Work no later than ***[ENTER NUMBER OF CALENDAR DAYS FOR PROJECT DURATION]*** calendar days from the date specified in the Notice to Proceed. The term "calendar days" shall mean any and all days of the week or month, no days being excepted. The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the Contract Time" and the "scheduled completion date." The execution of this Contract by the Contractor constitutes an agreement that adequate time has been allotted for this Contract, given the Contract Price.

3.2.2 Work may proceed on any day of the week, including weekends, and at any time of the day. However, work shall not occur on such days or at such times as, in the City's or Engineer's discretion, may be a violation of noise or environmental regulations or ordinances, or when the presence of workers, equipment or materials may create an abnormally hazardous condition.

3.2.3 The Contractor shall submit and comply with construction schedules establishing completion timelines and deadlines for each component of the Project. Construction schedules shall be submitted to and approved by the Engineer and the City on a regular basis as required by the Contract Documents. If no reference is made to construction schedules in the Contract Documents, then construction schedules shall be submitted with each Application for Payment .

### 3.3 TIME IS OF THE ESSENCE

3.3.1 The scheduled completion date is based on public necessity. The scheduled completion date is factored into and is a material component of the Contract Price. All limitations of time set forth in the Contract Documents are of the essence of this Contract.

3.3.2 TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THE WORK AND THE COMPLETION OF THE PROJECT ON OR BEFORE THE SCHEDULED COMPLETION DATE. THE SCHEDULED COMPLETION DATE IS A DEADLINE. THE CITY EMPLOYS A ZERO-TOLERANCE POLICY REGARDING THE TIME FOR COMPLETION. The time for completion is an essential and material term of this Contract and the Contractor's failure to achieve substantial completion on the date stated herein, to comply with work schedules, or achieve milestones in approved construction schedules, shall be a material breach and default of this Contract.

3.3.3 The City will assess liquidated damages for late or untimely performance and may, at the City's sole option, elect to allow Contractor to continue with the Work, or may declare Contractor to be in breach and default of the Contract and order Contractor to remove all equipment and personnel from the work site. All remedies for Contractor's late performance shall be nonexclusive and cumulative without waiver of any other, and the City's election of one shall not preclude the City from pursuing any other.

3.3.4 It is contemplated by the parties that the progress of the Work may be delayed by certain conditions beyond the control of the parties; these delays have been contemplated by the parties and considered in the time allotted for performance specified herein and in the contract price and includes, but is not limited to delays occasioned on account of adverse weather, temporary unavailability of materials, shipment delays, and the presence and potential interference of other contractors or of utilities that may be performing work at the Project site unrelated to this Contract. These delays have been considered and included in the determination of the scheduled completion date and the Contract Price.

### 3.4 LIQUIDATED DAMAGES; EARLY COMPLETION BONUS

3.4.1 The Contractor shall pay the City the sum of **$_____ *[ENTER DAILY LIQUIDATED DAMAGE AMOUNT]*** per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that Substantial Completion will be inexcusably delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. If the Contractor has submitted a Statement of Delay with the appropriate Application for Payment as required by Subparagraph 5.2.3, and/or has complied with the notice and Change Order requirements of this Contract, the Engineer shall have sole discretion to determine whether a delay is excused or unexcused and the Engineer's determination thereof shall be final and binding on the parties.

3.4.2 In the event that the Contractor achieves certification by the Engineer of Final Completion prior to _____ ***[ENTER DATE FOR EARLY COMPLETION BONUS]*** Calendar days from the date specified in the Notice to Proceed, the City shall pay to the Contractor the sum of **$_____ *[ENTER DAILY AMOUNT OF INCENTIVE]*** per day for each calendar day that Final Completion is certified in advance of the scheduled Final Completion date, as that date may be modified by written change order. However, early completion bonuses shall not, in the aggregate, exceed the total sum of $_____ ***[ENTER MAXIMUM AMOUNT OF EARLY COMPLETION BONUS]***. Any reduction in the scope of work, evidenced by written change order, shall commensurately reduce the Contract Time.

### 3.5 NO DAMAGES FOR DELAY; NO BACK-CHARGES; DAMAGE WAIVER

3.5.1 No claim shall be made by the Contractor to the City, and no damages, costs or extra compensation shall be allowed or paid by the City to the Contractor for any delay or hindrance from any cause in the progress or completion of the Work or this Contract. The Contractor's sole remedy in the event of any delay or hindrance, regardless of cause, shall be to request time extensions by written change orders as provided for hereinafter. The failure to seek or obtain a change order for time extension shall be deemed a waiver thereof and Contractor shall be regarded as having made a determination that the delay will not affect the completion of the Work. Should the Contractor be delayed by an act of the City, or should the City order a stoppage of the Work for sufficient cause unrelated to any act or omission of the Contractor, an extension of time shall be granted by the City by Change Order upon written application, which extension shall not be unreasonably denied, to compensate for the delay.

3.5.2 The City shall have the authority to suspend the Work wholly or in part for such period or periods of time as it may deem appropriate due to unsuitable conditions considered unfavorable for the proper prosecution of the Work or for the failure of the Contractor to carry out instructions from the City or City's representative. During any period in which the Work is stopped or during which any of the Work is not actively in progress for any reason, Contractor shall properly protect the site and the Work from damage, loss or harm. The Contractor shall not be compensated for periods of delay caused by a suspension of the work by the City. If work is suspended due to unsuitable conditions through no fault of the Contractor, an extension of time shall be granted by the City by Change Order upon written application, which extension shall not be unreasonably denied, to compensate for the delay.

3.5.3 The Contractor shall not have or assert any claim against the City for damages or back-charges of any kind for any reason, including but not limited to claims for Extra Work, damages, economic loss, additional costs, unknown latent site conditions, and refusals by the City to grant extensions of time, unless supported and authorized by a written Change Order or separate agreement signed by all parties. The Contractor, in entering into this Contract, hereby waives, releases, quitclaims, discharges and holds harmless the City from and against any and all claims, damages, liabilities and losses, save and except those arising under Paragraph 12.1 of this Contract.

## ARTICLE IV

## CONTRACT PRICE

### 4.1 THE CONTRACT PRICE

4.1.1 The City shall pay, and the Contractor shall accept, as full and complete payment for all of the Work required herein, the fixed sum of

***$[ENTER CONTRACT AMOUNT].***

The sum set forth in this Paragraph 4.1 shall constitute the Contract Price which shall not be modified except by written Change Order as provided in this Contract, or the assessment of liquidated damages or the award of an early completion bonus.

## ARTICLE V

## PAYMENT OF THE CONTRACT PRICE

### 5.1 SCHEDULE OF VALUES

5.1.1 The Schedule of Values, submitted to and accepted by the City and Engineer at the time of the Contractor's bid, allocates the Contract Price to the various portions of the Work. The Contractor's Schedule of Values shall have been be prepared, or at the City's or Engineer's request shall be amended prior to the commencement of construction, in such form, with such detail, and supported by such data as the Engineer or the City may require to substantiate its accuracy. The Contractor shall not imbalance its Schedule of Values nor artificially inflate any element thereof. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Schedule of Values shall be used only as a basis for the Contractor's Applications for Payment and shall only constitute such basis after it has been acknowledged and accepted in writing by the Engineer and the City.

### 5.2 PAYMENT PROCEDURE

5.2.1 The City shall pay the Contract Price to the Contractor as provided below.

5.2.2 PROGRESS PAYMENTS - Based upon the Contractor's Applications for Payment submitted to the Engineer and upon Certificates for Payment subsequently issued to the City by the Engineer, the City shall make progress payments to the Contractor on account of the Contract Price.

5.2.3 APPLICATION FOR PAYMENT - On or before the 25th day of each month after commencement of the Work, the Contractor shall submit an Application for Payment for the period ending the 15th day of the month to the Engineer in such form and manner, and with such supporting data and content, as the City or the Engineer may require. The Contractor may request payment for that portion of the Contract Price properly allocable to Contract requirements properly provided and to labor, materials and equipment properly incorporated in the Work, less retainage and less the total amount of previous payments received from the City. Such Application for Payment shall be signed by the Contractor and shall constitute the Contractor's representation that the Work has progressed to the level for which payment is requested in accordance with the Schedule of Values, that the Work has been properly installed or performed in full compliance with this Contract, and that the Contractor knows of no reason why payment should not be made as requested. Thereafter, the Engineer will review the Application for Payment and may also review the Work at the Project site or elsewhere to determine whether the quantity and quality of the Work is as represented in the Application for Payment and is as required by this Contract. The Engineer shall determine and certify to the City the amount properly owing to the Contractor. The City shall make partial payments on account of the Contract Price to the Contractor within thirty (30) days following the Engineer's receipt and approval of each Application for Payment. The amount of each partial payment shall be the amount certified for payment by the Engineer less such amounts, if any, otherwise owing by the Contractor to the City or which the City shall have the right to withhold as authorized by this Contract. The Engineer's certification of the Contractor's Application for Payment shall not preclude the City from the exercise of any of its rights as set forth in Paragraph 5.3 hereinbelow.

5.2.4 STATEMENT OF DELAY - Each Application for Payment shall include a Statement of Delay showing the number of days lost due to inclement weather, conflicts with other City contractors, utilities, or design specifications, or other proper reasons. The failure to submit the Statement of Delay shall be a waiver of any claim for additional days or extensions of the scheduled completion date.

5.2.5 RETAINAGE - If the Contract Price set forth in Subparagraph 4.1.1 is between $50,000 and $1,000,000, the City shall withhold retainage of ten (10) percent.; if between $1,000,001 and $2,000,000, the City shall withhold retainage of seven and one half (7.5) percent, if between $2,000,001 and above, the

City shall withhold retainage of five (5) percent from each progress payment to secure performance of the Contract and shall deposit in an interest-bearing account that portion of the retainage withheld that exceeds five (5) percent of the progress payment. If a different percentage is set forth in the Invitation to Bid, then that percentage shall apply.

5.2.6 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the City when installed at the Project site, regardless of the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which payments have been received from the City shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.

5.2.7 The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which such Subcontractor is entitled. In the event the City becomes informed that the Contractor has not paid a Subcontractor as herein provided, the City shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the City, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.

5.2.8 No progress payment, nor any use or occupancy of the Project by the City, shall be interpreted to constitute an acceptance of any Work not in strict compliance with this Contract.

### 5.3 WITHHELD PAYMENT

5.3.1 The City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the City from loss because of:

(a) defective Work not remedied by the Contractor or, in the opinion of the City, likely to be remedied by the Contractor;

(b) claims of third parties against the City or the City's property;

(c) failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;

(d) evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price,

(e) evidence that the Work will not be completed in the time required for substantial or final completion (final completion meaning the full and final completion of all work called for by this Contract and final acceptance by the Engineer and the City);

(f) persistent failure to carry out the Work in accordance with the Contract;

(g) damage to the City or a third party to whom the City is, or may be, liable.

(h) failure to submit an updated project schedule in accordance with Subparagraph 3.2.3.

(i) failure to submit record drawings in accordance with Subparagraph 7.9.1.

In the event that the City makes written demand upon the Contractor for amounts previously paid by the City as contemplated in this Subparagraph 5.3.1, the Contractor shall promptly comply with such demand. The City shall have no duty to third parties to withhold payment to the Contractor and shall incur no liability for a failure to withhold funds.

### 5.4 UNEXCUSED FAILURE TO PAY

5.4.1 If within twenty (20) days after the date established herein for payment to the Contractor by the City, the City, without cause or basis hereunder, fails to pay the Contractor any amount then due and payable to the Contractor, then the Contractor may after ten (10) additional days' written notice to the City and the Engineer, and without prejudice to any other available rights or remedies it may have, stop the Work until payment of those amounts due from the City have been received. Late payments shall not accrue interest or other late charges.

## 5.5 CERTIFICATE OF SUBSTANTIAL COMPLETION

5.5.1 When the Contractor believes that the Work is substantially complete, the Contractor shall submit to the Engineer a list of items to be completed or corrected. When the Engineer and the City on the basis of an inspection determine that the Work is in fact substantially complete, the Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall state the responsibilities of the City and the Contractor for Project security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. In no event, however, shall the date of Final Completion be delayed. Guarantees required by the Contract shall commence on the date of Substantial Completion of the Work; however, the maintenance bond required herein, and the assurances given thereunder, shall commence of and from the date of final acceptance of the work by the City. The Certificate of Substantial Completion shall be submitted to the City and the Contractor for their written acceptance of the responsibilities assigned to them in such certificate.

Upon Substantial Completion of the Work, and execution by both the City and the Contractor of the Certificate of Substantial Completion, the City shall pay the Contractor for all work completed to date, less retainage.

## 5.6 COMPLETION AND FINAL PAYMENT

5.6.1 When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the City and the Engineer thereof in writing. Thereupon, the Engineer will make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the Engineer will promptly issue a final Certificate for Payment certifying to the City that the Project is complete and the Contractor is entitled to the remainder of the unpaid Contract Price (including retainage and the interest accrued on the retainage in excess of five (5) percent if the Contract Price is in excess of $400,000), plus an early completion bonus, if any, less any amount withheld pursuant to this Contract. If the Engineer is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of such repeat final inspection(s) which cost may be deducted by the City from the Contractor's final payment.

5.6.1.1 If the Contractor fails to achieve final completion within the time fixed therefor by the Engineer in its Certificate of Substantial Completion, the Contractor shall pay the City the sum set forth hereinabove as liquidated damages per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set forth herein for final completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that final completion will be inexcusably delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving final completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. Liquidated damages shall be deducted first from any earned early completion bonus, then from any sums otherwise due to the Contractor.

5.6.2 The Contractor shall not be entitled to final payment unless and until it submits to the Engineer its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the City, or the City's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors of the Contractor and of any and all other parties required by the Engineer or the City; consent of Surety, if any, to final payment. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the City, the Contractor shall furnish a bond satisfactory to the City to discharge any such lien or indemnify the City from liability.

5.6.3 The City shall make final payment of all sums due the Contractor within thirty (30) days of the Engineer's execution of a final Certificate for Payment.

5.6.4 Acceptance of final payment shall constitute a waiver of all claims against the City by the Contractor except for those claims previously made in writing against the City by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final payment.

5.6.5 Other than interest on retainage in excess of 5% under Paragraph 5.2.5, under no circumstances shall Contractor be entitled to receive interest on any payments or monies due Contractor by the City, whether the amount on which the interest may accrue is timely, late, wrongfully withheld, or an assessment of damages of any kind.

## ARTICLE VI

## THE CITY

### 6.1 INFORMATION, SERVICES AND THINGS REQUIRED FROM CITY

6.1.1 The City shall furnish to the Contractor, at the time of executing this Contract, any and all written and tangible material in its possession concerning conditions below ground at the site of the Project. Such written and tangible material is furnished to the Contractor only in order to make complete disclosure of such material and for no other purpose. By furnishing such material, the City does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, or at all, and shall have no liability therefor. The City shall also furnish surveys, legal limitations and utility locations (if known), and a legal description of the Project site.

6.1.2 Excluding permits and fees normally the responsibility of the Contractor, the City shall obtain all approvals, easements, and the like required for construction and shall pay for necessary assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

6.1.3 The City shall furnish the Contractor, free of charge, two copies of the Contract Documents for execution of the Work.

### 6.2 RIGHT TO STOP WORK

6.2.1 If the Contractor persistently fails or refuses to perform the Work in accordance with this Contract, if the Contractor fails to meet milestones set forth in approved construction schedules, if the City has sufficient reason to believe that the Contractor is not and will not complete the Project by the scheduled completion date, or if the best interests of the public health, safety or welfare so require, the City may order the Contractor to stop the Work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or the City orders that Work be resumed. In such event, the Contractor shall immediately obey such order.

### 6.3 CITY'S RIGHT TO PERFORM WORK

6.3.1 If the Contractor's Work is stopped by the City under Paragraph 6.2, and the Contractor fails within seven (7) days of such stoppage to provide adequate assurance to the City that the cause of such stoppage will be eliminated or corrected, then the City may, without prejudice to any other rights or remedies the City may have against the Contractor, proceed to carry out the subject Work. In such a situation, an appropriate Change Order shall be issued deducting from the Contract Price the cost of correcting the subject deficiencies, plus compensation for the Engineer's additional services and expenses necessitated thereby, if any. If the unpaid portion of the Contract Price is insufficient to cover the amount due the City, the Contractor shall pay the difference to the City.

## ARTICLE VII

## THE CONTRACTOR

### 7.1 MUST FOLLOW CONTRACT

7.1.1 The Contractor shall perform no part of the Work at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data or Samples for such portion of the Work. If the Contractor performs any of the Work knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Engineer, the Contractor shall bear responsibility for such performance and shall bear the cost of correction. The Contractor shall perform the Work strictly in accordance with this Contract

### 7.2 USE OF WEB-BASED PROJECT MANAGEMENT SYSTEM

7.2.1 The Contractor shall utilize the City’s Web-based project Management system, “Rowlett Manager” for documentation. Notwithstanding, the use of this system shall not supersede the Contractor’s obligation to provide any written notice required under this Contract. The obligation to utilize “Rowlett Manager” may be waived by the City.

### 7.3 PROSECUTION OF WORK

7.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill, effort and attention. The Contractor shall be responsible to the City for any and all acts or omissions of the Contractor, its employees and others engaged in the Work on behalf of the Contractor.

7.3.2 The Contractor shall give adequate attention to the faithful prosecution of the Work and the timely completion of this Contract, with authority to determine the manner and means of performing such Work, so long as such methods insure timely completion and proper performance.

7.3.3 The Contractor shall exercise all appropriate means and measures to insure a safe and secure jobsite in order to avoid and prevent injury, damage or loss to persons or property.

7.3.4 The City will not interfere with the Contractor's manner and means of performing the Work. However, the City's insistence on strict compliance with the Contract shall not be regarded as an interference with the Contractor's manner and means. In the event that any part of the Work is not in strict compliance with the Contract, the Contractor is and shall be estopped from claiming any interference by the City or Engineer with the Contractor's manner and means of performing that part of the Work.

**7.4 WARRANTY**

7.4.1 The Contractor warrants to the City that all labor furnished to progress the Work under this Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with this Contract. All Work not conforming to these requirements may be considered defective. THE CONTRACTOR WARRANTS AND GUARANTIES THAT IT SHALL COMPLETE THE WORK AND ACHIEVE SUBSTANTIAL COMPLETION BY THE SCHEDULED COMPLETION DATE, STRICTLY IN ACCORDANCE WITH THIS CONTRACT. DEFECTIVE WORK OR MATERIALS SHALL BE FIXED, REPAIRED OR REPLACED FREE OF CHARGE OR COST TO THE CITY.

**7.5 PERMITS; FEES; LICENSES**

The Contractor shall obtain and pay for all permits, fees and licenses necessary and ordinary for the Work. The Contractor shall comply with all lawful requirements applicable to the Work and shall give and maintain any and all notices required by applicable law pertaining to the Work.

**7.6 SUPERVISION**

7.6.1 The Contractor shall employ and maintain at the Project site only competent supervisory personnel. Absent written instruction from the Contractor to the contrary, the superintendent shall be deemed the Contractor's authorized representative at the site and shall be authorized to receive and accept any and all communications from the City or the Engineer.

7.6.2 Key supervisory personnel assigned by the Contractor to this Project are as follows:

| NAME | FUNCTION |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

So long as the individuals named above remain actively employed or retained by the Contractor, they shall perform the functions indicated next to their names unless the City agrees to the contrary in writing. In the event one or more individuals not listed above subsequently assume one or more of those functions listed above, the Contractor shall be bound by the provisions of this Subparagraph 7.6.2 as though such individuals had been listed above.

**7.7 WORK SCHEDULE**

7.7.1 At the pre-construction meeting, the Contractor shall submit to the City and the Engineer for their information, the Contractor's schedule for completing the Work (also referred to herein as the construction schedule). The Contractor's schedule shall be revised no less frequently than monthly (unless the parties otherwise agree in writing) and shall be revised to reflect conditions encountered from time to time and shall be related to the entire Project. Each such revision shall be furnished to the City and the Engineer.

7.7.2 The Contractor's schedule for completing the Work and any revised schedules, shall demonstrate achievement of substantial completion by the scheduled completion date. Failure by the Contractor to strictly comply with the provisions of this Paragraph 7.7 shall constitute a default and a material breach of this Contract.

### 7.8 ON-SITE DRAWINGS

7.8.1 The Contractor shall continuously maintain at the site, for the benefit of the City and the Engineer, one record copy of this Contract marked to record on a current basis changes, selections and modifications made during construction. Additionally, the Contractor shall maintain at the site for the City and Engineer the approved Shop Drawings, Product Data, Samples and other similar required submittals. Upon final completion of the Work, all of these record documents shall be delivered to the City.

### 7.9 RECORD DRAWINGS/PLANS, AS-BUILT PLANS, SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

7.9.1 The Contractor shall submit, with each Application for Payment, As-Built plans for any and each part or portion of the Project that varies from the Engineer's plans and specifications and the Contract Documents.

7.9.2 Shop Drawings, Product Data, Samples and other submittals from the Contractor do not constitute Contract Documents. Their purpose is merely to demonstrate the manner in which the Contractor intends to implement the Work in conformance with information received from the Contract Documents.

7.9.3 The Contractor shall not perform any portion of the Work requiring submittal and review of Shop Drawings, Product Data or Samples unless and until such submittal shall have been approved by the Engineer. Approval by the Engineer, however, shall not be evidence that Work installed pursuant thereto conforms to the requirements of this Contract.

### 7.10 CLEANING THE SITE AND THE PROJECT

7.10.1 The Contractor shall keep the site reasonably clean during performance of the Work. The Contractor shall clean the site and the Project and remove all waste, rubbish, temporary structures, and other materials during construction and, upon completion of construction, shall clean the site and remove all such material together with all of the Contractor's property therefrom. Contractor shall dispose of all refuse at a landfill approved by the Texas Commission on Environmental Quality. The Contractor shall further restore all property damaged during the prosecution of the Work and shall leave the site in a clean and presentable condition. No additional payment shall be made by the City for this work, the compensation having been considered and included in the contract price.

### 7.11 ACCESS TO WORK AND INSPECTIONS

7.11.1 The City and the Engineer shall have access to the Work at all times from commencement of the Work through final completion. The Contractor shall take whatever steps necessary to provide access when requested. When reasonably requested by the City or the Engineer, the Contractor shall perform or cause to be performed such testing as may be necessary or appropriate to insure suitability of the jobsite or the Work's compliance with the Contract requirements.

### 7.12 INDEMNITY AND DISCLAIMER

7.12.1 CITY SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, DEFENDED, HELD HARMLESS AND RELEASED BY CONTRACTOR FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, INJURY OR LOSS TO ANY PROPERTY, OR ECONOMIC LOSS, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE CONTRACTOR, OR PROPERTY, DIRECTLY OR INDIRECTLY ARISING OUT OF, OR OCCASIONED BY THE PERFORMANCE OF CONTRACTOR UNDER THIS CONTRACT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF CITY, WITHOUT WAIVING THE CITY'S GOVERNMENTAL, SOVEREIGN OR

OTHER IMMUNITIES OR DEFENSES AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS CONTRACT THAT THE INDEMNITY PROVIDED FOR HEREIN IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF THE CONTRACTOR'S AS WELL AS THE CITY'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE.

The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

7.12.2 The Contractor will secure and maintain contractual liability insurance to cover this indemnification agreement that will be primary and non-contributory as to any insurance maintained by the City for its own benefit, including self-insurance. In addition, Contractor shall obtain and file with City a standard form Certificate of Insurance evidencing the required coverage.

7.12.3 In claims against any person or entity indemnified under this Paragraph 7.12 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 7.12 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

### 7.13 NONDISCRIMINATION

7.13.1 The Contractor shall not discriminate in any way against any person, employee or job applicant on the basis of race, color, creed, national original, religion, age, sex, or disability where reasonable accommodations can be effected to enable the person to perform the essential functions of the job. The Contractor shall further insure that the foregoing nondiscrimination requirement shall be made a part and requirement of each subcontract on this Project.

### 7.14 PREVAILING WAGE RATES

7.14.1 The Contractor shall comply in all respects with all requirements imposed by any laws, ordinances or resolutions applicable to the Project with regard to the minimum prevailing wage rates for all classes of employees, laborers, subcontractors, mechanics, workmen and persons furnishing labor and services to the Project. The City has adopted a Prevailing Wage Rate Schedule, available to the Contractor by request (or attached to this contract as a part of the exhibits), which specifies the classes and wage rates to be paid to all persons. The Contractor shall pay not less than the minimum wage rates established thereby for each class, craft or type of labor, workman, or mechanic employed in the execution of this Contract. The failure of the Contractor to comply with this requirement shall result in the forfeiture to the City of a sum of not less than Sixty Dollars ($60.00) for each person per day, or portion thereof, that such person is paid less than the prevailing rate. Upon request by the City, Contractor shall make available for inspection and copying its books and records, including but not limited to its payroll records, account information and other documents as may be required by the City to insure compliance with this provision.

### 7.15 JOB SITE SAFETY PRECAUTIONS

7.15.1 The Contractor shall at all times exercise reasonable precautions for the safety of its employees, laborers, subcontractors, mechanics, workmen and others on and near the jobsite and shall comply with all laws, ordinances, regulations, and standards of federal, state and local safety laws and regulations. The Contractor shall provide such machinery guards, safe walk-ways, ladders, bridges, and other safety devices as may be necessary or appropriate to insure a safe and secure jobsite and shall require its subcontractors to comply with this requirement. The Contractor shall immediately comply with any and all safety requirements imposed by the Engineer during the progress of the Work.

### 7.16 WARNING DEVICES AND BARRICADES

7.16.1 The Contractor shall furnish and maintain such warning devices, barricades, lights, signs, pavement markings, and other devices as may be necessary or appropriate or required by the Engineer to protect persons or property in, near or adjacent to

the jobsite. No separate compensation shall be paid to the Contractor for such measures. Where the Work is being conducted in, upon or near streets, alleys, sidewalks, or other rights-of-way, the Contractor shall insure the placement, maintenance and operation of any and all such warning devices as may be required by the City and shall do so until no longer required by the City. Such devices shall be in compliance with and conform to the manual and specifications for the uniform system of traffic control devices adopted by the Texas Department of Transportation.

### 7.17 PROTECTION OF UTILITIES AND OTHER CONTRACTORS

7.17.1 The Contractor shall use best efforts to leave undisturbed and uninterrupted all utilities and utility services provided to the jobsite or which presently exists at, above or beneath the location where the Work is to be performed. In the event that any utility or utility service is disturbed or damaged during the progress of the Work, the Contractor shall forthwith repair, remedy or restore the utility at Contractor's sole expense. The Contractor shall coordinate any utility conflicts with the owner of the utility and no extension of time will be requested or given if adequate coordination is not provided by Contractor.

7.17.2 The Contractor understands and acknowledges that other contractors of the City or of other entities may be present at the jobsite performing other work unrelated to the Project. The Contractor shall use best efforts to work around other contractors without impeding the work of others while still adhering to the scheduled completion date. In the event that the Contractor's work is or may be delayed by any other person, the Contractor shall immediately give notice thereof to the Engineer and shall request a written Change Order in accordance with the procedures set forth by this Contract. The Contractor's failure to provide such notice and to request such Change Order shall constitute a waiver of any and all claims associated therewith.

## ARTICLE VIII

## CONTRACT ADMINISTRATION

### 8.1 THE ENGINEER

8.1.1 When used in this Contract the term "Engineer" does not necessarily denote a duly licensed, trained or certified engineer; as used herein, the term shall be used interchangeably and shall mean a designated Engineer, Engineer, or Contract Administrator (who may not be an architect or engineer) for the City, said person to be designated or re-designated by the City prior to or at any time during the Work hereunder. The Engineer may be an employee of the City or may be retained by the City as an independent contractor but, in either event, the Engineer's duties and authority shall be as set forth hereinafter. The Contractor understands and agrees that it shall abide by the decisions and instructions of the Engineer notwithstanding the contractual relationship between the City and Engineer, the title of Contract Administrator, or the fact that the Engineer is an employee of the City.

In the event the City should find it necessary or convenient to replace the Engineer, the City shall retain a replacement Engineer and the status of the replacement Engineer shall be that of the former Engineer.

### 8.2 ENGINEER'S ADMINISTRATION

8.2.1 The Engineer, unless otherwise directed by the City in writing, will perform those duties and discharge those responsibilities allocated to the Engineer as set forth in this Contract. The Engineer shall be the City's representative from the effective date of this Contract until final payment has been made.

8.2.2 The City and the Contractor shall communicate with each other in the first instance through the Engineer.

8.2.3 The Engineer shall be the initial interpreter of the requirements of the drawings and specifications and the judge of the performance thereunder by the Contractor. The Engineer shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.

8.2.4 The Engineer will review the Contractor's Applications for Payment and will certify to the City for payment to the Contractor, those amounts then due the Contractor as provided in this Contract.

8.2.5 The Engineer shall have authority to reject Work which is defective or does not conform to the requirements of this Contract. If the Engineer deems it necessary or advisable, the Engineer shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.

8.2.6 The Engineer will review and approve, or take other appropriate action as necessary, concerning the Contractor's submittals including Shop Drawings,

Product Data and Samples. Such review, approval or other action shall be for the sole purpose of determining conformance with the design concept and information given through the Contract Documents.

8.2.7 The Engineer will prepare Change Orders and may authorize minor changes in the Work by Field Order as provided elsewhere herein.

8.2.8 The Engineer shall, upon written request from the Contractor, conduct inspections to determine the date of Substantial Completion and the date of final completion, will receive and forward to the City for the City's review and records, written warranties and related documents required by this Contract and will issue a final Certificate for Payment upon compliance with the requirements of this Contract.

8.2.9 The Engineer's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.

### 8.3 CLAIMS BY THE CONTRACTOR

8.3.1 The Engineer shall determine all claims and matters in dispute between the Contractor and City with regard to the execution, progress, or sufficiency of the Work or the interpretation of the Contract Documents, including but not limited to the plans and specifications. Any dispute shall be submitted in writing to the Engineer within seven (7) days of the event or occurrence or the first appearance of the condition giving rise to the claim or dispute and the Engineer shall render a written decision within a reasonable time thereafter. The Engineer's decisions shall be final and binding on the parties. In the event that either party objects to the Engineer's determination as to any submitted dispute, that party shall submit a written objection to the Engineer and the opposing party within ten (10) days of receipt of the Engineer's written determination in order to preserve the objection. Failure to so object shall constitute a waiver of the objection for all purposes.

8.3.2 Pending final resolution of any claim of the Contractor, the Contractor shall diligently proceed with performance of this Contract and the City shall continue to make payments to the Contractor in accordance with this Contract.

8.3.3 CLAIMS FOR CONCEALED, LATENT OR UNKNOWN CONDITIONS - The Contractor expressly represents that it has been provided with an adequate opportunity to inspect the Project site and thoroughly review the Contract Documents and plans and specifications prior to submission of its bid and the City's acceptance of the bid. Subject to the conditions hereof, Contractor assumes full responsibility and risk for any concealed, latent or unknown condition which may affect the Work. No claims for extra work or additional compensation shall be made by Contractor in connection with concealed, latent or unknown conditions except as expressly provided herein. Should concealed, latent or unknown conditions encountered in the performance of the Work (a) below the surface of the ground or (b) in an existing structure be at variance with the conditions indicated by this Contract, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided for in this Contract, be encountered, the Contract Price shall be equitably adjusted by Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the City having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the City and the Engineer written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure by the Contractor to make the written notice and claim as provided in this Subparagraph shall constitute a waiver by the Contractor of any claim arising out of or relating to such concealed, latent or unknown condition and the Contractor thereby assumes all risks and additional costs associated therewith.

### 8.4 EXTRA WORK

8.4.1 The Contractor shall not claim, request or demand any sum from the City for Extra Work or for additional costs, and hereby waives all such claims, requests and demands and any right to assert same, unless the conditions of this subparagraph are strictly complied with. "Extra Work" is defined herein to mean any labor, service, materials, equipment, supplies or charges that are directly or indirectly related to the Work, the Project or the Project site, that is not necessarily or fairly required or implied by the Contract Documents.

8.4.2 The parties acknowledge and agree that there shall be no payment made by the City to the Contractor without a written agreement (either a separate contract or a written Change Order) signed by the parties. Should the Contractor perform Extra Work or be requested to perform Extra Work by the Engineer or City, it shall be the Contractor's obligation and duty to first apply for and obtain a written Change Order, approved by the Engineer and executed by the City. The Contractor's failure to obtain a written, signed Change Order prior to commencement of Extra Work

shall constitute a complete and final waiver of any right for compensation for the Extra Work.

### 8.5 CLAIMS FOR ADDITIONAL COSTS OR TIME; CONTRACT PRICE INCREASE

8.5.1 If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the City therefor, the Contractor shall give the Engineer written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. The failure by the Contractor to give such notice and to give such notice prior to executing the Work shall constitute a waiver of any right to or claim for additional compensation.

8.5.2 In connection with any claim by the Contractor against the City for compensation in excess of the Contract Price, any liability of the City for the Contractor's costs shall be strictly limited to direct costs incurred by the Contractor and shall in no event include indirect costs or consequential damages of the Contractor. The City shall not be liable to the Contractor for claims of third parties, including Subcontractors. The City shall not be liable to the Contractor for any claims based upon delay to the Contractor for any reason whatsoever including any act or neglect on the part of the City.

8.5.3 If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the City or someone acting in the City's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipated, fire or any causes beyond the Contractor's control, then the date for achieving Substantial Completion of the Work shall be extended upon the written notice and claim of the Contractor to the City and the Engineer, for such reasonable time as the Engineer may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven (7) days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Project. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary. If the Contractor fails to make such claim as required in this Subparagraph, any claim for an extension of time shall be waived. The procedures and remedies provided by this provision shall be the sole remedy of Contractor and Contractor shall not assert nor be entitled to any additional delays or damages associated therewith.

### 8.6 FIELD ORDERS

8.6.1 The Engineer shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and not inconsistent with the intent of the Contract. Such changes shall be effected by Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.

### 8.7 MEDIATION

8.7.1 In the event that a dispute arises under the terms of this Contract, following an adverse determination by the Engineer and proper preservation of the issue as required herein, the parties agree to submit to mediation. In such event, the parties shall agree to a designated person to serve as mediator and each party shall be responsible for payment of one-half of the total mediation fees. The parties shall submit the dispute to mediation as soon as practical and in no event later than one (1) year after the Engineer’s written decision on the matter. At least one designated representative of each party must attend and participate in good faith in an effort to resolve the matters in dispute.

8.7.2 In no event shall the foregoing provision justify or authorize any delay in the progress of the Work; the parties shall abide by the decision of the Engineer in accomplishing the timely completion of the Project.

## ARTICLE IX

## SUBCONTRACTORS

### 9.1 DEFINITION

9.1.1 A Subcontractor is a person or entity that has a direct contract with the Contractor to perform a portion of the Work. No Subcontractor shall be in privity with the City.

### 9.2 AWARD OF SUBCONTRACTS

9.2.1 Upon execution of the Contract, the Contractor shall furnish the City, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Project. The City shall promptly reply to the Contractor, in writing, stating any objections the City may have to such proposed Subcontractor. The Contractor shall not enter into a subcontract with a proposed Subcontractor with reference to whom the City has made timely objection. The Contractor shall not be required to subcontract with any party to whom the Contractor has objection.

9.2.2 All subcontracts shall afford the Contractor rights against the Subcontractor which correspond to those rights afforded to the City against the Contractor herein, including those rights afforded to the City by Subparagraph 12.2.1 below. All subcontracts shall incorporate by reference the provisions hereof and shall provide that no claims, causes or demands shall be made by any Subcontractor against the City.

9.2.3 The Contractor shall indemnify, defend and hold harmless the City from and against any and all claims, demands, causes of action, damage, and liability asserted or made against the City by or on behalf of any Subcontractor.

## ARTICLE X

## CHANGES IN THE WORK

### 10.1 CHANGES PERMITTED

10.1.1 Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Contract, by Change Order or by Field Order.

10.1.2 Changes in the Work shall be performed under applicable provisions of this Contract and the Contractor shall proceed promptly with such changes.

### 10.2 CHANGE ORDER DEFINED

10.2.1 Change Order shall mean a written order to the Contractor executed by the City and the Engineer, issued after execution of this Contract, authorizing and directing a change in the Work or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and the Contract Time may be changed only by written Change Order.

### 10.3 CHANGES IN THE CONTRACT PRICE

10.3.1 Any change in the Contract Price resulting from a Change Order shall be determined as follows: (a) by mutual agreement between the City and the Contractor as evidenced by (1) the change in the Contract Price being set forth in the Change Order, (2) such change in the Contract Price, together with any conditions or requirements related thereto, being initialed by both parties, and (3) the Contractor's execution of the Change Order, or (b) if no mutual agreement occurs between the City and the Contractor, then, as provided in Subparagraph 10.3.2 below.

10.3.2 If no mutual agreement occurs between the City and the Contractor as contemplated in Subparagraph 10.3.1 above, the change in the Contract Price, if any, shall then be determined by the Engineer on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, the Contractor shall present, in such form and with such content as the City or the Engineer require, an itemized accounting of such expenditures or savings, plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies, or equipment including delivery costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools whether rented from the Contractor or others, reasonable costs of premiums for all bonds and insurance, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and jobsite field office overhead directly attributable to the change. In no event shall any expenditure or savings associated with the Contractor's home office or other non-jobsite overhead expense be included in any change in the Contract Price. Pending final determination of reasonable expenditures or savings to the City, payments on account shall be made to the Contractor on the Engineer's Certificate for Payment.

10.3.3 If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that application of such unit prices to the quantities of Work proposed will cause

substantial inequity to the City or to the Contractor, the applicable unit prices shall be equitably adjusted.

### 10.4 MINOR CHANGES

10.4.1 The Engineer shall have authority to order minor changes in the Work not involving a change in the Contract Price or an extension of the Contract Time and not inconsistent with the intent of this Contract. Such minor changes shall be made by written Field Order, and shall be binding upon the City and the Contractor. The Contractor shall promptly carry out such written Field Orders.

### 10.5 EFFECT OF EXECUTED CHANGE ORDER

10.5.1 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim against the City for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

### 10.6 NOTICE TO SURETY; CONSENT

10.6.1 The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the City that the surety has been notified of and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

## ARTICLE XI

## UNCOVERING AND CORRECTING WORK

### 11.1 UNCOVERING WORK

11.1.1 If any of the Work is covered contrary to the Engineer's request or to any provisions of this Contract, it shall, if required by the Engineer or the City, be uncovered for the Engineer's inspection and shall be properly replaced at the Contractor's expense without change in the Contract Time or Contract Price.

11.1.2 If any of the Work is covered in a manner consistent with the Engineer’s request or the provisions of this Contract, it shall, if required by the Engineer or City, be uncovered for the Engineer's inspection. If such Work conforms strictly to this Contract, costs of uncovering and proper replacement shall by Change Order be charged to the City. If such Work does not strictly conform to this Contract, the Contractor shall pay the costs of uncovering and proper replacement.

### 11.2 CORRECTING WORK

11.2.1 The Contractor shall immediately proceed to correct Work rejected by the Engineer as defective or failing to conform to this Contract. The Contractor shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections, and reimbursement to the City for the Engineer's services and expenses made necessary thereby.

11.2.2 If within four (4) years after Substantial Completion of the Work any of the Work is found to be defective or not in accordance with this Contract, the Contractor shall correct it promptly upon receipt of written notice from the City. This obligation shall survive final payment by the City and termination of this Contract. With respect to Work first performed and completed after Substantial Completion, this four year obligation to specifically correct defective and nonconforming Work shall be extended by the period of time which elapses between Substantial Completion and completion of the subject Work.

11.2.3 Nothing contained in this Paragraph 11.2 shall establish any period of limitation with respect to other obligations which the Contractor has under this Contract. Establishment of the four year time period in Subparagraph 11.2.2 relates only to the duty of the Contractor to specifically correct the Work.

### 11.3 CITY MAY ACCEPT DEFECTIVE OR NONCONFORMING WORK

11.3.1 If the City chooses to accept defective or nonconforming Work, the City may do so at its sole discretion. In such event, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to

compensate the City for its acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the City, pay the City such remaining compensation for accepting defective or nonconforming Work.

## ARTICLE XII

## CONTRACT DEFAULT AND TERMINATION

### 12.1 TERMINATION BY THE CONTRACTOR

12.1.1 If the Work is stopped for a period of ninety (90) days by an order of any court or other public authority, or as a result of an act of the Government, through no fault of the Contractor or any person or entity working directly or indirectly for the Contractor, the Contractor may, upon fifteen (15) days' written notice to the City and the Engineer, terminate performance under this Contract and recover from the City payment for the actual reasonable expenditures of the Contractor (as limited in Subparagraph 10.3.2 above) for all Work executed and for materials, equipment, tools, construction equipment and machinery actually purchased or rented solely for the Work, less any salvage value of any such items.

12.1.2 If the City shall persistently or repeatedly fail to perform any material obligation to the Contractor for a period of fifteen (15) days after receiving written notice from the Contractor of its intent to terminate hereunder, the City shall have fifteen (15) days to remedy its failure and if not so cured, the Contractor may terminate performance under this Contract by written notice to the Engineer and the City. In such event, the Contractor shall be entitled to recover from the City as though the City had terminated the Contractor's performance under this Contract for convenience pursuant to Subparagraph 12.2.1 hereunder.

### 12.2 TERMINATION BY THE CITY

12.2.1 FOR CONVENIENCE

12.2.1.1 The City may for any reason whatsoever terminate performance under this Contract by the Contractor for convenience. The City shall give written notice of such termination to the Contractor specifying when termination becomes effective.

12.2.1.2 The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Contractor to assign the Contractor's right, title and interest under terminated orders or subcontracts to the City or its designee.

12.2.1.3 The Contractor shall transfer title and deliver to the City such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.

12.2.1.4 (a) The Contractor shall submit a termination claim to the City and the Engineer specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Engineer. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Contractor, an amount derived in accordance with subparagraph (c) below.

(b) The City and the Contractor may agree to the compensation, if any, due to the Contractor hereunder.

(c) Absent agreement to the amount due to the Contractor, the City shall pay the Contractor the following amounts:

(i) Contract prices for labor, materials, equipment and other services accepted under this Contract;

(ii) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit thereon (such profit shall not include anticipated profit or consequential damages), provided however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire

Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

(iii) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 12.2.1.2 of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

12.2.1.5 The total sum to be paid the Contractor under this Subparagraph 12.2.1 shall not exceed the total Contract Price, as properly by amounts withheld by the City and reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

12.2.2 FOR CAUSE

12.2.2.1 The following constitute grounds for termination of this Contract by the City:

(a) the Contractor's failure or refusal to prosecute the Work in a timely manner;

(b) The Contractor abandons the jobsite and fails to resume work within five (5) days of written notice thereof by the City;

(c) the Contractor fails to meet milestones or comply with approved construction schedules;

(d) the Contractor fails to grant or allow access to the jobsite by the City or Engineer;

(e) the Contractor fails to supply enough properly skilled workers, supervisory personnel or proper equipment or materials;

(f) the Contractor fails to make prompt payment to Subcontractors or for materials or labor;

(g) the Contractor persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or,

(h) the Contractor is otherwise guilty of a violation of a material provision of this Contract.

In the event of the occurrence of any one or more of the above events, the City may by written notice to the Contractor, without prejudice to any other right or remedy, terminate the employment of the Contractor, exclude the Contractor from the job site, and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

12.2.2.2 If the unpaid balance of the Contract Price does not exceed the cost of finishing the work, including compensation for the Engineer's additional services and expenses made necessary thereby, such difference shall be paid by the Contractor to the City. This obligation for payment shall survive the termination of the Contract.

12.2.2.3 In the event the employment of the Contractor is terminated by the City for cause pursuant to Subparagraph 12.2.2 and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Subparagraph 12.2.1 and the provisions of Subparagraph 12.2.1 shall apply.

**12.3 USE OF THIRD-PARTY OVERSIGHT OR CONSTRUCTION MANAGER**

12.3.1 Should the City allow the Contractor to continue its performance of Work notwithstanding an event of default specified in Subparagraph 12.2.2.1, or should there be an imminent potential of default, the City, at its sole option and within its sole discretion, may retain a third-party construction manager to document the events of default and oversee further progress of the Work. The use of a third-party construction manager shall not prevent the City from declaring the Contractor to be in default and the City may, at its sole option and within its sole discretion, terminate this Contract at any time. Should the City retain a third-party construction manager, the costs thereof shall be withheld from any amounts due Contractor upon termination. The City's exercise of this option shall be without prejudice to any other right or remedy available to the City by law or under this Contract.

## ARTICLE XIII

## INSURANCE

### 13.1 CONTRACTOR SHALL MAINTAIN INSURANCE

13.1.1 The Contractor at its own expense shall purchase, maintain and keep in force during the life of this contract, adequate insurance that will protect the Contractor and/or any Additional Insured from claims which may arise out of or result from operations under this Contract. The insurance required shall provide adequate protections from all claims, whether such operations be by the Contractor or by any Additional Insured or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone whose acts of any of them may be liable and from any special hazards, such as blasting, which may be encountered in the performance of this contract in the amounts as shown below in Paragraph 13.2.1.

13.1.2 The Contractor shall not commence work on any Contract in the City until the Contractor has obtained all the insurance required under this paragraph and such insurance has been approved by the City.

### 13.2 TYPES AND AMOUNTS OF CONTRACTOR'S INSURANCE

13.2.1. The Contractor shall furnish and maintain during the life of the contract adequate Worker's Compensation and Commercial General Liability (Public) Insurance in such amounts as follows:

| Type of Insurance | Amount |
|---|---|
| Worker's Compensation | As set forth in the Worker's Compensation Act. |
| Commercial General Liability (Public) | $1,000,000 Each Accident/Occurrence.<br>$1,000,000 Aggregate<br>$1,000,000 Products & Completed Operations Aggregate. |
| City's Protective Liability Insurance | $600,000 per occurrence<br>$1,000,000 aggregate |
| Excess/Umbrella Liability | $1,000,000 per occurrence w/drop down coverage<br>Limit of Insurance per Project or City's and Contractor's Protective Liability Insurance for the Project. |
| Automobile Liability | $500,000 Combined single limit per occurrence. |

### 13.3 ADDITIONAL INSURED

13.3.1 The City and the Engineer shall be named as an additional insured on the Commercial General Liability (Public), City's Protective Liability, and Excess/Umbrella Liability Insurance Policies furnished by the Contractor.

### 13.4 WRITTEN NOTIFICATION

13.4.1 Each insurance policy shall contain a provision requiring that thirty (30) days prior to expiration, cancellation, non-renewal or any material change in coverage, a notice there of shall be given by certified mail to the Rowlett City Engineer, 3901 Main Street., P.O. Box 99, Rowlett, TX 75030-0099.

### 13.5 PREMIUMS AND ASSESSMENTS; SUBROGATION

13.5.1 Companies issuing the insurance policies shall have no recourse against the City for payment of any premiums or assessments for any deductibles which are at the sole responsibility and risk of the Contractor. Insurance Companies shall have no right of subrogation against the City or the Engineer.

### 13.6 CERTIFICATE OF INSURANCE

13.6.1 Proof that the insurance is in force shall be furnished to the City on Standard Certificate of Insurance Forms. In the event any insurance policy shown on the Certificate of Insurance has an expiration date that is prior to the completion and final acceptance of the project by the City, the contractor shall furnish the City proof of identical continued coverage no later than thirty(30) days prior to the expiration date shown on the Certificate of Insurance.

### 13.7 PRIMARY COVERAGE

13.7.1 The coverages provided herein shall be primary and noncontributory with any other insurance maintained by the City, for its benefit, including self insurance.

**13.8 WORKER'S COMPENSATION INSURANCE COVERAGE**

13.8.1 The Contractor shall:

(1) provide coverage for its employees providing services on a project, for the duration of the project based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements;

(2) provide a certificate of coverage showing workers' compensation coverage to the governmental entity prior to beginning work on the project;

(3) provide the governmental entity prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project;

(4) obtain from each person providing services on a project, and provide to the governmental entity:

(A) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(B) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project;

(7) post a notice on each project site informing all persons providing services on the project that they are required to be covered, and stating how a person may verify current coverage and report failure to provide coverage. This notice shall comply with the requirements established by the Division of Workers Compensation of the Texas Department of Insurance, or its successor agency.

and

(8) contractually require each person with whom it contracts to provide services on a project, to:

(A) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements for all of its employees providing services on the project, for the duration of the project;

(B) provide a certificate of coverage to the contractor prior to that person beginning work on the project;

(C) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(D) obtain from each other person with whom it contracts, and provide to the Contractor:

(i) a certificate of coverage, prior to the other person beginning work on the project; and

(ii) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(E) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(F) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(G) contractually require each other person with whom it contracts, to perform as required by sub-paragraphs (A) - (G) of this paragraph, with the certificate of coverage to be provided to the person for whom they are providing services.

## ARTICLE XIV

## MISCELLANEOUS

### 14.1 LAWS AND ORDINANCES

14.1.1 The Contractor shall at all times and in all respects observe and comply with all federal, state and local laws, ordinances, and regulations applicable to the Project and Work. The Contractor shall further insure that all Subcontractors observe and comply with said laws, ordinances and regulations.

### 14.2 GOVERNING LAW

14.2.1 The Contract shall be governed by the laws of the State of Texas. Exclusive venue for any causes of action arising under the terms or provisions of this Contract or the Work to be performed hereunder shall be in the state courts of Dallas County, Texas.

### 14.3 SUCCESSORS AND ASSIGNS

14.3.1 The City and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the City.

### 14.4 SURETY BONDS

14.4.1 The Contractor shall furnish separate performance and payment bonds to the City, according to the requirements set out in the bid documents and state statutes to guaranty full and faithful performance of the Contract by the Contractor and the full and final payment of all persons supplying labor or materials to the Project. Each bond required by the bid documents or state statute shall set forth a penal sum in an amount not less than the full Contract Price. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the City and shall be executed by a surety, or sureties, reasonably suitable to the City and authorized to do business in the State of Texas.

14.4.2 If the Contract Price exceeds the sum of $25,000.00, the Contractor, upon execution of the Contract and prior to commencement of the Work, shall furnish to the City a two-year maintenance bond in the amount of one hundred percent (100%) of the Contract Price covering the guaranty and maintenance prescribed herein, written by an approved surety authorized and duly licensed to conduct business in the State of Texas. The cost of said maintenance bond shall be included in the Contractor's unit bid prices and shall be paid by the Contractor.

### 14.5 FORCE MAJEURE

14.5.1 As used herein, "force majeure" means an incident, situation, or act of a third party that is beyond a party's reasonable control such as an act of God, an act of the public enemy, strikes or other labor disturbances (other than strikes within such party's own labor force), hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, and riots. The Contractor will not be liable or responsible for its failure to perform any obligation under this Contract because of an event of Force Majeure, provided, however, that the Contractor submits notice thereof to the City and Engineer within seven (7) days of such an event, obtains a written Change Order, signed by all parties, that allows an extension of the scheduled completion date, and identifies the specific causes and number of days in the Statement of Delay submitted with the next ensuing Application for Payment. Notwithstanding, if the Contractor's failure to perform continues for more than twenty (20) calendar days, the

City may at its option terminate this Agreement immediately and pursue such rights and remedies as may be allowed under Subparagraph 12.2.2 of this Contract.

### 14.6 IMMUNITIES; DEFENSES

14.6.1 Nothing in this Contract shall be deemed to waive any immunity, sovereign, governmental, official, qualified or otherwise, from liability or suit, which the City may have or assert, except as may be provided by law, all such immunities being hereby expressly retained.

### 14.7 NO RIGHTS IN THIRD PARTIES

14.7.1 The indemnification provisions of this Contract and the rights and remedies afforded herein are solely for the benefit of the parties to this Contract. Nothing in this Contract is intended nor shall be construed to grant, create or confer any right, benefit, interest or cause of action in any person not a party to this Contract, or to the public in general.

### 14.8 SEVERABILITY

14.8.1 The provisions of this Contract are herein declared to be severable; in the event that any term, provision or part hereof is determined to be invalid, void or unenforceable, such determination shall not affect the validity or enforceability of the remaining terms, provisions and parts, and this Contract shall be read as if the invalid, void or unenforceable portion had not been included herein.

### 14.9 AMENDMENTS; NO WAIVER

14.9.1 This Contract may be amended by the parties only by a written agreement duly executed by both parties. The failure of the City to object to any nonperformance or nonconforming work or to enforce any provision hereof shall in no event be regarded as or construed to be a waiver, release or modification of any term or provision in this Contract, nor shall such failure to object or enforce estop the City from insisting on strict compliance with this Contract or from recovering damages, costs or expenses arising as a result of such nonperformance or nonconforming work.

### 14.10 NOTICES

14.10.1 All notices required by this Contract shall be in writing and presumed received when deposited in the mail properly addressed to the other party or Engineer at the address set forth herein or set forth in a written designation of change of address delivered to all parties and the Engineer.

EXECUTED in single or multiple originals, this _____ day of _____, 20___.

**CITY OF ROWLETT, TEXAS**

_____
Todd W. Gottel, Mayor

ATTEST:

_____
Laura Hallmark, City Secretary (Rev. 08/13)

**CONTRACTOR**:

_____

_____
(Signature)

_____
(Type/Print Name and Title)

_____
(Street Address)

_____
(City/State/Zip)

# EXHIBIT "A"

# CONSTRUCTION BID AND PROPOSAL

# Proposal Inserted Here

# EXHIBIT "B"

## PERFORMANCE AND PAYMENT BONDS,

## CERTIFICATE OF INSURANCE,
## MAINTENANCE BOND, INDEMNIFICATION AGREEMENT

# PERFORMANCE BOND

**STATE OF TEXAS** §
§ **KNOW ALL MEN BY THESE PRESENTS:**
**COUNTY OF DALLAS** §

That _____ of the City of _____, County of _____, and the State of Texas, as principal and _____ as surety, authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Rowlett, Texas (Owner), in the penal sum of

_____($_____)

for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, by these presents.

**WHEREAS**, The Principal has entered into a certain written Contract with the Owner, dated the ___ day of _____, 2016, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

**NOW, THEREFORE**, if the said Principal shall faithfully perform said Contract and shall in all respects duly and faithfully observe and perform all and singular the work and all covenants, conditions and agreements said Contract to be observed and performed, and according to the true intent and meaning of said Contract and the Plans, Specifications and contract documents therein annexed, then this obligation shall be void, otherwise to remain in full force and effect. It is further agreed that this Bond shall be a continuous obligation against the Principal and each member of said Principal who is a party hereto, and each and all sureties hereon, and that successive recoveries may be had hereon for each and every breach until the full amount hereof shall have been exhausted; and the liability of the sureties on this Bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by the City, nor by the exercise or failure to exercise by or on behalf of the City any right or remedy provided by the Contract or specifications or by any law or ordinance. The penal sum hereof shall increase without notice automatically and correspondingly if and as the price of the Contract is increased.

In the event Principal is declared in default under the Contract, Surety will, within fifteen (15) days of the determination of such default, take over and assume responsibility for completion of such Contract and become entitled to the payment of the balance of the Contract Price, or the Surety shall make other arrangements satisfactory to the City for the completion of the defaulted Work. Conditioned upon the Surety's faithful performance of its obligations, the Surety's liability shall not exceed the penalty of this Bond.

This bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and all liabilities on this Bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in any way affect its obligation on this Bond,

and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the price or work to be performed thereunder. The Surety agrees to pay to the City upon demand all loss and expenses, including attorney's fees and court costs, incurred by the City by reason of or on account of any breach of the obligations of this Bond by the Surety.

**IN WITNESS WHEREOF**, the said Principal and Surety have signed and sealed this instrument this _____day of _____, 2016.

| | |
|---|---|
| _____ | _____ |
| Principal | Surety |
| By_____ | By_____ |
| Title _____ | Title_____ |
| Address _____ | Address_____ |
| _____ | _____ |
| _____ | _____ |

The name and address of the Registered Agent of Surety is:

_____

_____

# PAYMENT BOND

**STATE OF TEXAS** §
§ **KNOW ALL MEN BY THESE PRESENTS:**
**COUNTY OF DALLAS** §

That _____ of the City of _____, County of _____, and the State of Texas, as principal and _____ as surety, authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Rowlett, Texas (Owner), in the penal sum of

_____($_____)

for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, by these presents.

**WHEREAS**, The Principal has entered into a certain written Contract with the Owner, dated the ___ day of _____, 2016, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

**NOW, THEREFORE**, the condition of this obligation is such, that this Bond guarantees the full and proper protection of and prompt payment to all claimants supplying labor and material in the prosecution of the work provided for in said Contract and for the use of each claimant, and that conversely should the Principal faithfully perform said Contract and in all respects duly and faithfully observe and perform all and singular the covenants, conditions and agreements in and by said Contract agreed to by the Principal, and according to the true intent and meaning of said Contract and the Plans, Specifications and contract documents thereto annexed, then this obligation shall be void; otherwise, to remain in full force and effect.

**PROVIDED, HOWEVER**, that this Bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended, and Article 53.201 of the Property Code, and all liabilities on this bond shall be determined in accordance with the provisions of said chapter and article to the same extent as if they were fully copied at length herein.

Surety, for value received, stipulates and agrees that the bond shall automatically be increased by the amount of any change order or supplemental agreement which increases the terms or price of the Contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same shall in any way affect its obligation on this bond, , but in no event shall a change order or supplemental agreement which reduces the Contract price decrease the penal sum of this Bond, and surety does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder.

**IN WITNESS WHEREOF**, the said Principal and Surety have signed and sealed this instrument this ____day of _____, 2016.

| | |
|---|---|
| _____ | _____ |
| Principal | Surety |
| By_____ | By_____ |
| Title _____ | Title_____ |
| Address _____ | Address_____ |
| _____ | _____ |
| _____ | _____ |

The name and address of the Registered Agent of Surety is:

_____

_____

(Sample Form)

**Certificate of Insurance**

TO: Date:_____

_____ Project No. _____
Owner

Type of _____

_____
Address

THIS IS TO CERTIFY THAT _____

is, at the date of this certificate, insured by this Company with respect to the business operations hereinafter described, for the types of Insurance and in accordance with the provisions of the standard policies used by this Company, and further hereinafter described. Exceptions to standard policy noted on reverse side hereof.

Type of Insurance

| | Policy No. | Effective | Expires | Limits of Liability |
|---|---|---|---|---|
| Worker's Compensation | | | | |
| Public Liability | | | | |
| Contingent Liability | | | | |
| Property Damage | | | | |
| Builder's Risk | | | | |
| Automobile | | | | |
| Other | | | | |

The foregoing Policies (do) (do not) cover all sub-contractors.

Locations Covered:

_____

Descriptions of Operations Covered:

_____

The above referenced policies may not be changed, canceled, or reduced in coverage without at least thirty (30) days advance written notice of such change or cancellation being given to the Owner.

Where applicable local laws or regulations require more than thirty days actual notice of change or cancellation to the insured, the above policies contain such special requirements, either in the body thereof or by appropriate endorsement thereto attached.

_____ By: _____

Name of Insurer Title_____

# MAINTENANCE BOND

**STATE OF TEXAS** §
§ **KNOW ALL MEN BY THESE PRESENTS:**
**COUNTY OF DALLAS** §

That _____ of the City of _____, County of _____, and the State of Texas, as principal and _____ as surety, authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Rowlett, Texas (Owner), in the penal sum of _____($_____)

for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, by these presents.

**WHEREAS**, The Principal has entered into a certain written Contract with the City, dated the ___ day of _____, 2016, which Contract, Plans and Specifications and contract documents are hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

**NOW, THEREFORE,** the condition of this obligation is such that if Contractor shall, for a period of two (2) years from and after the date of final payment for the Work by the City: 1) maintain and keep in good repair, and replace or repair and correct any and all defects arising in the Work, whether resulting from defective materials or defective workmanship; and, 2) make and perform all necessary repairs, reconstruction and renewal of any part of said Work, and furnish the labor and materials to make good and to repair any defective condition growing out of or on account of the breakage or failure of any substance or the improper function of any part of the Work; after such period this obligation shall be null and void; otherwise to remain in full force and effect.

The Contractor shall reimburse the City for the costs of all engineering and special services required to be furnished by the City which are directly attributable to the restoration of the constructed work. Said maintenance contemplates the complete restoration of the constructed work to a functional use during the period set forth herein. It is understood that the purpose of this section is to require the correction of all defective conditions resulting from materials furnished or work and labor performed by the said Contractor under the conditions prescribed by Contract, Plans, Specifications and contract documents; and in case said Contractor shall fail or refuse to perform as provided within ten (10) days after proper written notifications have been furnished to him by the City, it is agreed that the City may do said work and supply such materials and the said Contractor and Sureties herein shall be subject to the damages (including liquidated damages) described in said Contract for each calendar day's failure on its part to comply with the terms of the said provision of said Contract and this Maintenance Bond.

The Surety hereby waives notice of any alteration or extension of time made by the City. Whenever Contractor shall be, and declared by the City to be in default under the Contract, the Surety may promptly remedy the default, or shall promptly: 1) complete the Contract in accordance with its terms and conditions, and 2) hold and save the City harmless from any claims, judgments, or liens arising from the Surety's failure to either remedy the default or to complete the Contract in accordance

with its terms and conditions in a timely manner. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the City named herein.

It is further agreed that the obligations of this Bond shall be continuing against the Principal and Sureties herein, and that successive recoveries may be had for successive breaches until the full amount shall have been exhausted; and it is further understood that the obligation herein to maintain said work shall continue throughout said maintenance period, and the same shall not be changed, diminished, or in any manner affected by any cause during said time.

**IN WITNESS WHEREOF**, the said Principal and Surety have signed and sealed this instrument this ____day of _____, 2016.

| | |
|---|---|
| _____ | _____ |
| Principal | Surety |
| By_____ | By_____ |
| Title _____ | Title_____ |
| Address _____ | Address_____ |
| _____ | _____ |
| _____ | _____ |

Registered Agent of Surety is:

_____

_____

**NOTE: Date of Maintenance Bond must not be prior to date of Contract.**
**NOTE: A Power of Attorney on behalf of the Surety must be attached to the Bond in all cases.**

# PREVAILING WAGE RATES

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Heavy Construction Projects TX150028 1/2/15 TX28**

The following wage rates have been determined by the City of Rowlett to be the prevailing rates applicable to **Heavy Construction work as taken from the General Wage Decision Number #TX150028 1/2/15 TX 28.**

General Decision Number: TX150028 01/02/2015 TX28

Superseded General Decision Number: TX20140028

State: Texas

Construction Type: Heavy

Counties: Collin, Dallas, Denton, Ellis, Kaufman and Rockwall Counties in Texas.

Water and Sewer Lines/Utilities (Including Related Tunneling Where the Tunnel is 48" or Less in Diameter)

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of $10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| Modification Number | Publication Date |
|---|---|
| 0 | 01/02/2015 |

* PLUM0100-002 07/01/2013

| | Rates | Fringes |
|---|---|---|
| Plumbers and Pipefitters | $ 28.88 | 8.83 |

---

SUTX1991-004 09/23/1991

| | Rates | Fringes |
|---|---|---|
| Laborers: | | |
| Common | $ 7.25 | |
| Utility | $ 7.467 | |
| Pipelayer | $ 7.828 | |

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Heavy Construction Projects TX150028 1/2/15 TX28**

| | Rates | Fringes |
|---|---|---|
| Power equipment operators: | | |
| Backhoe | $ 10.804 | |
| Crane | $ 10.942 | |
| Front End Loader | $ 9.163 | |
| Tunneling Machine (48" or less) | $ 9.163 | |
| TRUCK DRIVER | $ 8.528 | |

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Heavy Construction Projects TX150028 1/2/15 TX28**

changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Heavy Construction Projects TX150028 1/2/15 TX28**

a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

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2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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END OF GENERAL DECISION

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Highway Construction TX150035 1/2/2015 TX35**

The following wage rates have been determined by the City of Rowlett to be the prevailing rates applicable to **Highway Construction work as taken from the General Wage Decision Number #TX150035 1/2/15 TX35**.

General Decision Number: TX150035 01/02/2015 TX35

Superseded General Decision Number: TX20140035

State: Texas

Construction Type: Highway

Counties: Archer, Callahan, Clay, Collin, Dallas, Delta, Denton, Ellis, Grayson, Hunt, Johnson, Jones, Kaufman, Parker, Rockwall, Tarrant and Wise Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of $10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| Modification Number | Publication Date |
|---|---|
| 0 | 01/02/2015 |

* SUTX2011-007 08/03/2011

| | Rates | Fringes |
|---|---|---|
| CONCRETE FINISHER (Paving and Structures) | $ 14.12 | |
| ELECTRICIAN | $ 19.80 | |
| FORM BUILDER/FORM SETTER | | |
| Paving & Curb | $ 13.16 | |
| Structures | $ 13.84 | |

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Highway Construction TX150035 1/2/2015 TX35**

| | Rates | Fringes |
|---|---|---|
| LABORER | | |
| Asphalt Raker | $ 12.69 | |
| Flagger | $ 10.06 | |
| Laborer, Common | $ 10.72 | |
| Laborer, Utility | $ 12.32 | |
| Pipelayer | $ 13.24 | |
| Work Zone Barricade Servicer | $ 11.68 | |
| POWER EQUIPMENT OPERATOR: | | |
| Asphalt Distributor | $ 15.32 | |
| Asphalt Paving Machine | $ 13.99 | |
| Broom or Sweeper | $ 11.74 | |
| Concrete Pavement Finishing Machine | $ 16.05 | |
| Concrete Saw | $ 14.48 | |
| Crane Operator, Lattice Boom 80 Tons or Less | $ 17.27 | |
| Crane Operator, Lattice Boom over 80 Tons | $ 20.52 | |
| Crane, Hydraulic 80 Tons or Less | $ 18.12 | |
| Crawler Tractor | $ 14.07 | |
| Excavator, 50,000 pounds or less | $ 17.19 | |
| Excavator, over 50,000 pounds | $ 16.99 | |
| Foundation Drill , Truck Mounted | $ 21.07 | |
| Foundation Drill, Crawler Mounted | $ 17.99 | |
| Front End Loader 3 CY or Less | $ 13.69 | |
| Front End Loader, over 3 CY | $ 14.72 | |
| Loader/Backhoe | $ 15.18 | |

Mechanic.....$ 17.68
Milling Machine.....$ 14.32
Motor Grader, Fine Grade....$ 17.19
Motor Grader, Rough.....$ 16.02
Pavement Marking Machine....$ 13.63
Reclaimer/Pulverizer.....$ 11.01
Roller, Asphalt.....$ 13.08
Roller, Other.....$ 11.51
Scraper.....$ 12.96
Small Slipform Machine.....$ 15.96
Spreader Box.....$ 14.73

Servicer.....$ 14.58

Steel Worker (Reinforcing).....$ 16.18

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Highway Construction TX150035 1/2/2015 TX35**

| | Rates | Fringes |
|---|---|---|
| TRUCK DRIVER | | |
| Lowboy-Float | $ 16.24 | |
| Off Road Hauler | $ 12.25 | |
| Single Axle | $ 12.31 | |
| Single or Tandem Axle Dump Truck | $ 12.62 | |
| Tandem Axle Tractor with Semi Trailer | $ 12.86 | |
| Transit-Mix | $ 14.14 | |
| WELDER | $ 14.84 | |

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the

cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Highway Construction TX150035 1/2/2015 TX35**

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination



* a Wage and Hour Division letter setting forth a position on a wage determination matter
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==========

END OF GENERAL DECISION

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Building Construction TX150291 12/11/2015 TX291**

The following wage rates have been determined by the City of Rowlett to be the prevailing rates applicable to **Building Construction work as taken from the General Wage Decision Number #TX150291 12/11/15 TX291**.

General Decision Number: TX150291 12/11/2015 TX291

Superseded General Decision Number: TX20140291

State: Texas

Construction Type: Building

County: Dallas County in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of $10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| Modification Number | Publication Date |
|---|---|
| 0 | 01/02/2015 |
| 1 | 01/30/2015 |
| 2 | 03/06/2015 |
| 3 | 12/11/2015 |

ASBE0021-011 05/01/2013

| | Rates | Fringes |
|---|---|---|
| ASBESTOS WORKER/HEAT & FROST INSULATOR (Duct, Pipe and Mechanical System Insulation).... | $ 21.52 | 7.15 |

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BOIL0074-003 01/01/2014

| | Rates | Fringes |
|---|---|---|
| BOILERMAKER..... | $ 23.14 | 21.55 |

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CARP1421-002 04/01/2014

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Building Construction TX150291 12/11/2015 TX291**

| | Rates | Fringes |
|---|---|---|
| MILLWRIGHT..... | $ 25.30 | 8.30 |

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ELEV0021-006 01/01/2015

| | Rates | Fringes |
|---|---|---|
| ELEVATOR MECHANIC..... | $ 37.33 | 28.385 |

FOOTNOTES: a - A. 6% under 5 years based on regular hourly rate for all hours worked. 8% over 5 years based on regular hourly rate for all hours worked.

New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day, and Veterans Day.

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ENGI0178-005 06/01/2014

| | Rates | Fringes |
|---|---|---|
| POWER EQUIPMENT OPERATOR | | |
| (1) Tower Crane..... | $ 29.00 | 10.60 |
| (2) Cranes with Pile Driving or Caisson Attachment and Hydraulic Crane 60 tons and above..... | $ 28.75 | 10.60 |
| (3) Hydraulic cranes 59 Tons and under..... | $ 27.50 | 10.60 |

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* IRON0263-005 06/01/2015

| | Rates | Fringes |
|---|---|---|
| IRONWORKER (ORNAMENTAL AND STRUCTURAL)..... | $ 23.00 | 6.55 |

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PLUM0100-005 07/01/2013

| | Rates | Fringes |
|---|---|---|
| HVAC MECHANIC (HVAC Unit Installation Only)..... | $ 26.88 | 8.83 |
| PIPEFITTER (Excludes HVAC Pipe Installation)..... | $ 26.88 | 8.83 |

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SUTX2014-017 07/21/2014

| | Rates | Fringes |
|---|---|---|

| | | |
|---|---|---|
| BRICKLAYER | $ 19.50 | 4.27 |
| CARPENTER, Excludes Drywall Hanging, Form Work, and Metal Stud Installation | $ 17.13 | 2.97 |
| CAULKER | $ 14.71 | 0.00 |
| CEMENT MASON/CONCRETE FINISHER | $ 13.40 | 0.00 |
| DRYWALL HANGER AND METAL STUD INSTALLER | $ 15.45 | 0.00 |
| ELECTRICIAN (Alarm Installation Only) | $ 21.52 | 4.16 |
| ELECTRICIAN (Communication Technician Only) | $ 16.40 | 2.87 |
| ELECTRICIAN (Low Voltage Wiring Only) | $ 20.03 | 3.04 |
| ELECTRICIAN, Excludes Low Voltage Wiring and Installation of Alarms/Sound and Communication Systems | $ 21.51 | 3.69 |
| FORM WORKER | $ 12.32 | 0.00 |
| GLAZIER | $ 16.15 | 2.13 |
| HIGHWAY/PARKING LOT STRIPING: Operator (Striping Machine) | $ 10.04 | 2.31 |
| INSTALLER - SIDING (METAL/ALUMINUM/VINYL) | $ 14.26 | 0.00 |
| INSTALLER - SIGN | $ 15.61 | 0.00 |
| INSULATOR - BATT | $ 13.00 | 0.00 |
| IRONWORKER, REINFORCING | $ 12.24 | 0.00 |
| LABORER: Common or General | $ 11.57 | 0.00 |
| LABORER: Mason Tender - Brick | $ 11.00 | 1.70 |
| LABORER: Mason Tender - Cement/Concrete | $ 10.64 | 0.00 |

LABORER: Pipelayer.....$ 13.00 0.35

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Building Construction TX150291 12/11/2015 TX291**

LABORER: Plaster Tender.....$ 14.50 0.00

LABORER: Roof Tearoff.....$ 11.28 0.00

LABORER: Landscape and
Irrigation.....$ 12.00 0.23

LATHER.....$ 16.00 0.00

OPERATOR:
Backhoe/Excavator/Trackhoe.....$ 13.06 0.00

OPERATOR: Bobcat/Skid
Steer/Skid Loader.....$ 13.93 0.00

OPERATOR: Bulldozer.....$ 18.29 1.31

OPERATOR: Drill.....$ 13.00 0.50

OPERATOR: Forklift.....$ 13.38 0.81

OPERATOR: Grader/Blade.....$ 13.05 0.00

OPERATOR: Loader.....$ 14.02 1.82

OPERATOR: Mechanic.....$ 17.52 3.33

OPERATOR: Paver (Asphalt,
Aggregate, and Concrete).....$ 18.44 0.00

OPERATOR: Roller.....$ 15.04 0.00

PAINTER (Brush, Roller and
Spray, Excluding
Drywalling/Taping).....$ 13.60 2.24

PAINTER: Drywall
Finishing/Taping Only.....$ 14.28 3.04

PLASTERER.....$ 15.37 0.00

PLUMBER (HVAC Pipe
Installation Only).....$ 23.87 6.66

PLUMBER, Excludes HVAC Pipe
Installation.....$ 22.70 5.65

ROOFER.....$ 17.19 0.00

SHEET METAL WORKER (HVAC Duct
Installation Only).....$ 21.10 5.50

**CITY OF ROWLETT PREVAILING WAGE RATES**
**Building Construction TX150291 12/11/2015 TX291**

SHEET METAL WORKER, Excludes
HVAC Duct Installation.....$ 24.88 7.23

SPRINKLER FITTER (Fire
Sprinklers).....$ 21.25 15.55

TILE FINISHER.....$ 11.22 0.00

TILE SETTER.....$ 14.25 0.00

TRUCK DRIVER: 1/Single Axle
Truck.....$ 16.40 0.81

TRUCK DRIVER: Dump Truck.....$ 12.39 1.18

TRUCK DRIVER: Flatbed Truck.....$ 19.65 8.57

TRUCK DRIVER: Semi-Trailer
Truck.....$ 12.50 0.00

TRUCK DRIVER: Water Truck.....$ 12.00 4.11

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WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after
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**CITY OF ROWLETT PREVAILING WAGE RATES**
**Building Construction TX150291 12/11/2015 TX291**

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WAGE DETERMINATION APPEALS PROCESS

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==========

END OF GENERAL DECISION

# EXHIBIT "D"

# WORKER'S COMPENSATION COVERAGE PROVISIONS

# SECTION WC

## WORKERS' COMPENSATION INSURANCE COVERAGE

**WC.1** **DEFINITIONS**

Certificate of coverage ("certificate"): A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project: Includes the time from the beginning of the work on the project until the contractor's/persons work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in 1.03): Includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, CITY-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries and delivery of portable toilets.

**WC.2** The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

**WC.3** The contractor must provide a certificate of coverage to governmental entity prior to being awarded the contract.

**WC.4** If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

**WC.5** The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, sot he governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project, and,

(2) no later than seven (7) days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

**WC.6** The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

**WC.7** The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the contractor knows or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.

**WC.8** The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, information all persons providing services on the project that they are required to be offered, and stating how a person may verify coverage and report lack of coverage.

**WC.9** The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

(2) provide the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the contractor:

(a) a certificate of coverage, prior to the other person beginning work on the project; and,

(b) a new certificate of coverage showing extension of coverage, prior tot he end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knows or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and,

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1)-(7), with the certificates of coverage to be provided to the person for whom they are providing services.

**WC.10** By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

**WC.11** The contractor's failure to comply with any of these provision is a breach of contract by the contractor which entities the governmental entity to declare the contract void if the contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

**WC.12** The contractor shall indemnify the governmental entity and hold it harmless for any amounts sought against the governmental entity by any employee or independent sub-contractor. The contractor further agrees to assist City in the defense of any attempts to assert a worker's compensation subrogation lien by any medical insurer, including, but not limited to, the release and disclosure of all files and documents that would be relevant or pertinent to the City's defense.

# EXHIBIT "E"

# EQUAL OPPORTUNITY EMPLOYMENT PROVISIONS

# SECTION EEO

## EQUAL EMPLOYMENT OPPORTUNITY

## INDEX


| PARAGRAPH | TITLE |
|---|---|
| EEO.1 | DESCRIPTION |
| EEO.2 | WORKING ENVIRONMENT |
| EEO.3 | ON-THE-JOB TRAINING |
| EEO.4 | REVIEW |
| EEO.5 | DISSEMINATION |
| EEO.6 | RECRUITMENT |
| EEO.7 | INVENTORY |
| EEO.8 | MONITORING |
| EEO.9 | FACILITIES |
| EEO.10 | RECORDS |
| EEO.11 | ADHERENCE |

# SECTION EEO

## EQUAL EMPLOYMENT OPPORTUNITY

### EEO.1 DESCRIPTION

The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The Contractor shall implement affirmative action steps at least as extensive as described herein.

### EEO.2 WORKING ENVIRONMENT

Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two (2) or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

### EEO.3 ON-THE-JOB TRAINING

Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs.

### EEO.4 REVIEW

Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

### EEO.5 DISSEMINATION

Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

### EEO.6 RECRUITMENT

Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one (1) month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

**EEO.7 INVENTORY**

Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

**EEO.8 MONITORING**

Ensure that seniority practices, job classifications, work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

**EEO.9 FACILITIES**

Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

**EEO.10 RECORDS**

Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

**EEO.11 ADHERENCE**

Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

(End of Sample Public Works Contract)

Attachment 5

**STATE OF TEXAS**
**CITY OF ROWLETT**
**AFFIDAVIT**

The undersigned certifies that the RFP prices contained in this RFP have been carefully checked and are submitted as correct and final and if RFP is accepted (within 60 days), agrees to furnish any and/or all items upon which prices are offered, at the price(s) and upon the conditions contained in the Specifications.

BEFORE ME, the undersigned authority, A Notary Public in and for the State of _____, on this day personally appeared _____, who, after having first been duly sworn, upon oath did depose and say;That the foregoing RFP submitted by _____, hereinafter called "Proposer" is the duly authorized agent of said company and that the person signing said proposal has been duly authorized to execute the same. Proposer affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this RFP in collusion with any other Proposer. The Proposer is not a member of any trust, pool, or combination to control the price of products or services RFP on, or to influence any person to RFP or not to RFP thereon. I further affirm that the Proposer has not given, offered to give, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discounts, trip, favor, or service to a public servant in connection with the submitted RFP. The contents of this RFP as to prices, terms or conditions of said RFP have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this RFP.

Name and Address of Proposer:

_____

_____

_____

_____

Telephone number_____ Fax number _____

_____
Signature

Printed Name:_____ Title: _____

SWORN TO AND SUBSCRIBE BEFORE ME THIS _____day of_____, 2016.

_____
Notary Public in and for City, State

Attachment 6 – Residence Certification

**RESIDENCE CERTIFICATION**

Pursuant to Texas Government Code, Section 2252.001 *et seq*., as amended, City of Rowlett requests Residence Certification. Section 2252.001 *et seq.* of the Government Code provides some restrictions on the awarding of governmental contracts; pertinent provisions of Section 2252.001 are stated below:

"Nonresident Proposer " refers to a person who is not a resident.

"Resident Proposer " refers to a person whose principal place of business is in this state, including a Consultant whose ultimate parent company or majority owner has its principal place of business in this state.

☐ I certify that _____ (Company Name) is a Resident Proposer of Texas as defined in Government Code, Section 2252.001.

☐ I certify that _____ (Company Name) is a Nonresident Proposer as defined in Government Code, Section 2252.001 and our principal place of business is _____(City), _____(State).

_____

Signature

Printed Name:_____ Title: _____

Attachment 7

**CITY OF ROWLETT EXPRESSLY REQUESTS THAT PROPOSERS NOT DISCUSS THIS ENGAGEMENT OR THIS PROPOSER'S PLANS, EXPERIENCE OR CREDENTIALS WITH OTHER PROPOSERS OR ANY MEMBER OF CITY COUNCIL, ANY CITY OFFICIAL, OR ANY CITY EMPLOYEE. EXCLUDED ARE PRE-PROPOSAL CONFERENCES, SCHEDULED VENDOR PRESENTATIONS OR VENDOR INTERVIEWS, OR SCHEDULED EQUIPMENT OR SERVICES DEMONSTRATIONS. YOU MAY CONTACT THE PURCHASING DEPARTMENT AT ANY TIME.**

**FROM RFP OPENING DATE THROUGH CITY COUNCIL MEETING FOR SELECTION, VENDORS WILL NOT APPROACH THE CITY EMPLOYEES OR CITY COUNCIL TO DISCUSS MATTERS PERTAINING TO THIS RFP.**

1. Has any individual with the firm submitting this Proposal Response made any contact with any member of City Council, any City Official, or an Evaluation Committee member concerning this Invitation to RFP, other than questions to the City Auditor/Purchasing Officer?

_____

_____

_____

_____

_____

2. Has any individual with the firm submitting this Proposal Response made any contact with any other Proposer concerning this Invitation to RFP?

_____

_____

_____

_____

_____

_____
Signature of Person doing business with the City

Printed Name:_____ Title: _____

Attachment 8 – Certification Regarding Debarment, Suspension Ineligibility

**Certification Regarding Debarment, Suspension Ineligibility**
As is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 76, Government-wide Debarment and Suspension, in the applicant certifies, to the best of his or her knowledge and belief, that both it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
b. Have not within a three-year period preceding this bid/proposal and/or application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, theory, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity with commission of any of the offenses enumerated herein; and
d. Have not within a three-year period preceding this bid/proposal and/or application had one or more public transactions terminated of cause or default.

_____
Signature

Printed Name:_____ Title: _____

Date:_____ Telephone Number: _____

If the Bidder / Proposer is unable to certify to all of the statements in this Certification, such Bidder / Proposer should attach an explanation to this Bid / Proposal.

Attachment 8 – Certification Regarding Debarment, Suspension Ineligibility (page 2)

**SWORN STATEMENT ON DEBARMENT**

This SWORN statement is submitted with project number:

_____

By:

_____

(PRINT INDIVIDUALS NAME AND TITLE)

For:

_____

(PRINT NAME OF ENTITY SUBMITTING SWORN STATEMENT)

With a business address of:

_____

Address

_____

Address

_____

City, State, Zip Code

_____

Telephone Number

If applicable its Federal Employee Identification Number (FEIN) is:

_____

(INDICATE WHICH STATEMENTS APPLY)

_____ Neither the entity submitting this SWORN statement, nor any of its officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime.

_____ The entity submitting this SWORN statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity **HAS BEEN CHARGED WITH AND CONVICTED OF A PUBLIC ENTITY CRIME.**

_____ The entity submitting this SWORN statement is not present on any Federal list of debarred contractors, nor been debarred from any other type of contracting.

_____

Signature

Printed Name:_____ Title: _____

Date:_____ Telephone Number: _____

SWORN TO AND SUBSCRIBE BEFORE ME THIS _____day of_____, 2016.

_____

Notary Public in and for City, State

Attachment 9 – Conflict of Interest Questionnaire

Chapter 176 is a relatively new ethics law that was enacted by HB 914 in 2005. It requires certain local government officials to disclose employment and business relationships with vendors who conduct business with local government entities. After the law was implemented, city officials and others realized that it created several unintended consequences. Consequently, the bill's author sought an opinion from the Texas Attorney General to clarify many provisions of Chapter 176. In response, the Attorney General's Office released Opinion Number GA-0446, which indicated that changes to the law would be desirable. In response, the legislature passed HB 1491 during the 2007 regular legislation session. The bill became effective on May 25, 2007.

Chapter 176 defines a "vendor" as any person who enters or seeks to enter into a contract with the city. The term also includes an agent of a vendor.

Local government officers subject to this law are a city council member, director, superintendent, administrator, president, city manager, or any other person who is designated as the executive officer of the local government entity. A municipal officer's family member would include the officer's spouse, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, or step-child.

The law applies to any written contract for the sale or purchase of real property, goods, or services. A contract for services would include one for skilled or unskilled labor, or for professional services.

A vendor is required to file a conflict of interest questionnaire if the vendor has a business relationship with the city and has:

1) an employment or other business relationship with an officer or an officer's family member that results in that person receiving taxable income that is more than $2,500 in the preceding twelve months; or

2) has given an officer or an officer's family member one or more gifts totaling more than $250 in the preceding twelve months.

A vendor is required to file a questionnaire not later than the seventh business day after the later of the following:

1) the date the vendor begins discussions or negotiations to enter into a contract with the city or submits an application or response to a bid proposal; or

2) the date the vendor becomes aware of a relationship or gives a gift to an officer or officer's family member.

Enclosed is a Conflict of Interest Questionnaire for vendor or other person doing business with local government entity.

Completed questionnaire forms are to be directed to the City Secretary at the address shown below.

**Laura Hallmark, City Secretary**
**City of Rowlett**
**4000 Main Street**
**Rowlett, Texas 75088**

Attachment 9 – Conflict of Interest Questionnaire (page 2)

# CONFLICT OF INTEREST QUESTIONNAIRE

**FORM CIQ**

**For vendor doing business with local governmental entity**

**This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

**OFFICE USE ONLY**

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

Attachment 9 – Conflict of Interest Questionnaire (page 3)

## CONFLICT OF INTEREST QUESTIONNAIRE
## For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

Attachment 10 – Certificate of Interested Parties

**ERTIFICATE OF INTERESTED PARTIES (FORM 1295)**

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity. The disclosure of interested parties will be submitted online via Form 1295 and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

**The Filing Process:**

1. Prior to award by the City of Rowlett Council, your firm will be required to log in to the Texas Ethics Commission https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and fill out the Electronic Filing Application.
2. Once submitted, the system will generate an electronic Form 1295 displaying a "Certificate number". Your firm must print, sign and notarize Form 1295.
3. Within **ten (10) business days** from notification of pending award by the City of Wylie Purchasing Agent, the completed Form 1295 **must** be submitted.
4. Your firm will need to repeat this process and obtain a separate Form 1295 each time you enter into a new contract, renew a contract or make modifications and/or amendments to a Tarrant County contract.

Instructions and information are available at https://www.ethics.state.tx.us/tec/1295-Info.htm or you may call The Texas Ethics Commission at 512-463-5800.

Attachment 10 – Certificate of Interested Parties (page 2)

(To be completed on Texas Ethics Commission website)

## CERTIFICATE OF INTERESTED PARTIES

**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY**

1 **Name of business entity filing form, and the city, state and country of the business entity's place of business.**

2 **Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

3 **Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

4

| Name of Interested Party | City, State, Country (place of business) | Nature of Interest (check applicable) | |
|---|---|---|---|
| | | Controlling | Intermediary |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

5 **Check only if there is NO Interested Party.** ☐

6 **AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

_____
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.

_____
Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath

**ADD ADDITIONAL PAGES AS NECESSARY**

# City of Rowlett

## Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

**AGENDA DATE:** 02/09/16 **AGENDA ITEM:** 3D

### TITLE

Consider action to approve a resolution authorizing the City Manager to negotiate and execute a contract for emergency debris monitoring and consulting services for the December 26, 2015, Tornado Event for an amount not to exceed $2,000,000.

### STAFF REPRESENTATIVE

Kim Galvin, Director of Financial Services

### SUMMARY

This item will provide debris monitoring and consulting services for the December 26, 2015, Tornado Event for an amount not to exceed $2,000,000.

### BACKGROUND INFORMATION

The annual contract for Disaster Debris Monitoring and Consulting Services was awarded on February 2, 2016. This contract will utilize that annual contract for the specific incident, December 26, 2015, Tornado Event. The annual contract was awarded after a request for proposals (RFP) was advertised on January 14 and 21, 2016. Proposals were received on February 2, 2016, and Staff will review the proposals and bring them to Council on February 10, 2016.

### DISCUSSION

The annual Disaster Debris Monitoring and Consulting Services contract was previously considered by Council. The annual contract secured the service of a capable and experienced consultant who could efficiently monitor the removal of large volumes of disaster generated waste from a large area in a timely and cost-effective manner. This specific incident contract will provide for the primary consultant for the December 26, 2015, Tornado Event, and will monitor the execution of the December 26, 2015, Tornado Event Debris Removal, Reduction, Disposal and Other Debris Related Services contract. The consultant will ensure FEMA regulations are followed so that the City may benefit from the maximum reimbursable allowed as described by the expected FEMA designated debris project.

The proposals were received on February 2, 2016 and staff recommendations will be presented at the February 10, 2016, Council meeting. Proposals were evaluated using the following criteria:

| | |
|---|---|
| Consultant Experience | 40 points |
| Project Approach | 20 points |
| Capability, Capacity, and Availability | 20 points |
| Pricing | 20 points |
| Total | 100 points |

Because time is of the essence, staff presented the opportunity to award this contract at the earliest possible meeting, following all local and state purchasing guidelines. Contracts will be developed by the City Attorney in conjunction with FEMA legal consultants.

## FINANCIAL/BUDGET IMPLICATIONS

Monitoring and consulting services should not exceed $2,000,000, based on the estimated cubic yards resulting from the December 26, 2015, Tornado Event. Funding for this item is currently being considered by staff and could come from a variety of sources.

Staff recently reviewed current budgets and identified possible funding sources, including but not limited to: excess fund balance reserves, project funds, state and federal grants, and debt instruments. Some of those identified sources that may be considered include traffic signal funding, parks master plan funding, innovations funding, community enhancement funds, and excess fund balance reserves in the Employee Health Benefit Fund, Drainage Fund, General Fund, and Golf Fund. Staff has also reviewed funding options with First Southwest and may recommend issuing certificates of obligation to fund a portion of the disaster recovery.

At the time of publishing, Governor Abbot had formally requested disaster assistance from the President of the United States. If the federal declaration is granted, many of the disaster related expenses incurred by the City could qualify for federal FEMA grants.

The primary goal of the staff related to funding will be to provide taxpayers with the most cost effective funding available to the City, while ensuring that the future growth of the City is not jeopardized. All funding opportunities available to the City will be considered, and a budget change will be submitted for Council consideration at a later date.

## RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN INCIDENT SPECIFIC CONTRACT FOR DISASTER DEBRIS MONITORING AND CONSULTING SERVICES FOR THE DECEMBER 26, 2015 TORNADO EVENT FOR AN AMOUNT NOT TO EXCEED $2,000,000; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** it is necessary to provide for the monitoring of the removal of debris when an outside vendor is used for those removal services; and

**WHEREAS,** the City of Rowlett City Council awarded the annual Debris Monitoring and Consulting Services on February 10, 2016; and

**WHEREAS,** this contract will be for the December 26, 2015 Tornado Event.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:**

**Section 1:** That the City Council of the City of Rowlett does hereby authorize the City Manager to negotiate and execute, subject to city attorney approval, a contract for Disaster Monitoring and Consulting Services for the December 26, 2015 Tornado Event for an amount not to exceed $2,000,000.

**Section 2:** This resolution shall become effective immediately upon its passage.

**ATTACHMENT**

Attachment 1 – Debris Monitoring RFP

# CITY OF ROWLETT, TEXAS

# REQUEST FOR PROPOSAL
# FOR
# DISASTER DEBRIS MONITORING AND CONSULTING SERVICES

## RFP # 2016-14

## Disaster Debris Monitoring and Consulting Services

# CITY OF ROWLETT
# PURCHASING DEPARTMENT
## REQUEST FOR PROPOSAL
## RFP NUMBER :2016-14
## RFP TITLE: DISASTER DEBRIS MONITORING & CONSULTING SERVICES
## DATE DUE: January 29, 2016 DUE NO LATER THAN 10:00 A.M., CST

RFP's will be opened at the City of Rowlett Annex Building located at 4004 Main Street, Rowlett, Texas 75088. (per Purchasing Dept. clock) on deadline due date. RFPs received later than the date and time above will not be considered.

Please return RFP **ORIGINAL AND FOUR (4) COPIES** in sealed envelope. Be sure that return envelope shows the RFP Number, Description and is marked "SEALED RFP".

**RETURN RFP TO**:
Purchasing Agent, **City of Rowlett, 4004 Main Street, Rowlett Texas 75088.**
For additional information or to request addendum contact: purchasing@rowlett.com.

**You must sign below in INK; failure to sign WILL disqualify the offer. All prices must be typewritten or written in ink.**
Company Name:

_____

Company Address:

_____

City, State, Zip Code:

_____

Telephone No._____

E-mail_____

Printed Name:_____Signature:_____

**Is Proposer's principal place of Business within City of Rowlett? Yes - No**
(Your signature attests to your offer to provide the goods and/or services in this RFP according to the published provision of this RFP. When an award letter is issued, this RFP becomes the contract. If a RFP required specific Contract is to be utilized in addition to this RFP, this signed RFP will become part of that contract. When an additional Contract is required a RFP award does not constitute a contract award and RFP / Contract is not valid until contract is awarded by City Council (when applicable) and Purchase Order is issued.

## CHECK LIST

Offeror's are asked to review the package to be sure that all applicable parts are included. If any portion of the package is missing, notify the Purchasing Department immediately. It is the Offeror's responsibility to be familiar with all the Requirements and Specifications. Be sure you understand the following before you return your bid packet.

____ **Cover Sheet**
Your company name, address and your signature (**IN INK**) should appear on this page.
____ **Instructions to Bidders**
You should be familiar with all of the Instructions to Bidders.
____ **Special Requirements**
This section provides information you must know in order to make an offer properly.
____ **Specifications / Scope of Work**
This section contains the detailed description of the product/service sought by the City.

**Attachment**s
____**Attachments A, B, C, D, E, F, G**
Be sure to complete these forms and return with packet.
_____**Bid Guaranty & All Bond Information & Requirements**
This applies only to certain bids/proposals. All public work contracts over $50,000 require a Payment Bond and over $100,000 must also have a Performance Bond in a form approved by the City. Please read carefully and fill out completely.
**Other - Final Reminders To double check before submitting BID/RFP/RFQ**
____ Is your bid sealed with bid #, title, Bidder Name, & return address on outside?
____ Did you complete, sign and submit page 1?
____ Did you provide the number of copies as required on the cover page?
____ Did you visit our website www.rowlett.com for any addendums?

**INSTRUCTIONS FOR SUBMITTING RFP'S**
These General Instructions apply to all offers made to City of Rowlett, Texas (herein after referred to as "City") by all prospective vendors (herein after referred to as "Proposers") on behalf of Solicitations including, but not limited to, Invitations to Bid, Request for Proposals, and Requests for Quotes. Carefully read all instructions, requirements and specifications. Fill out all forms properly and completely. Submit your bid with all appropriate supplements and/or samples. Prior to returning your sealed bid response / submittal, all Addendums - if issued - should be reviewed and downloaded by entering the City Purchasing web www.rowlett.com Addendums Column (updated Addendums). These Addendums must be signed and returned with your bid in order to avoid disqualification. Review this document in its entirety. Be sure your RFP is complete, and double check your Bid / RFP for accuracy. The City of Rowlett is an Equal Employment Opportunity Employer. Be sure your RFP is complete, and double check your RFP for accuracy.

**GOVERNING FORMS:** In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, the City of Rowlett's interpretation shall govern. Where substitutions are used, they must be of equivalent value or service, and specified by the Proposer as such, in the columns to the right on the "Minimum Specifications' Forms". The City's specifications may be exceeded and should be noted by the Vendor as such. Any RFP NOT MEETING the Minimum Requirements specified will be rejected.

**GOVERNING LAW:** This invitation to RFP is governed by the competitive RFP requirements of the Texas Local Government Code, as amended. Offerors shall comply with all applicable federal, state and local laws and regulations. Offeror is further advised that these

requirements shall be fully governed by the laws of the State of Texas and that City of Rowlett may request and rely on advice, decisions and opinions of the Attorney General of Texas and the City Attorney concerning any portion of these requirements. Questions requiring only clarification of instructions will be handled verbally. If any questions results in a change or addition to this RFP, the Change(s) and addition(s) will be forwarded to all vendors involved as quickly as possible in the form of a written addendum only. Verbal changes to Bids/RFP's/RFP' s must be backed-up by written addendum or written Q/A clarifications which would be posted on the City Purchasing Web site. Without written Addendum or written Q / A clarification, verbal changes to Bids / RFP / RFP will not apply. Sign the Vendor's Affidavit Notice, complete answers to Attachments A, B, C, D, E, F, G and return all with your RFP.

**CONFLICT OF INTEREST QUESTIONNAIRE:**
**For vendor or other person doing business with local governmental entity**
This questionnaire must be filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.
**By law this questionnaire must be filed with the records administrator (City Secretary's Office) of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed**. *See* Section 176.006, Local Government Code. A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor. The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.

**DISCLOSURE OF INTERESTS:**
**The following information applies ONLY to an awarded Bidder/Respondent**

**Certificate of Interested Parties (Form 1295)**
In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity. The disclosure of interested parties will be submitted online via Form 1295 and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

**The Filing Process:**

1. Prior to award by the City of Rowlett Council, your firm will be required to log in to the Texas Ethics Commission https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and fill out the Electronic Filing Application.
2. Once submitted, the system will generate an electronic Form 1295 displaying a "Certificate number". Your firm must print, sign and notarize Form 1295.
3. Within **ten (10) business days** from notification of pending award by the City of Rowlett Purchasing Agent, the completed Form 1295 **must** be submitted.
4. Your firm will need to repeat this process and obtain a separate Form 1295 each time you enter into a new contract, renew a contract or make modifications and/or amendments to a City of Rowlett contract.

Instructions and information are available at https://www.ethics.state.tx.us/tec/1295-Info.htm or you may call The Texas Ethics Commission at 512-463-5800.

BIDDERS / PROPOSERS MAY ATTEND PUBLICLY HELD CITY COUNCIL MEETING FOR AWARD OF THIS SOLICITATION. All responding bidders/ proposers are welcome to attend the publicly held City Council meeting relative to the outcome / award of this solicitation. Council Meeting agenda date and times may be obtained at the following web site: www.rowlett.com

OPEN RECORDS ACCESS TO ALL INFORMATION SUBMITTED. All information included will be open to the public, other proposers, media as per the Open Records Act and not be confidential in nature. If you deem any information as confidential, it should not be made part of your RFP package.

PLEASE NOTE CAREFULLY THIS IS THE ONLY APPROVED INSTRUCTIONS FOR USE ON YOUR RFP. ITEMS BELOW APPLY TO AND BECOME A PART OF TERMS AND CONDITIONS OF RFP. ANY EXCEPTIONS THERETO MUST BE IN WRITING.

1. **ORIGINAL AND FOUR (4) COPIES OF RFP MUST BE SUBMITTED** Each RFP shall be placed in a separate envelope completely and properly identified with the name and number of the RFP. RFP's must be in the Purchasing Office BEFORE the hour and date specified.
2. RFP's MUST give full firm name and address of the Proposer. Failure to manually sign RFP will disqualify it. Person signing RFP should show TITLE or AUTHORITY TO BIND THE FIRM IN A CONTRACT.
3. RFP's CANNOT be altered or amended after deadline time. Any alterations made before deadline time must be initiated by Proposer or his authorized agent. No RFP can be withdrawn after opening time without approval by the City Council based on a written acceptable reason.
4. The City is exempt from State Sales Tax and Federal Excise Tax. DO NOT INCLUDE TAX IN RFP. City of Rowlett claims exemption from all sales and/or use taxes under Texas Tax Code, Section 151.309, as amended. Texas Limited Sales Tax Exemption Certificates will be furnished upon written request to the City of Rowlett Purchasing Agent.
5. Written and verbal inquires pertaining to RFP's must give RFP Number and Company.
6. NO substitutions or cancellations permitted without written approval of Purchasing Agent.
7. The City reserves the right to accept or reject all or any part of any RFP, or waive minor technicalities. The City of Rowlett reserves the right to award by item category or by total RFP. Prices should be itemized. City also reserves the right to award either with or without trade-in, if applicable. The City of Rowlett retains the option to re-bid at any time if in its best interest and is not automatically bound to renewal or re-bid. The City reserves the right to add additional City Departments (at a later time during this bid award) as the need arises. The City also reserves the right to consider CO-OP Inter-local Agreements / pricing.
8. RFP unit price on quantity specified – extend and show total. In case or errors in extension, UNIT prices shall govern. RFP's subject to unlimited price increase will not be considered. ALL PRICING WILL REMAIN FIRM UNLESS THIS BID ALLOWS FOR OPEN MARKET PRICE INCREASES (AS SO SPECIFIED WITHIN). When inserting number of days or percentage % in Bid/RFP/RFP (ex: number of days to deliver or install or complete work, etc. or percentage over vendor's cost or percentage discount off list price) avoid using a range (ex: 30-90 days or 15% to 20 % cost plus) but use one entry for number of days or percentage. If a range is used the City will consider the higher number or worst case scenario from the City's standpoint in making RFP comparisons / tabulations.
9. This is a RFP inquiry only and implies no obligation on the part of City of Rowlett.
10. Acceptance of and final payment for the item will be contingent upon satisfactory performance of the product received by City of Rowlett.
11. Partial RFP's will not be accepted unless awarded by complete category or line item. **To be awarded by total RFP.**
12. It is expected that the Proposer will meet all state and federal safety standards and laws in effect on the date of the RFP for the item(s) being specified, and the particular use for which they are meant.
13. It is the responsibility of the bidder or proposer to ask any and all questions the bidder or proposer feels to be pertinent to the bid / proposal. City of Rowlett shall not be required to attempt to anticipate such questions for bidders or proposers. City of Rowlett will endeavor to respond promptly to all questions asked.

**PURCHASE ORDER AND DELIVERY:** The successful offeror shall not deliver products or provide services without a City of Rowlett Purchase Order, signed by an authorized agent of the City of Rowlett Purchasing Department.

**INVOICES AND PAYMENTS:** (a) Seller shall submit separate invoices, in duplicate, on each purchase order after completed. Invoices shall indicate the purchase order number, shall be itemized and transportation charges, if any, shall be listed separately. Payment shall not be due until the above instruments are submitted after delivery or services rendered. Suppliers should keep the Finance Department advised of any changes in your remittance addresses. (b) The City of Rowlett's obligation is payable only and solely from funds available for the purpose of the purchase. Lack of funds shall render this contract null and void to the extend funds are not available and any delivered buy unpaid for goods will be returned to Seller by the City of Rowlett. (c) Do not include Federal Excise, State or City Sales Tax. The City shall furnish tax exemption certificate if required.

Any invoice, which cannot be verified by the contract price and/or is otherwise incorrect, will be returned to the offeror for correction. Under term contracts, when multiple deliveries and/or services are required, the offeror may invoice following each delivery and the City will pay on invoice. Contracts providing for a monthly charge will be billed and paid on a monthly basis only. Prior to any and all payments made for good and/or services provided under this contract, the offeror should provide his Taxpayer Identification Number or social security number as applicable. This information must be on file with the City of Rowlett Finance Department. Failure to provide this information may result in a delay in payment and/or back-up withholding as required by the Internal Revenue Services.

Titles and Invoices: all titles and invoices will be in the name of **City of Rowlett, 4000 Main Street, Rowlett, Texas 75088** and signed ONLY by City personnel. All invoices shall include the RFP number and the purchase order number.

Please note that any payment due under this RFP award will be applied towards any debt, including but not limited to delinquent taxes that is owed to City of Rowlett.

**PAYMENT DISCOUNT**: Indicate the payment discount (s) available depending on the when invoices are paid. For example, 1/30 means a 1% discount if paid within 30 days, 2/15 means a 2% discount if paid within 15 days, etc. Payment in full will be made within thirty (30) days of delivery, inspection, and receipt of invoice. All costs quotations must include all the various features needed to satisfy the requirements. Note: No amounts will be paid for the items in this RFP in excess of the amounts quoted.

# REQUEST FOR QUALIFICATIONS
# RFP#2016-14
# DISASTER DEBRIS MONITORING AND CONSULTING SERVICES
# FOR
# CITY OF ROWLETT, TX

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## DISASTER DEBRIS MONITORING AND CONSULTING SERVICES (DEBRIS MONITORING)
## SECTION I

### PROJECT DESCRIPTION
### A. PURPOSE

This Request for Qualifications (RFP) invites submittals from experienced firms for the provision of Disaster Debris Monitoring and Consulting Services, services in City of Rowlett, Texas, immediately after a tornado, flooding event or other natural or man-made disaster. The objective of the RFP and subsequent contracting activity is to secure the services of a capable and experienced Consultant who is (1) capable of efficiently monitoring the removal of large volumes of disaster-generated waste from a large area in a timely and cost-effective manner. The City intends to enter into a pre-positioned contract with one (1) Primary Consultant who may utilize both local and non-local resources to provide services in the event of activation by the City following a tornado, flood or other natural or man-made disaster. The Consultant will be expected to have an initial management team mobilized to City of Rowlett within 24 hours of receipt of the Notice to Proceed and to have mobilized all appropriate equipment and personnel to the City of Rowlett area within 48 hours of receipt of the Notice to Proceed. The City reserves the right to enter into contracts with more than one Primary Consultant in the event that no one firm can provide all of the necessary services.
The period of the contract will be for a term of one (1) year or twelve (12) months and the option to extend for up to four (4) years (the actual term will be determined on the basis of the City's overall disaster recovery program development) with an annual recertification and price adjustment. The project is referred to as the Disaster Debris Monitoring Contract in the following sections of this RFP.

### B. PROJECT SUMMARY
#### 1. Introduction

The City of Rowlett ("City") is located approximately 20 miles northeast of Dallas on the shores of Lake Ray Hubbard. Once a small farming community, the City has increased in population over the past twelve years. The North Central Texas Council of Governments provided a 2011 estimated population of 56,310. The City is primarily residential but has seen growth in its commercial development over the past few years.

The City provides a full range of municipal services. These services include police and fire protection; the construction and maintenance of streets and infrastructure; parks and recreation; water and sewer; planning and zoning; economic development; and general administrative services.

The City of Rowlett has experienced a recent major storm event that generated very large volumes of debris and waste and prompted extensive pre-planning for recovery activities.

The Disaster Debris Monitoring Contract will encompass the incorporated areas of the City of Rowlett. City of Rowlett's disaster recovery planning includes considerations for removing and processing the volumes and types of debris and wastes expected to be generated by a major disaster such as a tornado, or other natural or man-made hazard that encompasses the procedures for disposing of that material. The planning approach is formulated in part on the concept of strategic pre-positioning of the agreements and resources necessary for timely, coordinated recovery operations, including removal of debris and wastes from public property and right-of-ways throughout the City using City owned and Consultant forces.

The City has identified the need for one or more Primary Consultants to assist City forces in completing debris management operations throughout the City. Primary Consultants will be selected for Debris Removal and Debris Hauling. For the purpose of Debris Monitoring, the Primary Consultant must have the capacity to manage a large workforce and to carry the expenses associated with a major recovery operation prior to the initial City payment and between subsequent payments, as well as the capacity to provide the necessary bonds and insurance. Each Consultant must also have: (1) an established management team, (2) an established network of resources to provide the necessary equipment and personnel, (3) comprehensive workforce management, operations, and safety plans, and (4) demonstrable experience in major disaster recovery cleanup projects. Although a single Primary Consultant is preferred, the City may at its sole discretion award multiple contracts if no single Consultant is capable of providing all of the necessary services.

The Contract(s) to be awarded for this project will be a combination of fixed fee and contingency contracts. The City anticipates a certain level of initial work to establish the procedures for integrating the work into the City’s continuing disaster recovery program planning, along with potential costs for maintaining the program over a period of time. The City anticipates that the bulk of the services to be provided, specially monitoring of debris/waste removal operations will be provided on an incident specific basis with anticipated costs identified by a joint City / Consultant team as part of the initial program planning. In addition, the Primary Consultant(s) selected for the project will be required to participate in certain City-directed disaster recovery training and/or exercises at no additional cost to the City.

**2. Planning Standard for Disaster Debris Monitoring and Consulting Services**

The City has selected a catastrophic tornado that impacts the entire City causing large amounts of vegetative and construction and demolition debris as its planning standard. The estimated debris volume is 5.0 million cubic yards. This is strictly a planning figure for estimating potential removal and disposal needs; it is not a fixed quantity for the purpose of contractual obligations. The actual volume of debris may be greater than or less than the planning volume, and probably will be considerably less. The City's goal is to complete the debris/waste removal and disposal process in 90 days. This assumes that the entire area of the City will be accessible within that period. Due to the potential for flooding, some areas might not be accessible for some time after a major natural disaster. The Consultant must be aware that it might not be possible to initiate operations in all parts of the City simultaneously immediately after a storm.

**3. Disaster Debris Monitoring Requirements**

Planning for post-disaster cleanup operations is a function of the City of Rowlett Office of Emergency Management in conjunction with City Departments / Precincts. The debris management operations will be carried out under the cognizance of the City of Rowlett Office of Emergency Management. The City will be pre-contracting with one primary Contractor for

debris removal operations Citywide. That contractor will also be responsible, under certain conditions, for removal of hazardous, and toxic / hazardous waste associated debris such as construction and demolition debris, vegetative debris and other disaster associated debris caused by the disaster. That contractor is responsible for: (1) clearing roadways, (2) removing debris and certain waste from roadways, public right-of-ways, and public property, (3) operating Temporary Debris Staging and Reduction Areas, (4) volumetric reduction of debris, and ultimate disposal of the debris and waste. The general concept of disaster debris/waste removal operations includes multiple, scheduled passes of each populated area and each right-of-way directed. This will allow citizens to return to their properties and bring materials to the right-of-ways as recovery progresses. The City will prescribe the specific procedures to be followed after ascertaining the scope and nature of the disaster's impacts. Curbside segregation of debris and disaster-generated or -related wastes will be an element of the City's disaster recovery program. The debris management Contractor will be required to aid in the segregation and waste stream management processes. Any hazardous materials and/or industrial wastes encountered by the debris removal Contractor will be set aside for collection and disposal by the Contractor's properly trained and equipped removal team. The City will pre-designate approximately Temporary Debris Staging and Reduction Sites (TDSR) for the sole purpose of the temporary staging and reduction of clean woody debris and construction and demolition materials. The City will also help to identify the public and private landfills that will be used for disposal of storm generated debris. The Primary Consultant will be expected to provide debris monitoring services at each TDSRS and landfill as well as in the field during clearing, loading and hauling operations. The Primary Consultant will be responsible for monitoring all of the Debris Removal / Hauling activities during the course of the recovery/cleanup period.

**4. Contract Activation**

The Primary Consultant holding the Disaster Debris Monitoring Contract will serve as a general Contractor for the purpose of the specified services, and will be able to use his/her own and Subcontractor resources to meet the obligations of the contract. The Consultant will be expected to use fully qualified and properly equipped local firms and personnel to the maximum extent practicable. When a major disaster occurs or is imminent, City of Rowlett will contact the firm(s) holding the Disaster Debris Monitoring Contract(s) to advise them of the City's intent to activate the contract. For a contract in excess of $100,000, a Performance Bond shall be executed in the amount of the contract upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. This bond shall be solely for the protection of City of Rowlett. For a contract in excess of $50,000, a Payment Bond shall be executed in the amount of the contract solely for the protection of all claimants supplying labor or furnishing the material used on this project. The cost for Bond premiums must be included in the Bid Price. ***Note: Payment and Performance Bonds must be issued by an insurance/surety company licensed and authorized by the Texas State Board of Insurance to do business in the State of Texas.***

Personnel and equipment must be in place, fully prepared for the specified services and able to begin operations within 48 hours of the Consultant's receipt of the Notice to Proceed.

# DISASTER DEBRIS MONITORING AND CONSULTING SERVICES (DEBRIS MONITORING) SECTION II

## SCOPE OF WORK

The following General Scope of Work is envisioned for the project and should be considered when responding to the RFP. Nothing in this description shall be construed to limiting the potential scope of work to this description or to requiring that this description be included in the final scope of work for the project. Nothing in the following General Scope of Work should be construed as limiting the types of work that a potential Consultant may address in a response to this Request for Qualifications. Responders should address all services which, on the basis of their experience, are deemed necessary to achieving the City's debris management goals.

## A. GENERAL SCOPE OF WORK – MONITORING

The Consultant shall provide all expertise, effort, personnel, materials, and equipment necessary for monitoring and documenting the removal and lawful disposal of debris and other wastes generated by natural or man-made disasters that impact City of Rowlett, Texas. Specifically, the Consultant will be responsible for monitoring debris and waste removal and disposal operations performed by the City's Debris Removal and Hauling operations relative to:

- City streets, roads and right-of-ways;
- Streets, roads and right-of-ways of all municipalities and communities, incorporated and unincorporated, and rural areas within the City, unless otherwise directed by the City of Rowlett Office of Emergency Management or City Designee;
- Public property and facilities;
- Any other public site as may be directed by the City; and
- Private property when necessary to protect the public (life safety) or to facilitate completion of required work, provided that entry onto private property is specifically authorized by the Office of Emergency Management in conjunction with City personnel.

Services shall be performed on an "as needed basis" when directed by the City of Rowlett Office of Emergency Management. The Office of Emergency Management will provide guidance and direction on priorities and specific needs for the monitoring operations. The Consultant, in concert with Emergency Management, shall determine the method and manner of monitoring the removal and disposal of debris that provide the greatest economy of operations and cost to the City. The Consultant shall then provide for the cost-effective and efficient monitoring of materials accumulated or deposited on public property, as described above and the removal and final disposal of those materials. The Consultant will be expected to provide all personnel, equipment, forms, record keeping materials, supplies and other resources necessary to carry out the specified services and to provide ongoing and periodic reports to the City for its use in providing documentation to State and Federal officials pursuant to Federal reimbursement of eligible recovery costs. The Consultant must be fully cognizant of all pertinent Federal (FEMA, U.S. Army Corps of Engineers, etc.) and State of Texas documentation requirements and procedures and be prepared to assist the City staff in compiling and managing information and data necessary for those purposes. Prior to initiating work under this project, the Consultant shall present to the City of Rowlett Office of Emergency Management or designee for review and discussion a General Operations Plan and sufficient supporting documentation to adequately describe all planned actions for monitoring the removal, handling and eventual disposal of disaster-generated debris and wastes. The Consultant shall agree to execute this plan, with all manners of contingencies recognized, upon being authorized by the City to begin work. When identifying resources to be made available under this contract, the Consultant must use a planning standard approach. Specifically, the Consultant shall identify the expected sources and quantities of debris and

other wastes that are expected to be encountered and the anticipated level of operational resources (personnel, equipment, TDSRS operations, etc.) that will be deployed by the Debris Management contractor. The Consultant must then identify sufficient monitoring resources (personnel, equipment, materials, etc.) to ensure the availability of personnel and equipment to initiate all required activities within 48 hours of being so directed. For this purpose, identification of Consultant/Sub-consultant(s) and a general equipment/personnel inventory will suffice. The Consultant will be responsible for coordinating operations in such a manner as to least interfere with the work of the Debris Removal and Hauling contractor, damage assessment teams, local utility company crews and other recovery operations forces. Such coordination shall be effected through communications with the City of Rowlett Office of Emergency Management, his/her authorized representatives, or other City of Rowlett designated personnel when so authorized by the City. To the extent authorized by the City of Rowlett Office of Emergency Management or designee, the Consultant shall coordinate monitoring operations directly with the Debris Removal and Hauling contractor when necessary to achieve effective and efficient integration of forces. The Consultant shall provide reports, summaries, and analyses of daily activities associated with the debris and waste removal and disposal operations in the form and frequency specified by the City of Rowlett Office of Emergency Management, upon issuance of the authorization to proceed. The Consultant shall be prepared to advise the City of Rowlett Office of Emergency Management and other local officials of the types, scopes, forms, and formats of data and information required by Federal and State agencies and shall provide all pertinent documentation in a manner that satisfies those agencies' requirements.

# DISASTER DEBRIS MONITORING AND CONSULTING SERVICES (DEBRIS MONITORING) SECTION III

## RFP RESPONSE REQUIREMENTS

QUALIFICATION CRITERIA AND INFORMATION REQUIRED:
CONSULTANTS INTERESTED IN PROVIDING DISASTER DEBRIS MONITORING AND CONSULTING SERVICES MUST SUBMIT Six (6) COPIES OF THEIR RESPONSE TO THIS RFP IN THE FOLLOWING FORMAT, UTILIZING NUMBERED TABS FOR EACH OF THE SECTIONS.

## 1. LETTER OF TRANSMITTAL AND AFFIDAVIT

Each proposal must be accompanied by a Letter of Transmittal signed by an authorized representative of the Submitter.
The letter must:
A. Identify the project by name as "Disaster Debris Monitoring and Consulting Services" and RFP
Number.
B. Include the following information:
1. Name of firm or individual
2. Permanent main officer address, telephone number and fax number
3. When organized
4. If it is a disadvantaged business enterprise, the nature of that classification
5. If a corporation, where incorporated
6. How many years the firm has been engaged in business under the present name
7. General types of work performed by the firm
8. Contracts currently on hand or in effect
9. The following questions and the firm's answers:
a. Have you ever failed to complete any work awarded to you? If so, explain.
b. Have you ever defaulted on a contract? If so, explain.
c. Will you, upon request provide a detailed financial statement or any other information required by City of Rowlett?
d. Will you submit updated resumes for all key personnel who might be assigned to this project if you are selected for the work?
e. Will you, upon request, furnish documentation to support the information in your response to the RFP?
C. Provide a synopsis of the Consultant's depth of knowledge of the project's scope and special requirements as the Consultant perceives them.
D. Be signed by an individual, identified by name and title, authorized to represent the Submitter in this matter.
E. Identify the names, titles, telephone, and fax numbers of individuals who are available to be contacted by the City of Rowlett Office of Emergency Management concerning the submittal and for additional information.

## 2. MANDATORY QUALIFICATION AND CONTRACTING CRITERIA.

Provide evidence and statements of compliance/intent in the form of written documentation that the Consultant is capable of entering into a contract with the City by satisfying the Mandatory Qualification and Contracting Requirements that follow:

### Section 1. Qualification Requirements:

A. Consultant must have specific experience providing the specified services following a natural disaster.
Provide a statement of compliance.
B. Consultant must not have been prohibited from doing business with any governmental entity for any reason within the last 10 years. Provide a statement of compliance.

C. Consultant must provide a Letter of Reference from the surety company that will issue the subsequent Performance and Payment Bond for the project, that states the number of years of satisfactory surety credit established by the Consultant, the range of individual job sizes previously bonded, and willingness to issue bonds on behalf of the Consultant for a contract amount no less than $5,000,000. Include the letter as an attachment.
D. Consultant must not be operating under Chapter 11 or any other financial restraints that would preclude his ability to enter into equipment leasing or rental arrangements. Provide a statement of compliance.

**Section 2. Contracting Requirements:**
A. Successful Consultant must, upon award of a contract, secure a Performance and Payment Bond valid for one year and automatically renewed annually for the full term of the contract. Provide a statement that Consultant is capable of securing the required bond.
B. For a contract in excess of $100,000, a Performance Bond shall be executed in the amount of the contract upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. This bond shall be solely for the protection of City of Rowlett. For a contract in excess of $25,000, a Payment Bond shall be executed in the amount of the contract solely for the protection of all claimants supplying labor or furnishing the material used on this project. The cost for Bond premiums must be included in the Bid Price. *Note: Payment and Performance Bonds must be issued by an insurance/surety company licensed and authorized by the Texas State Board of Insurance to do business in the State of Texas.*
C. Successful Consultant must perform as an independent contractor and, as such, must have and maintain complete control over all of its employees and operations. Provide a statement of intent.
D. Successful Consultant must not assign, sublet, or transfer its interest or obligations of this project. Provide a statement of intent.

**Section 3. Insurance Requirements:**
A. Consultant must provide proof of insurance to demonstrate compliance with the City's requirements specified in this package. Provide certification of insurance capacity.
B. Successful Consultant must not begin any work under the contract until he/she has obtained all required insurance and provided the City Contract Administrator with the related certificates and endorsements. Nor shall the Consultant allow any Subcontractor to commence work until all similar insurance required of the Subcontractor has been so obtained. The Consultant may provide insurance coverage for all his Subcontractors, at Consultant's cost. However, all Subcontractors must provide their own Workers' Compensation Insurance per State law. For the duration of the project, the Consultant must provide the insurance listed below and document required coverage with certificates of insurance. Provide statement of compliance.

**Section 4. Use of Subcontractors.**
A. Successful Consultant may use Subcontractors for this project. Consultant must list Subcontractors proposed for this project and their respective duties.
B. No Subcontractor may provide services unless the City consents. The Consultant shall be responsible for completing all contract work even if a Subcontractor has assumed responsibility to complete certain work. Also, the Consultant shall be responsible for the actions and performance of all Subcontractors. Furthermore, the Consultant agrees that any subcontract for this project will include the same mandatory insurance requirements in favor of the City as are specified in the City's contract with the Consultant, unless Consultant provides such coverage for his/her Subcontractors. However, all subcontractors must provide their own Workers' Compensation Insurance per State law. Subcontractor certificates of insurance and endorsements must be collected by the Consultant and made available for City Contract Administrator review upon request. Provide statement of compliance.

**3. PROJECT REQUIREMENTS.**
Provide detailed information on Consultant's ability to satisfy the project requirements.

**Section 1. Experience:**
A. Describe Consultant's overall experience performing large-scale debris removal monitoring and work similar to this project.
B. Describe Consultant's experience during the last 5 years performing large-scale projects or other work similar to this project. The Consultant must identify similar projects that he/she successfully completed, including date and location, nature of work, value of the contract, and the name and telephone
number of the customer's point of contact for reference purposes.
C. Describe Consultant's most recent experience in mobilizing large workforces under routine and emergency conditions.
D. If the Consultant intends to use Subcontractors to assist in the work, the Consultant shall also identify similar work successfully completed by the Subcontractors.
E. Document Consultant’s ability to provide appropriate training for personnel that will be employed for work under this project.

**Section 2. General Project Requirements**
Submittals must acknowledge these basic requirements and base responses to this RFP on these general specifications.
A. City of Rowlett intends to engage a Consultant to assist the City with monitoring the work of the Debris Removal and Hauling Contractor in the field, at Temporary Debris Staging and Reduction Sites (TDSRS), and at disposal sites. Contract monitors are necessary to assure that the terms of the debris and waste management contracts are satisfied by the Debris Removal and Hauling contractor and his subcontractors during the removal and hauling of debris/waste from public access roads, rights-of-way and public property; during handling and processing at TDSRSs; and, at disposal sites. Monitors will be assigned to debris loading areas, TDSRSs, and disposal sites. In addition, roving monitors will be assigned to help verify that the City’s debris management plan and contracts are effectively and efficiently executed.
B. City of Rowlett will assign a Debris Manager (DM) and will establish a Contract Management Center or other operational group setting to provide overall coordination of recovery operations. The Debris Manager will be the primary point of contact for the Consultant and will resolve contract administration issues and disputes. The Monitoring Services Consultant is to provide expertise for and assistance to the City’s Debris Manager and also assists City staff at the Contract Management Center in overseeing and documenting the debris management operations. Services are to be provided in these general task areas, but are not necessarily limited to these task areas:
1. Development of a Monitoring Plan
2. Truck and trailer measurement, certification, marking and tracking
3. Equipment registry and tracking
4. Debris/waste management workforce registry and tracking
5. Field monitoring
6. Debris management tracking
7. Trip ticket management
8. Data administration
9. Invoice reconciliation
10. QA/QC program management
11. Complaint resolution
12. Detailed daily reports on the status, effectiveness, volumes handled, and other pertinent data for all debris operations

13. All monitoring workforce requirements, including but not limited to staffing, training, equipment, safety training and enforcement, mobilization, transportation and logistic support
14. Site Safety Plan preparation and maintenance
15. Compliance with all applicable Federal, State and local rules relative to the monitoring operations
16. Preparation of documentation to support Federal cost reimbursement processes.
17. Related activities for effective and efficient debris management operations deemed necessary or desirable on the basis of the Consultant's experience when authorized by the City Debris Manager.

**Section 3. Preliminary Specifications**
Preliminary Specifications for debris monitoring operations have been developed for this project and are included in Section VI. The City intends to use these Preliminary Specifications as the basis for negotiating a contract for consultant services for this project. The Preliminary Specifications are provided for information only. Submitters are not required to address the Preliminary Specifications in their submittals, but may do so at their option in the appropriate sections of their submittals.

**Section 4. Project Approach:**
A. Provide a synopsis of the Consultant's depth of knowledge of the project's scope and special requirements as the Consultant perceives them.
B. Provide a general description of how the Consultant's intended approach to the work. That description must include a statement of the requirements as Consultant perceives them, resource mobilization strategy, and general field operations strategy. Exceptions to the project work as described by the City must fully be explained.
C. Provide a brief summary of the Project Work Plans (Field Operations, Communications, Work Site Safety, etc.) that will be developed for the project.
D. Describe frequency and nature of meetings anticipated or deemed necessary to address project requirements.

**4. WORKFORCE INFORMATION**
A. Submitter's are encouraged to review City of Rowlett's pre-positioned Debris/Removal and Hauling RFP to ascertain the anticipated scope of work in order to estimate the nature and size of the project workforce that will be required.
B. Submittals must acknowledge these workforce planning standards and must demonstrate the Submitter's ability to satisfy these requirements:
1. Within 24 hours of notification, the Consultant shall provide a sufficient number of professionals and qualified personnel to meet all contract requirements and monitoring needs associated with this project, including, as a minimum forces necessary to:

a. Establish and staff a monitoring workforce management center in the vicinity of a City of Rowlett government office designated by the City at the time of notification
b. Implement a debris/waste contractor equipment and workforce registration and tracking program

2. Within 48 hours of notification, the Consultant shall provide a sufficient number of professionals and qualified personnel to meet all contract requirements and monitoring needs associated with this project, including, as a minimum forces necessary to:

a. Monitor a minimum of 30 debris loading sites
b. Monitor operations at Temporary Debris Staging/Storage and Reduction Sites (TDSRS)
c. Monitor dumping operations at disposal sites
d. Provide roving debris monitors to evaluate the effectiveness of debris, hazardous material and other disaster-related waste removal

3. All personnel shall be a minimum of 18 years of age, be fluent in the English language and have a valid driver's license issued in the United States. The Consultant will be required to

increase its staffing from this point depending on the scope of the debris/waste removal operations, to be consistent with the number of field operations teams deployed by the debris Consultants. At the discretion of the Debris Manager, the Consultant may be required to replace any debris monitor for cause. As part of this proposal, the Consultant must indicate and explain how he/she will ensure the availability of a sufficient number of personnel to support this scope of work and also how additional personnel will be engaged should the scope of operations require additional monitors to meet City needs.

4. The Consultant shall provide all debris monitors with appropriate personal protective equipment to include, but not be limited to, eye protection, hearing protection, safety shoes, safety vests, hard hats, and wet weather clothing, to comply with all applicable Federal, state and local occupational health and safety requirements.

5. The Consultant shall provide debris monitors with necessary transportation, all communications equipment (cell phone, satellite phones, radio, etc.) necessary to remain in contact with their supervisors or other key personnel who in turn are in direct contact with the Contract Management Center. The Consultant shall also provide all required logistical support for the personnel he/she engages, including lodging, meals and other necessary support services. The Consultant's supervisory personnel will be wholly responsible for support the Consultants operations and resolving conflicts within the scope of or in any way associated with those operations.

6. The Consultant shall provide temporary office space and other facilities as necessary to carry out the scope of the work and to support the Consultant's workforce.

7. Upon activation of the contract, the Consultant shall immediately contact the City's Debris Manager to coordinate workforce assignments. It is anticipated that the City's debris management Consultant will establish debris management zones within the City and the Contract will be expected to assign monitors in a manner consistent with the debris removal operations.

C. Submitter's must provide a detailed description of the resources (workforce and equipment) available to be employed on the project, including:

1. Summary of the Submitter's personnel that will be dedicated to the project, including:
    a. The number of management employees that will be assigned to the contract, their job titles, and responsibilities.
    b. The names of and resumes for all members of the Project Management Team.
    c. The name of the Submitter's claims representative.

2. List of the Subcontractors with whom the submitter has agreements for post-disaster support.

**5. CAPABILITY, CAPACITY, AND AVAILABILITY.**

A. Describe how Consultant intends to maintain its capability, capacity, and availability of forces to respond if activated by the City following a tornado/flood/or other natural hazard or man-made disaster. Knowing that the Consultant may have similar contracts in other geographic areas, describe how Consultant will satisfy all contractual obligations for City of Rowlett simultaneously with other obligations.

- Provide detailed resumes for key managers with a reference number for each. Identify all participants as local or non-local and provide percentage of participation in each previous project listed above.
- Identify the engineering and technical staffs who will be working on each project and include responsibility (project engineer, consultant, etc.) and designation of primary contact for City staff.

B. Describe how Consultant intends to complete the project in the timeframe desired by the City. Comment on how Consultant's ability to perform will be affected by a smaller and/or larger disaster event generating significantly smaller or larger volumes of hazardous wastes for removal and disposal.

**6. DESCRIPTION OF MONITORING SERVICES**

A. Submitter must provide a detailed description of the services that Submitter will perform upon issuance of each Notice to Proceed. The description of services shall address all elements of the General Scope of Work described in Section II of this RFP. In addition, the Submitter may include other services which, in the Submitter's experience, are necessary or desirable in carrying out the intent of the proposed Contract and/or achieving the City's stated goals with respect to debris management operations following a disaster.

B. The description of services must, at a minimum, include the following:

1. A detailed description of the method and manner of monitoring the removal and lawful disposal of disaster-generated debris to ensure that the debris removal hauling contractors are performing in accordance with the provisions of the contracts, satisfying applicable local, State and Federal statutory and regulatory requirements and adhering to FEMA guidelines that govern the eligibility of those recovery services for Federal reimbursement of the City's costs. The information provided should demonstrate how the Submitter will satisfy the requirements of the project, including:

a. Scope and sequence of monitoring operations to be performed

b. Manner in which volumes of debris/waste will be estimated in the field, at TDSRS locations, and at landfills or disposal sites

c. Methodology for monitoring the collection, tracking, and disposal of disaster related materials

d. Description of the documentation, accounting, and financial processes, procedures and controls that will be utilized in managing, monitoring and accounting for the resources to be employed

e. Organization Chart that identifies the assignment of specific responsibilities to key personnel to ensure that all management functions are identified and an organization developed to insure that all project requirements are satisfied

f. Furnishing and operating an automated/electronic (paperless) debris tracking system.

2. A summary of the Submitter's project approach and proposed operating procedures relative to these key elements of the project, including at a minimum:

a. Debris removal and hauling contractor workforce and equipment registration and tracking

b. Equipment identification in the field

c. Truck certification, registration, and marking

d. Debris Removal and Hauling Contractor workforce tracking

e. Document management and controls, including Load Tickets and reports

f. Data collection

g. Data assimilation/integration

h. Employment of GIS mapping, use of GPS, and other means of documenting

i. Communications with Debris Removal and Hauling Contractor workforce

j. Assembling the data necessary to prepare the Status Reports described below

k. Database management

l. Quality Assurance (QA) for Loading Site Monitors

m. Quality Assurance for TDSRS Operations Monitors

n. Quality Assurance for Landfill Operations Monitors

o. Complaint tracking and resolution

p. Monitoring workforce health and safety training and compliance monitoring

3. A summary of Submitter's capability to manage data collection and provide status reports and documentation required for the project, including:

a. Morning summaries from the Debris Removal and Hauling Contractor addressing:

- Number of crews and types and quantities equipment to be deployed that day
- Areas where crews and equipment will be assigned
- Status of TDSRS operations, including volumetric reduction methods to be employed
- Changes in operational status or problems encountered since the previous report

- Numbers of monitoring crews to be dispatched and locations where crews will be assigned

b. Evening summaries addressing:

- Overall status of Debris removal operations
- Number of crews and types and quantities of equipment employed that day
- Issues or problems affecting field operations
- Complaint referrals
- Damage referrals or updates
- Monitoring issues
- TDSRS issues
- Overall status of geographic area
- Numbers of monitoring crews deployed and locations where crews were assigned

c. Daily reports that address the types and volumes of debris/waste collected, transported, processed, delivered to disposal sites, etc., on the previous day, broken down by:

- Contractor
- Other forces
- TDSRS
- Community drop off site
- Disposal site
- Locations where debris/waste was collected (or 100% cleared)
- GIS based maps that indicate the overall status of debris/waste removal operations

d. Daily reconciliation of Debris Removal and Hauling Contractor's time and materials summaries, Load Ticket submittals, and invoices, including:

- Review invoice and backup with Debris Removal and Hauling Contractor
- Reconcile invoice with database records
- Provide reviewed and approved invoice to City for payment

**7. AUTOMATED DEBRIS TRACKING AND REPORTING SYSTEMS**

Per FEMA policy document 327 Public Assistance Debris Monitoring Guide, *Recent advances in automated debris management tracking systems have provided real – time and automated tracking and reporting…FEMA embraces technological advancements and recognizes the potential benefits of these automated systems.*

Proposer must demonstrate ownership or licensing of a proprietary automated debris tracking and reporting system. Proposer must demonstrate in its proposal that it maintains on hand sufficient automated debris tracking equipment dedicated to meet the needs of the City. If Proposer is licensing such technology, Proposer must provide a written letter from licensor acknowledging licensor has a minimum of 100 devices on hand for

Proposer's use in the event of a disaster and such devices will be made available for the City's recovery efforts. Proposer shall include graphic illustration and explanation of system capability and be prepared to demonstrate system functionality if requested at the time of proposal evaluation and/or interview. Proposer shall be required to submit hourly rates (in fee schedule) for operations with and without use of the automated system. Proposer's inability to provide **automated system** in a timely manner shall be grounds for

default and the calling of performance bond.

**8. EXCEPTIONS TO RFP REQUIREMENTS**

Submitter's must fully explain any exceptions taken to the requirements of this RFP, including why any of the specified information was not included or why such information should not be considered in selecting a Consultant for the project.

**9. OPTIONAL ADDITIONAL INFORMATION**

A. Submitter's may provide relevant information in addition to the material and information specified in this RFP, to the extent that such information bears directly on the subject of this RFP.

B. Submitter's may not include information on pricing or cost estimates for services addressed in their responses to this RFP.

**10. Pricing Structure for Debris Monitoring Activities**

| Description | UOM | Price |
|---|---|---|
| **Project Manager** | Hourly Rate | |
| **Operations Manager** | Hourly Rate | |
| **Scheduler** | Hourly Rate | |
| **Expediter** | Hourly Rate | |
| **GIS Analyst** | Hourly Rate | |
| **Field Supervisors** | Hourly Rate | |
| **Debris Site / Tower Monitor** | Hourly Rate | |
| **Environmental Specialist** | Hourly Rate | |
| **Project Inspector (Citizen Drop-Off Monitors)** | Hourly Rate | |
| **Field Coordinator (Crew Monitor)** | Hourly Rate | |
| **Load Ticket Data Entry Clerks (QS/QC)** | Hourly Rate | |
| **Billing / Invoice Analyst** | Hourly Rate | |
| **Project Coordinator** | Hourly Rate | |
| **Residential Monitors** | Hourly Rate | |
| **Automated Ticketing Specialist** | Hourly Rate | |
| **Aerial Photographer** | Hourly Rate | |
| **Other Required Positions:**<br><br>**May Use Separate Sheet** | Hourly Rate | |
| **Other Fees (i.e. Bonds / Insurance)**<br><br>**May Use Separate Sheet** | Hourly Rate | |

**DISASTER DEBRIS MONITORING AND CONSULTING SERVICES**
**(DEBRIS MONITORING)**
**SECTION IV**

**EVALUATION OF RESPONSES**
**A. EVALUATION PROCESS**
Consultants will be evaluated for this project solely on the basis of the information submitted in response to the Request for Qualifications. The City will use a two-step evaluation process to identify the Best Qualified responder.
1. Step I. Submitters must demonstrate that they satisfy the mandatory qualification and contracting criteria and project requirements by submitting the information specified in Section III of this RFP. All submittals will be screened for compliance with the mandatory qualification elements, such as the required statements of compliance. Those that satisfactorily complete that screening process will proceed to Step II.
2. Step II. Submitters will be evaluated on the basis of the technical and project performance information they submitted. Step II will result in point awards in the following categories. The point values shown are the maximums associated with each category:

| |
|---|
| **Consultant Experience 40 points** |
| **Project Approach 20 points** |
| **Capability, Capacity and Availability 20 points** |
| **Pricing 20 points** |
| **TOTAL 100 POINTS** |

3. The total points assigned for each proposal will be the basis for identifying and selecting the best qualified submitter.
4. Submission of a response to this RFP implies Submitter's acceptance of the evaluation technique and that subjective judgment must be made by City of Rowlett during the assigning of points.
5. The City reserves the right to deny qualification to any Consultant that, in the opinion of the City, does not satisfy the Mandatory Pre-Qualification Criteria or is not capable of satisfying the Project Requirements. The City may, at its own discretion, waive defects, irregularities, or informalities in the pre-qualification process or in any response to the process that, in the City Contract Administrator's opinion, seems most advantageous to the City and in the best interest of the public.

**B. GENERAL PROVISIONS**
1. Submitter's may request additional information on the project for the purpose of fully understanding the City's disaster recovery preparedness program and the obligations of the successful Consultant. Such requests must be submitted in writing or by facsimile transmission to:

Vicki Alfaro
City of Rowlett Purchasing Department
4004 Main Street
Rowlett, Texas 75088
purchasing@rowlett.com
972-412-6198

All questions must be received in writing no later than 7 calendar days prior to the submission deadline specified for submittal of responses to the RFP. Any information given to one Submitter will be furnished to all prospective Consultants as an addendum to the RFP if the City determines that such information is necessary for Consultants to submit proposals or that the lack of such information would be unfairly prejudicial to uninformed Consultants.

2. The Project Award Schedule, Section V, stipulates the anticipated timeframe for the RFP process and subsequent contracting action. Inclusion of that schedule does not commit the City to selection of a Consultant or award of a contract by any specific date.
3. The City reserves the right to extend the proposal submission deadline, reject all submittals, reissue the RFP package, or cancel the RFP process at any time.
4. In accordance with the Texas Local Government Code, responses to this RFP will be opened in a manner that avoids disclosure of the contents to competing submitters and keeps the submittals secret during the qualification process. All submittals will be open for public inspection after a contract is awarded, but trade secrets and confidential information in the submittals are not open for public inspection. It is specifically provided, however, that each Submitter must identify any information contained in the submittal that the Submitter asserts is either a trade secret or confidential information. This material must be identified conspicuously by marking each page containing this information. In the event such material is not conspicuously identified, then by submitting a response the Submitter agrees that such material will be considered public information.

# DISASTER DEBRIS MONITORING AND CONSULTING SERVICES
# (DEBRIS MONITORING)
# SECTION V

## ANTICIPATED PROJECT SCHEDULE

Issue Request for Qualifications: January 14, 2016
Deadline for Questions: 5:00 P.M., January 22, 2016
Due Date for RFP Consultant Responses: 10:00 A.M., January 29, 2016
Complete Evaluation Process February 1, 2016
City Council Approval: February 2, 2016

**DISASTER DEBRIS MONITORING AND CONSULTING SERVICES**
**(DEBRIS MONITORING)**
**Section VI**

## PRELIMINARY SPECIFICATIONS

### 1. GENERAL

The following preliminary specifications have been developed by City of Rowlett for monitoring of disaster related debris and waste management operations carried out by the City's designated Debris Removal and Hauling Contractor. These Preliminary Specifications will be used in negotiating final specifications for the project once a Consultant has been selected.

### 2. LOADING SITE MONITORING SERVICES

Monitors will be assigned in accordance with the Consultant's Monitoring Plan and shall be responsible for carrying all provisions of this contract without specific additional direction from City of Rowlett. The following minimum conditions apply:

2.1 Consultant shall, within 48 hours, be prepared to provide qualified on site personnel to monitor debris removal operations at debris loading sites located throughout the City of Rowlett. Additional sites may be added as debris removal efforts increase. Each loading site will operate, at a minimum, approximately 12 -14 hours per day, 7 days per week. Exact number and location of loading sites will be determined by Debris Manager in coordination with the debris removal Contractor.

The Consultant will have Loading Site Monitors stationed at each loading site operated by the debris removal Contractor and coordinated with the Debris Management Center the day before beginning the work. The Consultant must be prepared to provide a minimum of two Loading Site Monitors to be stationed at each loading site. Each truck driver will be given a load ticket that validates where the material originated and that it is eligible for pickup. Load tickets will be issued in accordance with established procedures and as a minimum must contain either a street address or the nearest intersection or Global Position Satellite (GPS) location to be valid. The volume of debris hauled will be estimated at the TDSRS by the Disposal Site Monitor. Load Tickets will be provided by the Consultant. Each monitor will be fully accountable for all Load Tickets issued to him/her.

2.2 Consultant shall provide all management, supervision, labor, transportation, mobile communications equipment, all safety equipment, digital cameras, video cameras, and other equipment necessary to initiate debris load tickets to document the removal of eligible debris from public access roadways, public rights-of-way, and public property within City of Rowlett.

2.3 Consultant must be prepared to provide Loading Site Monitors per site per day at a minimum of a 12-14 hours shift. Consultant must provide personnel with transportation to and from the loading site(s), mobile communications equipment necessary to remain in contact with dispatch and supervisor(s) at all times, and all logistic support.

2.4 All Loading Site Monitors must speak English, be a minimum of 18 years of age, and have a valid driver's license issued in the United States.

2.5 All Loading Site Monitors must have experience in at least one of the following:

- Entry level engineer
- Solid waste site operations
- Construction inspector
- Land clearing operations
- Entry level surveyor
- Solid waste collections
- Previous similar monitoring or inspection experience

2.6 Supervisors and all identified Loading Site Monitors must attend a ½-day debris monitor training session to be conducted at a location specified by the Debris Manager before the start of the first shift. Training will be the responsibility of the Consultant and must be approved by the City.

2.7 Monitors must be capable of working in an outside environment and be able to climb a staircase ladder of 10 feet high.

### 3. TDSRS / DISPOSAL SITE MONITORING SERVICES

Monitors will be assigned in accordance with the Consultant's Monitoring Plan and shall be responsible for carrying all provisions of this contract without specific additional direction from City of Rowlett. The following minimum conditions apply:

3.1 The Disposal Site Monitors is to complete the load ticket and estimate volumes that have been transported to TDSRSs or to landfills or other disposal sites for processing, temporary staging/storage, volumetric reduction, recycling, or disposal.

3.2 Consultant shall provide a minimum of two Disposal Site Monitors per TDSRS or disposal site per day for a minimum of a 12-14 hour shift. In the event that 24-hour operations are authorized, Consultant shall provide monitors for 24-hour operations, with no person being assigned to monitoring duties for more than 12 hours in any 24-hour period.
3.3 Consultant shall provide Disposal Site Monitors with transportation to and from the TDSRS and/or landfill sites and mobile communications equipment necessary to remain in contact with dispatch and supervisor(s) at all times, logistic support, and all safety equipment, digital cameras, video cameras, and other equipment necessary to safely perform the site monitoring functions.
3.4 Monitors must speak English, be capable of working in an outside environment, and be able to climb a staircase ladder 10 feet high.
3.5 Monitors must be a minimum of 18 years of age, and have a valid driver's license issued in the United States.
3.6 Monitors must have experience in at least one of the following job categories:

- Entry-level engineer
- Construction inspector
- Entry level surveyor
- Solid waste site operations
- Land clearing operations
- Solid waste collections
- Previous similar monitoring or inspection experience

3.7 Supervisors and all identified Disposal Site Monitors must attend a ½-day debris monitor training session to be conducted at a location specified by the Debris Manager before the start of the first shift. Training will be the responsibility of the Consultant and must be approved by the City.

**4. ROVING DEBRIS MONITOR SERVICES**

Monitors will be assigned in accordance with the Consultant's Monitoring Plan and shall be responsible for carrying all provisions of this contract without specific additional direction from City of Rowlett. The following minimum conditions apply:
4.1 The function of the Roving Debris Monitors is to verify that:
a. All eligible debris is being removed from designated public rights-of-way and public property within designated debris zones in City of Rowlett.
b. Ineligible debris is not being picked up.
c. Debris Removal and Hauling contractors are performing their assigned work in a manner consistent with the terms of their Agreement with the City.
4.2 Consultant shall provide at least one Roving Debris Monitor for each debris pickup zone to monitor and verify eligible debris removal from designated public access roads within the debris pickup zone. The Roving Debris Monitor(s) must be prepared to operate minimum of 12 to 14 hours per day, 7 days per week, consistent with the City's established work schedule for the debris management contractor/consultant.
4.3 Consultant must provide Roving Debris Monitors with transportation, mobile communications equipment, all safety equipment, digital cameras, video cameras, and other equipment necessary to perform the roving debris monitoring functions.
4.4 All Roving Debris Monitors must speak English, be a minimum of 18 years of age, and have a valid driver's license issued in the United States.
4.5 All monitors must have experience in at least one of the following:

- Entry level engineer
- Construction inspector
- Entry level surveyor
- Solid waste site operations
- Land clearing operations
- Solid waste collections
- Previous similar monitoring or inspection experience

4.6 Supervisors and all identified Roving Debris Monitors must attend a ½-day debris monitor training session to be conducted at a location specified by the Debris Manager before the start of the first shift. Training will be the responsibility of the Consultant and approved by the City.
4.7 Consultant shall provide all management, supervision, labor, transportation, and equipment necessary to monitor the operations of the debris removal and disposal Contractor.
4.8 Roving Debris Monitors must be capable of working in an outside environment and be able to climb a staircase ladder of 10 feet high.

**5. DEBRIS MANAGEMENT CONSULTING SERVICES**

5.1 The Consultant shall provide an experienced professional (Consultant) to assist the City in overseeing the debris management operations, including but not limited to clearing, loading, hauling, reduction, TDSRS/landfill operations, and other related activities. The Consultant must have broad debris removal operations management experience, including experience with debris removal operations, oversight of temporary debris storage and reduction sites, debris recycling and disposal. Required experience includes in-depth working knowledge of recovery operations, U.S. Army Corps of Engineers and similar debris management guidelines, and FEMA eligibility and reimbursement guidelines.

5.2 The Consultant will work directly with the City's Debris Manager or as otherwise directed by that official. The Consultant shall perform work as assigned which may include but not be limited to review of debris management plans and procedures, drafting task orders, work plans and reports, audit of debris management Consultant activities, operations, develop information for public dissemination on debris removal, reduction and disposal, and other duties as assigned.

5.3 The Consultant shall be available on site at the Debris Management Center for a minimum of two weeks following mobilization. The Debris Manager will establish the service requirements and length of time those services are needed based on needs of the City.

**6. OPERATIONAL REQUIREMENTS**

6.1 The Consultant will oversee documentation of the equipment and other resources provided by the City's debris management Consultant prior to the clearing, removal or hauling of any debris. At a minimum, the Consultant shall provide all necessary personnel and equipment to:

- Assign a unique number to each truck, trailer or other piece of equipment
- Photograph each piece of equipment
- Accurately measure the inside of each truck/trailer load bed and calculate its full load capacity
- Identify the owner/operator of the equipment
- Ensure that each piece of equipment is clearly labeled on both sides with: the name of the primary Consultant and, if appropriate, the subcontractor; the owner or /operator, as appropriate;
- the equipment number assigned; and, for trucks and trailers, the full load capacity as calculated
- Document all results in a searchable digital data base
- Provide for continuous monitoring and updating as equipment is placed into or removed from service
- Provide daily reports to the City Debris Manager on the types and numbers of equipment in use

6.2 The Consultant will assist the City in managing a Load Ticket Program to document the volume of debris loaded and transported to a TDSRS or landfill site. Each load of eligible debris shall be tracked using a 6-part load ticket to be provided by the Debris Monitoring Consultant (industry standard)

6.3 Operational Requirements of Roving Debris Monitor(s)

- The Roving Debris Monitors will provide general oversight of debris management removal and disposal operations by the City's debris management Consultant.
- The Roving Debris Monitors will be the "eyes and ears" in the field for the Debris Manager.
- Therefore, their observations and reports must be backed up with photographs and video wherever necessary to demonstrate the Consultant's performance.
- The Roving Debris Monitors are expected to make multiple visits to all loading sites and
- TDSRS/landfill sites on a continuing although random basis.

**7. REPORTING**

7.1 The Loading Site Monitors shall also maintain a log that contains the following information:

a. Debris loading site location
b. Loading Site Monitors' Name
c. Supervisor's Name
d. Number of Load Tickets issued during the shift
e. Starting load ticket number ___
f. Ending load ticket number___.
g. Any problems encountered or anticipated

Each Loading Site Monitor shall submit his/her copies of the load tickets and the load ticket log to the designated supervisor at the end of each shift. The Consultant's supervisor shall ensure that the load tickets and log are submitted to the Contract Management Center not later than 9 a.m. the following day along with a summary report that describes the nature of the work

completed on the previous day and the status of debris management operations. The format and content of the daily report shall be as specified by the City's Debris Manager.

7.2 Each Disposal Site Monitor will maintain a log that contains the following information:

a. TDSRS or landfill site location
b. Debris Management Site Monitors' Name
c. Supervisor's Name
d. Truck/trailer number and volume of debris hauled into the site
e. Cumulative total of debris delivered at the site during the shift
f. Any problems encountered or anticipated

Each Disposal Site Monitor will turn in his/her copies of the load tickets and the load ticket log to the designated supervisor at the end of each shift. The Consultant's supervisor will ensure that the load tickets and log are submitted to the Contract Management Center not later than 9 a.m. the following day along with a summary report that describes the nature of the work completed on the previous day and the status of debris management operations. The format and content of the daily
report shall be as specified by the City's Debris Manager.

7.3 Each Roving Debris Monitor(s) will be responsible for providing a detailed report to the designated supervisor at the end of each shift. The Roving Debris Monitor(s) will report any serious or safety related discrepancies observed to their supervisor. The supervisor shall keep Debris Manager informed of situations that impact the execution of the debris removal contract.

7.4 The supervisor will collect all written reports and submit them to the Debris Manager by 9:00 a.m. the following day along with a detailed summary report of the previous day's operations. The format and content of the report will be as specified by the City's Debris Manager.

**8. SAFETY**

8.1 The Consultant shall follow and adhere to all appropriate Federal, state and local occupational health and safe requirements and guidelines.

8.2. The Consultant shall prepare the appropriate Site/Workplace Safety Plans required by current OSHA, Texas or other applicable agency rules, hold appropriate safety training sessions for assigned monitor workforces, and ensure that all personnel engaged in work under the agreement observe the specified safety procedures.

8.3 All Consultant personnel shall properly wear and maintain all appropriate safety equipment whenever engaged in work under the monitoring agreement. The following are mandatory: hardhat, reflective vest, safety shoes, long pants, appropriate cold and rainy weather clothing, eye and hearing protection.

8.4 Safety monitoring of the Debris Monitoring Tower should include assurance to the City that all FEMA regulations are met.

**9. OTHER CONSIDERATIONS**

9.1 The Consultant shall supervise and direct the work, using qualified labor and proper equipment for all tasks. Safety of the Consultant's personnel and equipment is the responsibility of the Consultant. Additionally, the Consultant shall pay for all materials, personnel, taxes, and fees necessary to perform under the terms of this contract.

9.2 The Consultant must be duly licensed in accordance with Federal and state statutory and regulatory requirements to perform the work. The Consultant shall be responsible for determining what permits are necessary to perform under the contract. The Consultant shall obtain all permits necessary to complete the work. Copies of all permits shall be submitted to the Debris Management Center before commencing work.

9.3 The Consultant shall be responsible for promptly responding to any notices of violations issued as a result of the Consultant's or any subcontractors' actions or operations during the performance of this contract. Corrections for any such violations shall be at no additional cost. The City's Debris Manager shall be immediately advice of any such violation or notice of violation and the corrective actions being taken.

9.4 The Consultant shall be responsible for paying any and all costs associated with violations of law or regulation relative to Consultant's activities. Such costs might include but are not limited to site cleanup and remediation; fines, administrative and civil penalties; and third party claims imposed on City of Rowlett by any regulatory agency or by any third party as a result of noncompliance with federal, state, or local environmental laws and regulations or nuisance statutes by Consultant, its subcontractors, or any other persons, corporations or legal entities retained by the Consultant under this contract.

9.5 The Consultant must attend all meetings required by Debris Manager to evaluate the performance of all monitors or to discuss any open contract issues.
9.6 The Consultant must provide sufficient personnel and management to assure the policies and procedures of work meets the requirements and intent of this contract.

**Attachment A**

**RFP 2016-14 Disaster Debris Monitoring and Consulting Services Proposer's**

**Name_____**

**REFERENCES**
Please list three (3) references of current customers who can verify the quality of service your company provides. The City prefers customers of similar size and scope of work to this RFP.

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**REFERENCE ONE**

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ e-mail address: _____

Contract Period: _____ Scope of Work _____

**REFERENCE TWO**

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ e-mail address: _____

Contract Period: _____ Scope of Work _____

**REFERENCE THREE**

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ e-mail address: _____

Contract Period: _____ Scope of Work _____

# Attachment B

**STATE OF TEXAS**
**CITY OF ROWLETT**
**AFFIDAVIT**

The undersigned certifies that the RFP prices contained in this RFP have been carefully checked and are submitted as correct and final and if RFP is accepted (within 60 days), agrees to furnish any and/or all items upon which prices are offered, at the price(s) and upon the conditions contained in the Specifications.

BEFORE ME, the undersigned authority, A Notary Public in and for the State of _____, on this day personally appeared _____, who, after having first been duly sworn, upon oath did depose and say; That the foregoing RFP submitted by _____, hereinafter called "Proposer" is the duly authorized agent of said company and that the person signing said proposal has been duly authorized to execute the same. Proposer affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this RFP in collusion with any other Proposer. The Proposer is not a member of any trust, pool, or combination to control the price of products or services RFP on, or to influence any person to RFP or not to RFP thereon. I further affirm that the Proposer has not given, offered to give, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discounts, trip, favor, or service to a public servant in connection with the submitted RFP. The contents of this RFP as to prices, terms or conditions of said RFP have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this RFP.

Name and Address of Proposer:

_____

_____

_____

_____

Telephone number_____ Fax number _____

_____
Signature

Printed Name:_____ Title: _____

SWORN TO AND SUBSCRIBE BEFORE ME THIS _____day of_____, 2016.

_____
Notary Public in and for City, State

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**Attachment C**

**RESIDENCE CERTIFICATION**
Pursuant to Texas Government Code, Section 2252.001 *et seq*., as amended, City of Rowlett requests Residence Certification. Section 2252.001 *et seq.* of the Government Code provides some restrictions on the awarding of governmental contracts; pertinent provisions of Section 2252.001 are stated below:
"Nonresident Proposer" refers to a person who is not a resident.
"Resident Proposer" refers to a person whose principal place of business is in this state, including a Consultant whose ultimate parent company or majority owner has its principal place of business in this state.

☐ I certify that _____ (Company Name) is a Resident Proposer of Texas as defined in Government Code, Section 2252.001.

☐ I certify that _____ (Company Name) is a Nonresident Proposer as defined in Government Code, Section 2252.001 and our principal place of business is _____(City), _____(State).

_____
Signature

Printed Name:_____ Title: _____

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**Attachment D**

**CITY OF ROWLETT EXPRESSLY REQUESTS THAT PROPOSERS NOT DISCUSS THIS ENGAGEMENT OR THIS PROPOSER'S PLANS, EXPERIENCE OR CREDENTIALS WITH OTHER PROPOSERS OR ANY MEMBER OF CITY COUNCIL, ANY CITY OFFICIAL, OR ANY CITY EMPLOYEE. EXCLUDED ARE PRE-PROPOSAL CONFERENCES, SCHEDULED VENDOR PRESENTATIONS OR VENDOR INTERVIEWS, OR SCHEDULED EQUIPMENT OR SERVICES DEMONSTRATIONS. YOU MAY CONTACT THE PURCHASING DEPARTMENT AT ANY TIME.**

**FROM RFP OPENING DATE THROUGH CITY COUNCIL MEETING FOR SELECTION, VENDORS WILL NOT APPROACH THE CITY EMPLOYEES OR CITY COUNCIL TO DISCUSS MATTERS PERTAINING TO THIS RFP.**

1. Has any individual with the firm submitting this Proposal Response made any contact with any member of City Council, any City Official, or an Evaluation Committee member concerning this Invitation to RFP, other than questions to the City Auditor/Purchasing Officer?

_____

_____

_____

_____

_____

2. Has any individual with the firm submitting this Proposal Response made any contact with any other Proposer concerning this Invitation to RFP?

_____

_____

_____

_____

_____

_____
Signature of Person doing business with the City

Printed Name:_____ Title: _____

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

## Attachment E

**Certification Regarding Debarment, Suspension Ineligibility**
As is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 76, Government-wide Debarment and Suspension, in the applicant certifies, to the best of his or her knowledge and belief, that both it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
b. Have not within a three-year period preceding this bid/proposal and/or application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, theory, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity with commission of any of the offenses enumerated herein; and
d. Have not within a three-year period preceding this bid/proposal and/or application had one or more public transactions terminated of cause or default.

_____
Signature

Printed Name:_____ Title: _____

Date:_____ Telephone Number: _____

If the Bidder / Proposer is unable to certify to all of the statements in this Certification, such Bidder / Proposer should attach an explanation to this Bid / Proposal.

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**Attachment E (page 2)**

**SWORN STATEMENT ON DEBARMENT**

This SWORN statement is submitted with project number: _____

By: _____
(PRINT INDIVIDUALS NAME AND TITLE)

For:_____
(PRINT NAME OF ENTITY SUBMITTING SWORN STATEMENT)

With a business address of:

_____
Address

_____
Address

_____
City, State, Zip Code

_____
Telephone Number

If applicable its Federal Employee Identification Number (FEIN) is: _____

(INDICATE WHICH STATEMENTS APPLY)

_____ Neither the entity submitting this SWORN statement, nor any of its officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime.

_____ The entity submitting this SWORN statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity **HAS BEEN CHARGED WITH AND CONVICTED OF A PUBLIC ENTITY CRIME.**

_____ The entity submitting this SWORN statement is not present on any Federal list of debarred contractors, nor been debarred from any other type of contracting.

_____
Signature

Printed Name:_____ Title: _____

Date:_____ Telephone Number: _____

SWORN TO AND SUBSCRIBE BEFORE ME THIS _____day of_____, 2016.

_____
Notary Public in and for City, State

**Attachment F**
**DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL GOVERNMENT OFFICERS; PROVIDING PUBLIC ACCESS TO CERTAIN INFORMATION**

Chapter 176 is a relatively new ethics law that was enacted by HB 914 in 2005. It requires certain local government officials to disclose employment and business relationships with vendors who conduct business with local government entities. After the law was implemented, city officials and others realized that it created several unintended consequences. Consequently, the bill's author sought an opinion from the Texas Attorney General to clarify many provisions of Chapter 176. In response, the Attorney General's Office released Opinion Number GA-0446, which indicated that changes to the law would be desirable. In response, the legislature passed HB 1491 during the 2007 regular legislation session. The bill became effective on May 25, 2007.

Chapter 176 defines a "vendor" as any person who enters or seeks to enter into a contract with the city. The term also includes an agent of a vendor.

Local government officers subject to this law are a city council member, director, superintendent, administrator, president, city manager, or any other person who is designated as the executive officer of the local government entity. A municipal officer's family member would include the officer's spouse, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, or step-child.

The law applies to any written contract for the sale or purchase of real property, goods, or services. A contract for services would include one for skilled or unskilled labor, or for professional services.

A vendor is required to file a conflict of interest questionnaire if the vendor has a business relationship with the city and has:

1) an employment or other business relationship with an officer or an officer's family member that results in that person receiving taxable income that is more than $2,500 in the preceding twelve months; or

2) has given an officer or an officer's family member one or more gifts totaling more than $250 in the preceding twelve months.

A vendor is required to file a questionnaire not later than the seventh business day after the later of the following:

1) the date the vendor begins discussions or negotiations to enter into a contract with the city or submits an application or response to a bid proposal; or

2) the date the vendor becomes aware of a relationship or gives a gift to an officer or officer's family member.

Enclosed is a Conflict of Interest Questionnaire for vendor or other person doing business with local government entity.

Completed questionnaire forms are to be directed to the City Secretary at the address shown below.

**Laura Hallmark, City Secretary**
**City of Rowlett**
**4000 Main Street**
**Rowlett, Texas 75088**

**Attachment F (page 2)**

# CONFLICT OF INTEREST QUESTIONNAIRE

**FORM CIQ**

**For vendor doing business with local governmental entity**

**This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

**OFFICE USE ONLY**

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

_____
Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

_____ _____
Signature of vendor doing business with the governmental entity Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

**Attachment F (Page 3)**

## CONFLICT OF INTEREST QUESTIONNAIRE
## For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

## Attachment G

## CERTIFICATE OF INTERESTED PARTIES (FORM 1295)

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity. The disclosure of interested parties will be submitted online via Form 1295 and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

**The Filing Process:**

1. Prior to award by the City of Rowlett Council, your firm will be required to log in to the Texas Ethics Commission https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and fill out the Electronic Filing Application.
2. Once submitted, the system will generate an electronic Form 1295 displaying a "Certificate number". Your firm must print, sign and notarize Form 1295.
3. Within **ten (10) business days** from notification of pending award by the City of Rowlett Purchasing Agent, the completed Form 1295 **must** be submitted.
4. Your firm will need to repeat this process and obtain a separate Form 1295 each time you enter into a new contract, renew a contract or make modifications and/or amendments to a City of Rowlett contract.

Instructions and information are available at https://www.ethics.state.tx.us/tec/1295-Info.htm or you may call The Texas Ethics Commission at 512-463-5800.

**Attachment G (page 2)**
**(To be completed on the Texas Ethics Commission website)**

## CERTIFICATE OF INTERESTED PARTIES

**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY**

1 **Name of business entity filing form, and the city, state and country of the business entity's place of business.**

2 **Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

3 **Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

| 4 Name of Interested Party | City, State, Country (place of business) | Nature of Interest (check applicable) | |
|---|---|---|---|
| | | Controlling | Intermediary |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

5 **Check only if there is NO Interested Party.** ☐

6 **AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

_____
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20 _____, to certify which, witness my hand and seal of office.

_____ _____ _____
Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath

**ADD ADDITIONAL PAGES AS NECESSARY**

## TERMS AND CONDITIONS

**ADDENDA:** Bidders are responsible for a thorough review of the contract documents, plans and specifications. Bidders shall assume all risk of any ambiguities. Thus, it is imperative that bidders be familiar with the contract documents as well as the job site.

No interpretation of the meaning of plans, specifications, or other pre-bid documents will be made to any bidder orally.

Every request for such interpretation should be in writing addressed to purchasing@rowlett.com and to be given consideration, must be received at least five days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be mailed by certified mail with return receipt requested to all prospective bidders (at the respective address furnished for such purposes), not later than three days prior to the date fixed for opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

**PREPARATION OF BID:** Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form.

**ADVERTISING:** Seller shall not advertise or publish, without the City of Rowlett's prior consent, the fact that City has entered into this contract, except to the extent necessary to comply with proper request for information from an authorized representative of the federal, state or local government.

**AWARD:** The City of Rowlett may hold all bid submission for a period of sixty (60) days. The City of Rowlett reserves the right to delete any item it considers too expensive. RFP/RFQ prices are to be F.O.B. City of Rowlett. All discounts will be considered in determining the lowest, responsible Proposer. The City of Rowlett reserves the right to award this contract on the basis of EVALUATION CRITERIA (AS STATED IN RFP/RFQ) in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one offeror, and to reject any or all RFP/RFQ's.

**POWER OF ATTORNEY:** Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

**BONDS:** Simultaneously with his delivery of the executed contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract, as specified in the General Conditions included herein. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the City.

Maintenance Bonds to cover defective workmanship of materials are required for all projects in the amounts and time periods to be included in the contract documents.

**CANCELLATION AND TERMINATION:** The City of Rowlett shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof, including warranties of Seller or if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to, and not in lieu of, any other remedies which The City of Rowlett may have in law or equity.

**TERMINATION:** The performance of work under this order may be terminated in whole, or in part, by the City of Rowlett in accordance with this provision. Termination of work hereunder shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to, and not in lieu of, rights of the City of Rowlett set forth. The City of Rowlett reserves the right to terminate the contract for default if offeror breaches any of the terms therein, including warranties of offeror or if the offeror becomes insolvent or commits acts of bankruptcy.

Such right of termination is in addition to and not in lieu of any other remedies which the City of Rowlett may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City of Rowlett's satisfaction and/or to meet all other obligations and requirements. The City of Rowlett may terminate the contract without cause upon thirty (30) days written notice.

**CONTRACT RENEWALS:** Renewals may be made ONLY by City Council approval and agreement between the City of Rowlett and the offeror.

Any price escalations are limited to those stated by the original RFP/RFQ. All Annual RFP/RFQ's with a one (1) year renewal option requires that the awarded Proposer must notify the City of Rowlett of any anticipated price increases to the current Annual RFP/RFQ (in writing) at least two months prior to the annual renewal award date unless otherwise specified within the specific provisions of the RFP.

This allows the City of Rowlett sufficient time to plan for re-advertising for Proposals due to a vendor required price increase. If Vendor fails to notify the City of Rowlett within time noted it shall be assumed that there will be no price increase for the following year's award period if renewed. This procedure does not apply to any Annual RFP/RFQ's which allow for Open Market Price increases or Cost allowance increases during the RFP/RFQ award period (as so specified in the RFP/RFQ documents).

**DISCRIMINATION:** In order to comply with the provisions of fair employment practices, the contractor agrees as follows:
1.) the contractor will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin;
2) in all solicitations or advertisements for employees, the contractor will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, handicap or national origin;
3) the contractor will furnish such relevant information and reports as requested by the City of Rowlett for the purpose of determining compliance with these regulations; and
4) failure of the contractor to comply with these laws will be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part.

**MINIMUM WAGE RATES:** The contractor shall utilize the minimum hourly wage rates listed herein (or in the contract documents, identified under "Prevailing Wage Rates") for the various types of skills and disciplines employed in the construction of this facility.

**DISQUALIFICATION OF OFFEROR:** Upon signing this RFP/RFQ document, an offeror offering to sell supplies, materials, services, or equipment to the City of Rowlett certifies that the offeror has not violated the antitrust laws of this state codified in Texas Business and Commerce Code 15.01, et seq., as amended, or the federal antitrust laws, and has not communicated directly or indirectly the RFP/RFQ made to any competitor or any other person engaged in such line of business. Any or all RFP/RFQ's may be rejected if the City of Rowlett believes that collusion exists among the offerors. RFP/RFQs in which the prices are obviously unbalanced may be rejected. If multiples are submitted by an offeror and after the RFP/RFQ's are opened, one of the RFP/RFQ's are withdrawn, the result will be that all of the RFP/RFQs submitted by that offeror will be withdrawn; however, nothing herein prohibits a vendor from submitting multiples for different products or services.

**EVALUATION:** All proposals will be evaluated in accordance with law and reviewed to assure they are in the best interest of the City of Rowlett. Evaluations shall be based on criteria, bearing on price, and performance of the items/services in the user environment. Any specific criteria section or sections identified elsewhere in this request for proposals may be evaluated by one or more evaluators once the basis and details of this process has been approved by the Purchasing Officer and acknowledged by the Evaluation Committee. Detailed information pertaining to this selective evaluation process is available to offerors and the City Council upon request.

Compliance with all RFP/RFQ requirements, delivery and needs of the using department are considerations in evaluating RFP/RFQ's. Pricing is NOT the only criterion for making a recommendation (see criteria and relative importance of price and other evaluation factors, if any, specified elsewhere in this request for proposals). The City of Rowlett Purchasing Department reserves the right to contact any offeror, at any time, to clarify, verify or request information with regard to any RFP/RFQ. The City of

Rowlett Purchasing Department further reserves the right to hold negotiation discussions with any responsible offeror submitting proposals determined to be reasonably susceptible of being selected for award in accordance with law.

**BID SECURITY:** Each bid must be accompanied by a certified check of the bidder, or a bid bond, duly executed by the bidder as principal and having as surety thereon a surety company approved by the City, in the amount of 5% of the bid. Such checks, or bid bonds will be returned to all except the three lowest bidders within thirty days after the opening of bids, and the remaining checks or bid bonds will be returned promptly after the City and the accepted bidder have executed the contract, or, if no award has been made within 90 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.

**LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT:** The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within 10 days after he has received notice of the acceptance of his bid, shall forfeit to the City, as liquidated damages for such failure or refusal, the security deposited with his bid. This liquidated damage amount is not a penalty but is, instead, a reasonable forecast of actual damages that the City may sustain were the bidder to default.

**TIME OF COMPLETION, EARLY COMPLETION BONUS AND LIQUIDATED DAMAGES:** Bidders must agree to commence work on or before a date to be specified in a written "Notice To Proceed" of the City and to fully complete the project within the specified time as stated in the proposal.
TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THIS PROJECT. THE CITY EMPLOYS A ZERO-TOLERANCE POLICY FOR TIME OF COMPLETION. FAILURE TO MEET THE CONTRACTUAL DEADLINE, OR A DELAY IN MEETING PROJECT SCHEDULES, MAY BE DEEMED A DEFAULT. THE CITY WILL AWARD AN EARLY COMPLETION BONUS IF THE PROJECT IS COMPLETED EARLY. THE EARLY COMPLETION BONUS WILL BE UP TO BUT NOT IN EXCESS OF THE AMOUNT STATED IN THE PROPOSAL.

**NOTICE OF SPECIAL CONDITIONS:** Attention is particularly called to those parts of the contract documents and specifications which deal with the following:

(a) Inspection and testing of materials
(b) Insurance requirements
(c) Wage rates
(d) Stated allowances

**PROTEST PROCEDURES:** Procedure - This protest procedure is available to vendors responding to this Bid.
Protests are made - 1. To the Purchasing Department. Vendor protests shall be received, in writing, by the Purchasing Department within five (5) business days after award. 2. To the City Manager, only after the protest to the Purchasing Department was not resolved satisfactory to the protestor. Protests to the City Manager shall be made within five (5) business days after the vendor has received notification from the City of Rowlett Purchasing Department of his/her decision.
Grounds for protest – 1. Errors were made in computing the score. 2. The City of Rowlett failed to follow procedures established in the Bid, the Purchasing policy: Acquisition or applicable state or federal laws or regulations. 3. Bias, discrimination or conflict of interest on the part of an evaluator. Protests not based on these criteria shall not be considered.
Format and Content - Protesting vendors shall include, in their written protest to the City of Rowlett Purchasing Department, all facts and arguments upon which they rely. Vendors shall, at a minimum, provide: 1. Information about the protesting vendor; name of firm, mailing address, phone number and name of individual responsible for submission of the protest. 2. Information about the acquisition and the acquisition method. 3. Specific and complete statement of the City of Rowlett's action(s) protested. 4. Specific reference to the grounds for the protest. 5. Description of the relief or corrective action requested. 6. For protests to the City Manager, a copy of the Purchasing Department's written decision on the protest.
Review Process – 1. Upon receipt of a vendor protest, the Purchasing Department shall perform an objective review of the protest by individuals not involved in the acquisition protested. The review shall be based on the written protest material submitted by the vendor. A written decision will be delivered to the vendor within five business days after receipt of the protest, unless more time is needed. The protesting vendor shall be notified if additional time is necessary.

Final Determination - The final determination shall 1. Find the protest lacking in merit and uphold the agency's action; or 2.Find only technical or harmless errors in the agency's acquisition process conduct, determine the agency to be in substantial compliance, and reject the protest; or 3. Find merit in the protest and provide the agency options which may include a) Correct its errors and reevaluate all proposals, and/or b) Reissue the vendor solicitation document; or c) Make other findings and determine other courses of action as appropriate.
City Manager Review Process - Protests to the City Manager may be made only after review by City of Rowlett Purchasing Department. Protests of the decisions of City of Rowlett Purchasing Department shall be made by letter to the City Manager, who may establish procedures to resolve the protest. Protests shall be received by the City Manager, within five business days after the decision of Purchasing Department in order to be considered. The resulting decision is final, with no further administrative appeal available.

**FISCAL FUNDING:** A multi-year lease or lease/purchase arrangement (if requested by the Special Requirements/Instructions), or any contract continuing as a result of an extension option, must include fiscal funding out. If, for any reason, funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. After expiration of the lease, leased equipment shall be removed by the offeror from the using department without penalty of any kind or form to the City of Rowlett. All charges and physical activity related to delivery, installation, removal and redelivery shall be the responsibility of the offeror.

**GRATUITIES AND PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** Any elected or appointed official who has any substantial interest, either direct or indirect, in any business entity seeking to contract with the City of Rowlett, shall, before any vote or decision on any matter involving the business entity, file an affidavit stating the nature and extent of interest and shall abstain from any participation in the matter. This is not required if the vote or decision will not have any special effect on the entity other than its effect on the public. However, if a majority of the governing body is also required to file, and do file similar affidavits, than the member is not required to abstain from further participation. Attached and included is a disclosure of all of this Company's business or pecuniary financial relationships with officers or employees of City of Rowlett must be attached and included with RFP/RFQ submitted. The City of Rowlett may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by the City of Rowlett that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent, or representative of the Seller, to any officer or employee of City of Rowlett with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making or any determinations with respect to the performing of such a contract. In the event this contract is cancelled by the City of Rowlett pursuant to this provision, the City of Rowlett shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities. Consistent and continued tie RFP's/RFQ's could cause rejection of RFP/RFQ's by the City of Rowlett and/or investigation for Anti-Trust violations. Proposer guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

**HISTORICALLY UNDERUTILIZED BUSINESS (HUB) CERTIFICATION:** If Proposer is a Certified Historically Underutilized Business (HUB), please include a copy of your HUB Certificate with your Proposal.

**MAINTENANCE:** Maintenance required for equipment RFP/RFQ should be available in the City of Rowlett by a manufacturer authorized maintenance facility. Costs for this service shall be shown on the Pricing/Delivery Information form. If the City of Rowlett opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.

**MATERIAL SAFETY DATA SHEETS:** Under the "Hazardous Communication Act", commonly known as the "Texas Right To Know Act", an offeror must provide to the City of Rowlett with each delivery, material safety data sheets which are applicable to hazardous substances defined in the Act. Failure of the offeror to furnish this documentation will be cause to reject any RFP/RFQ applying thereto.

**NAME BRANDS:** Specifications may reference name brands and model numbers. It is not the intent of the City of Rowlett to restrict these RFP/RFQs in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Offerors may offer items of equal stature and the burden of proof of such stature rests with offerors. The City of Rowlett shall act as sole judge in determining equality and acceptability of products offered.

**PRICING:** Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated on the Pricing/Delivery Information form. Prices shall be all inclusive: No price changes, additions, or subsequent qualifications will be honored during the course of the contract,. All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the contractor and included in the RFP/RFQ prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, offeror MUST indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails.

**RECYCLED MATERIALS:** The City of Rowlett encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. The City of Rowlett will be the sole judge in determining product preference application.

**SCANNED RE-TYPED RESPONSE:** If in its RFP/RFQ response, offeror either electronically scans, retypes, or in some way reproduces the City of Rowlett's published RFP/RFQ package, then in event of any conflict between the terms and provisions of the City of Rowlett's published RFP/RFQ specifications, or any portion thereof, and the terms and provisions of the RFP/RFQ response made by offeror, the City of Rowlett's RFP/RFQ specifications as published shall control. Furthermore, if an alteration of any kind to the City of Rowlett's published RFP/RFQ specifications is only discovered after the contract is executed and is or is not being performed, the contract is subject to immediate cancellation.

**SILENCE OF SPECIFICATIONS:** The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item RFP/RFQ. Substitute items will not be accepted unless approved (in advance).

**SUPPLEMENTAL MATERIALS:** Offerors are responsible for including all pertinent product data in the returned RFP/RFQ package. Literature, brochures, data sheets, specification information, completed forms requested as part of the RFP/RFQ package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the offeror wishes to include as a condition of the RFP/RFQ, must also be in the returned RFP/RFQ package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire RFP/RFQ.

**TITLE TRANSFER:** Title and Risk of Loss of goods shall not pass to the City of Rowlett until the City of Rowlett actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department.

Generally, deliveries may be made between 8:30 a.m. and 4:00 p.m., Monday through Friday. Offerors are advised to consult the using department for instructions. The place of delivery shall be shown under the "Special Requirements/Instructions" section of this RFP/RFQ package and/or on the Purchase Order as a "Deliver To:" address.

**USAGE REPORTS:** The City of Rowlett reserves the right to request, and receive at no additional cost, up to two (2) times during the contract period, a usage report detailing the products and/or services furnished to date under a contract resulting from this RFP. The reports must be furnished no later than five (5) working days after written request and itemize all purchases to date by the City of Rowlett department, description of each item purchased, including manufacturer, quantity of each item

purchased, per unit and extended price of each item purchased, and total amount and price of all items purchased.

**WARRANTY PRICE:** (a) The price to be paid by the City of Rowlett shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, the City of Rowlett may cancel this contract without liability to Seller for breach or Seller's actual expense. (b) The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach or violation of this warranty, the City of Rowlett shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee. Offerors shall furnish all data pertinent to warranties or guarantees which may apply to items in the bid. Offerors may not limit or exclude any implied warranties. Offeror warrants that product sold and services provided to the City of Rowlett shall conform to the standards and laws established by the U.S. Department of Labor, U.S. Department of Homeland Security, Occupational Safety and Health Administration and O.S.H.A. Act of 1970. In the event product does not conform to OSHA Standards, where applicable, the City of Rowlett may return the product for correction or replacement at the offeror's expense. If offeror fails to make the appropriate correction within a reasonable time, the City of Rowlett may correct at the offeror's expense. Offerer warrants that product sold and services provided to the City of Rowlett shall conform to the standards and laws established by the U.S. Department of Homeland Security, Occupational Safety and Health Administration and O.S.H.A. Act of 1970.

**WARRANTY PRODUCTS:** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the City of Rowlett. Seller warrants that the goods furnished will conform to the specifications, drawings and descriptions listed in the RFP/RFQ invitation and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern.

**SAFETY WARRANTY:** Seller warrants that the product sold to the City of Rowlett shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, the City of Rowlett may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by the City of Rowlett will be at Seller's expense. Have you attached the required warranty information to the RFP/RFQ (if applicable)? Yes, No.

**APPLICABLE LAW**
he bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full..

**ASSIGNMENT DELEGATION:** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the City of Rowlett. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph. Any contract entered into pursuant to this request is not assignable, nor the duties thereunder, by either party, without the written consent of the other party in the contract City of Rowlett and the City of Rowlett City Council.

**CONTRACT OBLIGATION:** The City of Rowlett City Council must award the contract and the Council designee must sign the contract before it becomes binding on the City of Rowlett or the offerors. Department heads are NOT authorized to sign agreements for the City of Rowlett. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

**CONDITIONS OF WORK:** Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible, the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor and will be responsible for coordination with utilities on site.

**ERRORS AND OMISSIONS:** Errors and Omissions in the RFP / RFQ of any provision herein described will not be construed as to relieve the Vendor of any responsibility or obligation, requisite to the complete and satisfactory implementation, operation, and support of any and all equipment, systems or services.

At the time of the opening of bids each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve the bidder from any obligation in respect to his bid.

**FORCE MAJEURE:** If, by reason of Force Majeure, either party hereto shall be rendered unable wholly, or in part, to carry out its obligations under this agreement, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely with the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgement of the party having the difficulty.

**HOLD HARMLESS AGREEMENT:** Contractor, the successful offeror, shall indemnify and hold the City of Rowlett harmless rom all claims for personal injury, death and/or property damage resulting directly or indirectly from contractor's performance. Contractor shall procure and maintain, with respect to the subject matter of this RFP/RFQ, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover contractor's liability as may arise directly or indirectly from work performed under terms of this RFP/RFQ. Certification of such coverage must be provided to the City of Rowlett upon request.

**INFRINGEMENTS:** There will be no warranty by the City of Rowlett against infringements. As part of this contract for sales, Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement or the like. The City of Rowlett makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall the City of Rowlett City of Rowlett be liable to Seller for indemnification in the event that Seller is sued on the grounds of infringement or the like. If Seller is of the opinion that an infringement or the like will result, he will notify the City of Rowlett to this effect in writing within two (2) weeks after the signing of this agreement. If the City of Rowlett does not receive notice and is subsequently held liable for the infringement or the like, Seller will hold the City of Rowlett harmless. If Seller in good faith ascertains that production of the goods in accordance with the specifications will result in infringement or the like, this contract shall be null and void, except that the City of Rowlett will pay Seller the reasonable cost of his/her search as to infringement. The contractor agrees to protect the City of Rowlett from claims involving infringement of patents or copyrights.

**WORK ORDER CHANGES:** It is understood that the quantities of work to be done at unit prices is approximate only and are intended principally to serve as a guide in evaluating bids. Any change order will be approved by the City prior to work being started on said change.

It is further agreed that the quantities of work to be done at unit prices and materials to be furnished may be increased or diminished as may be considered necessary, in the opinion of the Engineer, to complete the work fully as planned and contemplated and that all quantities of work, whether increased or decreased, are to be performed at the unit prices set forth except as provided for in the specifications. The City reserves the right to increase or decrease the amount of work to be done by any amount not to exceed twenty-five percent (25%) of the original contract amount. In the event the increase pertains to items not originally bid, the Contractor shall submit a bid in writing to the Engineer for approval.

It is further agreed that lump sum prices may be increased to cover additional work ordered by the Engineer but not shown on the plans or required by the specifications, in accordance with the provisions of the general conditions; similarly, they may be decreased to cover deletion of work so ordered.

The City reserves the right to reject the Contractor's bid on such extra work and secure such work to be done other than by said Contractor.

The time for performance set forth in the contract documents contemplates normal bad weather days and typical construction delays. Extensions in the time for performance may be given or allowed for if and only if the extension is approved by the City and the approval is evidenced by a written and signed Change Order. In the absence of a written, signed Change Order.

**INTERPRETATION PAROLE EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement, even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to Control.

**MODIFICATIONS:** This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents. O.S.H.A: Offeror must meet all Federal and State OSHA requirements.

**RIGHT TO ASSURANCE:** Whenever one (1) party to this contract in good faith has reason to question the other party's intent to perform, he/she may demand that the other party give written assurance of their intent to perform. In the event that a demand is made, and no assurance is given within five (5) days the demanding party may treat this failure as an anticipatory repudiation of the contract.

**SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

**VENUE:** Both parties agree that venue for any litigation arising from this contract shall lie in Dallas County, Texas.