CONTRACT DOCUMENTS

CITY OF LINCOLN
NEBRASKA

ANNUAL REQUIREMENTS
FOR
Material Grinding Services
Bid No. 10-054

Fox Bros. Hay Co. Inc.
P.O. Box 586
O'Neill, NE 68763-0586
800-301-3320

CITY OF LINCOLN
CONTRACT AGREEMENT

THIS CONTRACT, made and entered into this _____ day of_____2010, by and between **Fox Bros. Hay Co. Inc., P.O. Box 586, O'Neill, NE 68763-0586**, hereinafter called "Contractor", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called "City".

WHEREAS, the City has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

For providing **Material Grinding Services, Bid No. 10-054** and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the City, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and,

WHEREAS, the City, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Responses and the clarification of per hour pricing as outlined in Attachment 1, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the City has agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute and complete all Work included in and covered by the City's award of this Contract to the Contractor, such award being based on the acceptance by the City of the Contractor's Proposal, or part thereof, as follows:

Agreement to full proposal

2. The City agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the City:

   City will pay for products/service, according to the pricing as listed in Contractors Proposal/Supplier Response and the clarification of per hour pricing as outlined in Attachment 1, a copy thereof being attached to and made a part of this Contract. The City shall order on an as needed basis for the duration of the contract.

3. Equal Employment Opportunity. In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

4. E-Verify. In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.

5. Termination. This Contract may be terminated by the following:
   - 5.1) Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
   - 5.2) Termination for Cause. The City may terminate the Contract for cause if the Contractor:
     - 5.2.1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide **Material Grinding Services, Bid No. 10-054**.
     - 5.2.2) Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
     - 5.2.3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the City will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.

6. Independent Contractor. It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

7. Contract Term. This Contract shall be effective upon execution by both parties. The term of the Contract shall be a four (4) year term from the date of execution by both parties.

8. The Contract Documents comprise the Contract, and consist of the following:
   1. Instructions to Bidders
   2. Insurance Requirements
   3. Accepted Proposal/Response
   4. Attachment 1
   5. Contract Agreement
   6. Specifications

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

_____
City Clerk

CITY OF LINCOLN, NEBRASKA

_____
Mayor

dated _____

EXECUTION BY CONTRACTOR

IF A CORPORATION:

ATTEST:

_____(SEAL)
Secretary

_____
Name of Corporation

_____
(Address)

By:_____
Duly Authorized Official

_____
Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

_____
Name of Organization

_____
Type of Organization

_____
(Address)

By:_____
Member

By:_____
Member

IF AN INDIVIDUAL:

_____
Name

_____
Address

_____
Signature

City of Lincoln/Lancaster County (Lincoln Purchasing)
Supplier Response

Bid Information

Bid Creator	Vince Mejer Purchasing Agent
Email	
Phone	1 (402) 441-8314
Fax	1 (402) 441-6513
Bid Number	10-054
Title	Material Grinding Services
Bid Type	Bid
Issue Date	03/17/2010
Close Date	4/6/2010 12:00:00 PM CST
Need by Date	

Contact Information

Address	440 S. 8th St. Lincoln, NE 68516
Contact	Vince Mejer Purchasing Agent
Department	Purchasing
Building	
	Suite 200
Floor/Room	
Telephone	1 (402) 441-8314
Fax	1 (402) 441-6513
Email	vmejer@lincoln.ne.gov

Ship to Information

Address	
Contact	
Department	
Building	
Floor/Room	
Telephone	
Fax	
Email	

Supplier Information

Company	Fox Bros. Hay Co. Inc.
Address	P. O. Box 586 O'Neill, NE 68763-0586
Contact	Steve or Shirley Fox
Department	
Building	
Floor/Room	
Telephone	800 (301) 3320
Fax	402 (336) 1924
Email	stevewfox@msn.com
Submitted	3/25/2010 11:49:51 AM CST
Total	$1,963,433.00

Signature

Supplier Notes

Bid Notes

If you need assistance in preparing your bid, there are several options.

1) Click the the "Help" button in the upper right hand corner of any screen; 2) Contact our office for a training session in Purchasing or assistance over the phone; 3) View the PowerPoint presentation at http://www.lincoln.ne.gov/city/finance/purch/spec/veninst.ppt

Bid Messages

Please review the following and respond where necessary

#	Name	Note	Response
1	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes
2	Insurance Requirements	I acknowledge reading and understanding the Insurance Requirements.	Yes
3	Sample Contract	I acknowledge reading and understanding the sample contract.	Yes
4	Specifications	I acknowledge reading and understanding the specifications.	Yes
5	Type and number of Equipment	State the Equipment Model, Horsepower and Method of Loading of the equipment you propose to use.	Morbark-567-517/800hrp/with grapple
6	Bidders Normal Working Hours	State the normal working hours for your Company:	start as early as needed and as late as needed
7	Electronic Signature	Please check here for your electronic signature.	Yes
8	Contact	Name of person submitting this bid:	Shirley Fox
9	Bid Bond Submission - City	I acknowledge and understand that my bid will not be considered unless a bid/performance bond or certified check in the sum of one thousand dollars ($1,000) is made payable to the order of the City Treasurer as a guarantee of good faith. The bid security may be scanned and attached to the 'Response Attachments' section of your response or faxed to the Purchasing Office (402)441-6513. The original bond/check must then be received in the Purchasing Office, 440 S. 8th Street, Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing. YOU MUST INDICATE YOUR METHOD OF BID BOND SUBMISSION IN BOX TO RIGHT!	I have mailed my bid bond.
10	References	I have attached my list of references.	Yes

Line Items

#	Qty	UOM	Description	Response
1	5,000	tons	Grinding services for tree wastes and clean wood waste	$373.00
	Item Notes:		List number of tons you can grind per hour in the Supplier Notes.	
	Supplier Notes:		43tons per hour	
2	150	Tons	Grinding Services for Christmas Tree Waste	$373.00
	Item Notes:		List number of tons you can grind per hour in the Supplier Notes.	
	Supplier Notes:		43tons per hour	
3	100	Tons	Grinding Services for other Organic Wastes	$373.00
	Item Notes:		List number of tons you can grind per hour in the Supplier Notes.	
	Supplier Notes:		35tons per hour	
4	1	Tons	Grinding Services for Tree Waste Resulting from Natural Disaster. Quantity unknown. Give price for one ton.	$383.00
	Item Notes:		List number of tons you can grind per hour in the Supplier Notes.	
	Supplier Notes:		50tons per hour	
5	40	Hours	Front end Loader with Operator	$120.00
	Item Notes:			
	Supplier Notes:		1 hr.	
			Response Total:	$1,963,433.00

COMMERCIAL GRINDING OF WOOD PRODUCTS AND YARD WASTE

FOX BROS. HAY CO. INC.

STEVE FOX
1-800-301-3320

Explanation of grinding rates for bid #10-054

1. Grinding of 5000 tons of tree waste and clean wood waste.
   43 tons per hour at $373.00 per hour

2. Grinding of 150 tons of Christmas tree waste.
   43 tons per hour at $373.00 per hour

3. Grinding of Organic Waste.
   35 tons per hour at $373.00 per hour

4. Grinding of Tree Waste Resulting from Natural Disaster
   50 tons per hour at $383.00 per hour

Shirley Fox

P.O. BOX 586 • O'NEILL, NE 68763 • OFFICE: 402-336-3320 • VOICE MAIL: 1-888-529-7250

References:

City of Lincoln
Karla Welding - 441-7867
cell # 416-0208
6001 Bluff Road
Lincoln NE

City of Lexington
Glenn Hawks - 308-324-5995
cell # 308-325-4008
P.O. Box 70
Lexington, NE 68850

City of Beatrice
Mark Hyberger - 402-228-5248
400 Ella Street
Beatrice NE 68310

City of Columbus
Mike Schmick - 402-564-8584
Chuck Thomerson - 402-564-4234
P.O. Box 1677
Columbus NE 68602-1677

Fox Bros. Hay Co. Inc.
P.O. Box 586
O'Neill, NE 68763

STANDARD SPECIFICATIONS
FOR
MATERIAL GRINDING SERVICES

1. **SCOPE**
   - 1.1 These services shall be performed for the City of Lincoln, Public Works and Utilities Department and the Parks and Recreation Department on an on-call basis or other agreed upon regularly scheduled basis, except where noted.
   - 1.2 Routine grinding services will be performed at the City's two landfill sites located at 6001 Bluff Road and 5101 North 48th Street, and Christmas tree collection sites located throughout the City.
   - 1.3 Special grinding services may be requested by the Parks and Recreation Department at various locations throughout the City during the term of the agreement, however, at the current time all tree wastes generated by the Parks and Recreation Department are deposited at the landfill sites.
   - 1.4 The term of the contract shall be a four (4) year term from the date of execution of the contract by both parties.
   - 1.5 The City or Contractor may terminate the Contract at any time by providing a thirty (30) day written notice.
   - 1.6 For additional information regarding these specifications, please contact Mr. Vince M. Mejer, Purchasing Agent, vmejer@lincoln.ne.gov.

2. **CONTRACT AND INSURANCE**
   - 2.1 Within fourteen (14) calendar days after the award of bid the Contractor(s) shall execute a written Agreement between the Contractor and the City, sample attached.
   - 2.2 Also, within such time period, the Contractor shall furnish with the executed agreement a certificate of insurance in accordance with the attached "Insurance Requirements for All City Contracts", naming the City of Lincoln as additional insured.
   - 2.3 Insurance shall be updated annually.

3. **BIDDING PROCEDURE AND AWARD OF CONTRACTS**
   - 3.1 Read attached Instructions to Bidders prior to submitting your Response.
   - 3.2 The following must be submitted as part of your bid:
     - 3.2.1 Electronic Supplier Response.
     - 3.2.2 List of references.
     - 3.2.3 Bid security in the amount of $1,000.00 is required to be submitted with your bidding documents as a guarantee of good faith.
   - 3.3 In determining the low responsible bids, consideration may be given to the following factors:
     - 3.3.1 Ability, capacity and skill of the bidder to comply with the specifications and perform the work required by the contract.
     - 3.3.2 Character, integrity, reputation, judgment, experience and efficiency of the bidder.
     - 3.3.3 Ability of the bidder to perform the work within the time specified for each project.
     - 3.3.4 Previous and current compliance of the bidder with laws and regulations relating to the work.
     - 3.3.5 Total cost per hour to perform the work.
     - 3.3.6 Quality of the bidder's performance of previous work.
     - 3.3.7 Total annual cost evaluated on a per ton basis using the stated production rates, hourly prices and estimated quantities.
     - 3.3.8 Production rates and their impact to City expenses when City personnel and equipment are assisting the Contractor.
     - 3.3.9 Any other information deemed relevant to the contract by the City.
   - 3.4 Contracts resulting from bid proposals shall not be on an all-or-none basis, and may be awarded to several bidders based on price, scheduling, the ability to complete work on time, quality of work, compliance with stated production rates and previous inspection and acceptance of past projects.
   - 3.5 The City further reserve the right to analyze bid proposals in detail and to award contracts which the City believes to be in their best interests.

3.6 The City may make any investigation deemed necessary to determine the ability of a bidder to perform in accordance with the specifications.

3.7 The City reserve the right to reject any bid based on facts resulting from any investigation which indicates that a bidder is not properly qualified to perform the obligations of any resulting contract.

4. BIDDER QUALIFICATIONS

4.1 References to be submitted with the bidding documents shall include a minimum of three (3) references of similar projects completed in the last five (5) years.

4.2 References should include: name of firm, contact person, address, and telephone number, and may include references of work previously performed for the City.

5. TYPES OF MATERIALS TO BE PROCESSED

5.1 At the two landfill sites; tree trimmings and tree removal wastes including brush, limbs, trunks, and occasional stumps shall be commingled into one stockpile.

- 5.1.1 The majority of material is less than 24 inches in diameter with some occasional material up to 36 inches or larger in diameter.
- 5.1.2 The Contractor shall be able to process all materials which the City collects.
- 5.1.3 The City will assist the Contractor in separating materials for loading into the grinding equipment.
- 5.1.4 The City may deposit pallets and other clean non-tree wood wastes in these stockpiles.
- 5.1.5 The estimated quantity of material is 5,000 tons.
- 5.1.6 Pen wastes including straw, hay, manure or similar materials may be collected and processed at the City's yard waste composting site with an estimated annual quantity of 0 - 200 tons.
- 5.1.7 Other wastes which may be processed include newspaper, telephone books, construction site debris or other similar organic materials with an annual quantity of 0 - 500 tons.

5.2 Christmas trees will be collected and processed at various locations throughout the City with an estimated annual quantity of 100 - 200 tons.

5.3 All quantities are estimated and shall not be considered as a guarantee.

6. EQUIPMENT SIZE AND PRODUCTION RATES

6.1 Minimum horsepower of processing equipment shall be 600 HP.

6.2 Processing equipment shall be capable of removing ferrous materials from the end product.

6.3 Bidders shall state minimum production rates on the Proposal Form.

6.4 Contractors may be evaluated on their stated production rates and failure to meet the production rate may be cause for termination of the Contract.

6.5 Production rates shall be evaluated using data collected from the City's tipping receipts with the following assumptions:

- 6.5.1 All large vehicles are weighed.
- 6.5.2 Pickup trucks and / or small trailers are assumed to carry 500 pounds of tree wastes.
- 6.5.3 Pickup trucks with small trailers are assumed to carry 1000 pounds of tree wastes.
- 6.5.4 Cars are assumed to carry 200 pounds of tree wastes.

6.6 Tipping receipt reports can be furnished upon request.

7. LOCATIONS OF WORK AND SITE DESCRIPTIONS

7.1 The Public Works and Utilities Department has two tree waste collection sites for public use located at the North 48th Street Solid Waste Transfer Station (5101 North 48th Street) and the Bluff Road Landfill (6001 Bluff Road).

- 7.1.1 The North 48th Street site has a soil surface collection and processing area.
- 7.1.2 The Bluff Road site has an asphalt surface collection and processing area.
- 7.1.3 The estimated annual quantity of material processed at these locations is approximately 4000 - 6000 tons.

7.2 The Parks and Recreation Department may have up to six (6) possible collection sites located throughout the City which are intended for City use only.

- 7.2.1 At the current time, the Parks and Recreation Department has not established any collection sites and currently hauls these materials to the Bluff Road Landfill.

7.2.2 Waste materials are not accepted from the general public at these locations.
7.2.3 These locations are generally located on soil surfaced areas.
7.2.4 The total estimated annual quantity of material processed at these sites may range from 0 - 1000 tons.

7.3 The City anticipates a maximum of eight (8) Christmas tree collection sites located throughout the City.
7.3.1 These sites are located on both paved and soil surfaced areas.
7.3.2 The estimated annual quantity of material processed at these sites is approximately 200 tons.

7.4 In the event of natural disaster, the City may provide additional collection sites throughout the City.
7.4.1 In the event of the natural disaster Lancaster County, Nebraska shall be allowed to piggyback on this contract under the same terms and conditions.

7.5 Grinding services for construction debris such as wood, paper and gypsum construction debris materials may be requested to be performed at a designated site(s) in the City.

8. RESPONSIBILITIES OF THE CONTRACTOR

8.1 Provide all equipment, labor, materials, fuel, lubricants, repair, maintenance, etc. to perform services.

8.2 Provide suitable equipment to grind and screen the described materials at the minimum stated production rates.

8.3 The Contractor shall be responsible for loading material in the grinding equipment with a grapple, front end loader or other similar equipment.

8.4 Processed material shall be conveyed to a minimum height of ten (10) feet.

8.5 The Contractor's grinding process for all bid items except storm debris shall provide a uniform product size of two (2) inches and less, with no more than10% of the material being over two (2) inches in size.

8.6 The Contractor's grinding process for storm debris materials shall provide a uniform product size of four (4) inches and less, with no more than 10% of the material being over four (4) inches in size.

8.7 The Contractor shall have the ability to cut oversized materials (greater than eight (8) feet) to the length necessary for processing.

8.8 Damage to the Contractor's equipment from debris or contaminates in the waste materials shall not be cause for additional compensation.

8.9 The Contractor shall have the ability to provide grinding services a minimum of six times per year, except where noted.

8.10 The Contractor shall provide services within fifteen (15) calendar days following the request by the City.
8.10.1 The City shall consider other schedules as requested by the Contractor.
8.10.2 In the event of work stoppage due to equipment failure or inclement weather conditions, the Contractor shall begin work on the next available day.
8.10.3 Once work is initiated at a site, the Contractor shall complete all work during consecutive days except for stoppages due to equipment failure or inclement weather.

8.11 The Contractor shall provide services for processing Christmas trees on or about the third Monday of January at all City collection sites. The Contractor shall continue services on a daily basis until all Christmas tree grinding is completed.

8.12 The Contractor shall provide the stated minimum production rates throughout the term of the Contract.

9. RESPONSIBILITIES OF THE CITY

9.1 The City shall provide a suitable front end loader and equipment operator to push or carry material to the general proximity of the processing equipment in order for the Contractor to feed / load the grinding equipment.

- 9.1.1 City staff and equipment shall be available during a ten (10) hour day with normal rest periods.
- 9.1.2 Other work schedules including overtime hours and work during weekends shall be considered at the request of the Contractor.
- 9.1.3 Work priorities elsewhere in the operation may cause City staff to be temporarily reassigned for a period of time.
- 9.1.4 Equipment breakdown may cause City staff and equipment to temporarily be unavailable.

9.2 The City shall not load the processing equipment hopper.

9.3 The City shall guarantee a minimum four (4) hour charge for on-call services.

9.4 The City shall to the best of its ability restrict the length of tree wastes to eight (8) feet.

10. BASIS OF PAYMENT

10.1 Payment shall be based on a per hour charge using the price indicated on the Electronic Supplier Response.

10.2 All costs associated with mobilization(s), equipment setup and preparation, labor, equipment operation, and equipment maintenance and repair costs shall be included in the hourly charge.

10.3 The hours billed shall be for production hours only.

10.4 Invoices shall be submitted separately to the Public Works and Utilities Department and the Parks and Recreation Department for applicable services performed. Use the following mailing addresses:

- 10.4.1 Public Works and Utilities, Solid Waste Operations Section, 2400 Theresa Street, Lincoln, NE, 685
- 10.4.2 Parks and Recreation, Forestry Section, 2740 A Street, Lincoln, NE, 68502

10.5 Invoices shall include dates of service, description of service, production hours billed, unit price, and extended total for each service provided and for each site where work was performed.

11. Assignment

11.1 The contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the Owners.

12. Drug-Free Workplace

12.1 The Contractor agrees that in the performance of the contract, neither the Contractor nor any employee of the contractor shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity covered by this contract.

12.2 The City reserves the right to request a copy of the Contractor's drug-free workplace policy.

12.3 The Contractor further agrees to include a provision similar to this statement in all subcontracts for construction services required pursuant to the contract.

INSTRUCTIONS TO BIDDERS
CITY OF LINCOLN, NEBRASKA
E-Bid

1. BIDDING PROCEDURE

1.1 Sealed bid, formal and informal, subject to Instructions and General Conditions and any special conditions set forth herein, will be received in the office of the Purchasing Division, 440 So. 8th St., Lincoln, NE 68508, until the bid closing date and time indicated for furnishing the City of Lincoln, hereinafter referred to as "City", the materials, supplies, equipment or services shown in the electronic bid request.

1.2 Bidders shall use the electronic bid system for submitting bids and must complete all required fields.

1.3 Identify the item you will furnish by brand or manufacturer's name and catalog numbers. Also furnish specifications and descriptive literature if not bidding the specific manufacturer or model as listed in the specifications.

1.4 Any person submitting a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.

1.5 Bids received after the time and date established for receiving bids will be rejected.

1.6 The Bidders and public are invited, but not required, to attend the formal opening of bids. At the opening, prices will be displayed electronically and/or read aloud to the public. The pricing is also available for immediate viewing on-line. No decisions related to an award of a contract or purchase order will be made at the opening.

1.7 If bidding on a construction contract, the City's Standard Specifications for Municipal Construction 2006 shall apply.

1.7.1 Bidders may obtain this document from the City's Design Engineering Division of the Public Works & Utilities Department for a small fee.

1.7.2 Said document can be reviewed at Design Engineering or at the office of the Purchasing Division.

1.7.3 Said document is available on the web site.
http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspec/index.htm

2. BID SECURITY

2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bid bond, may be required to be submitted with this bidding document, as indicated on the bid.

2.1.1 Bid security, if required, shall be in the amount specified on the bid. The bid security must be scanned and attached to the "Response Attachments" section of your response or it can be faxed to the Purchasing Division at 402-441-6513. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8th St., Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing.

2.1.2 If bid security is not received in the office of the Purchasing Division as stated above, the vendor may be determined to be non-responsive.

2.2 If alternates are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.

2.3 Such bid security will be returned to the unsuccessful Bidders when the award of bid is made.

2.4 Bid security will be returned to the successful Bidder(s) as follows:

2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the City.

2.4.2 For all other contracts: upon approval by the City of the executed contract and bonds.

2.5 City shall have the right to retain the bid security of Bidders to whom an award is being considered until either:

2.5.1 A contract has been executed and bonds have been furnished.

2.5.2 The specified time has elapsed so that the bids may be withdrawn.

2.5.3 All bids have been rejected.

2.6 Bid security will be forfeited to the City as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this bidding document:

2.6.1 If the Bidder fails or refuses to enter into a contract on forms provided by the City, and/or if the Bidder fails to provide sufficient bonds or insurance within the time period as established in this bidding document.

3. BIDDER'S REPRESENTATION

3.1 Each Bidder by electronic signature and submitting a bid, represents that the Bidder has read and understands the bidding documents, and the bid has been made in accordance therewith.

3.2 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bidding documents.

4. CLARIFICATION OF BIDDING DOCUMENTS

4.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the bidding documents.

4.2 Bidders desiring clarification or interpretation of the bidding documents for formal bids shall make a written request which must reach the Purchasing Agent at least five (5) calendar days prior to the date and time for receipt of formal bids.

4.3 Changes made to the bidding documents will be issued electronically. All vendors registered for that bid will be notified of the addendum. Subsequent Bidders will only receive the bid with the addendum included.

4.4 Oral interpretations or changes to the bidding documents made in any manner other than written form will not be binding on the City; and Bidders shall not rely upon such interpretations or changes.

5. ADDENDA

5.1 Addenda are instruments issued by the City prior to the date for receipt of bids which modify or interpret the bidding document by addition, deletion, clarification or correction.

5.2 Addenda notification will be made available to all registered vendors immediately via e-mail for inspection on-line.

5.3 No formal addendums will be issued later than forty-eight (48) hours prior to the date and time for receipt of formal bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.

6. INDEPENDENT PRICE DETERMINATION

6.1 By signing and submitting this bid, the Bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder prior to bid opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. ANTI-LOBBYING PROVISION

7.1 During the period between the bid advertisement date and the contract award, Bidders, including their agents and representatives, shall not lobby or promote their bid with the Mayor, any member of the City Council, or City staff except in the course of City sponsored inquiries, briefings, interviews, or presentations, unless requested by the City.

8. BRAND NAMES

8.1 Wherever in the specifications or bid that brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.

8.2 It is the Bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the City that said item is equal to, or better than, the product specified.

8.3 Bids for alternate items shall be stated in the appropriate space on the e-bid form, or if the proposal form does not contain blanks for alternates, Bidder MUST attach to its bid document on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation.

8.4 The Bidder must indicate any variances by item number from the bidding document no matter how slight.

8.5 If variations are not stated in the bid, it will be assumed that the item being bid fully complies with the City's bidding documents.

9. DEMONSTRATIONS/SAMPLES

9.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the City.

9.2 Such demonstration can be at the City delivery location or a surrounding community.

9.3 If items are small and malleable, the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by the City of acceptable goods. The Bidder must indicate how samples are to be returned.

10. DELIVERY (Non-Construction)

10.1 Each Bidder shall state on the bid the date upon which it can make delivery of all equipment or merchandise.

10.2 The City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the bid.

10.3 All bids shall be based upon **inside** delivery of the equipment/ merchandise F.O.B. to the City at the location specified by the City, with all transportation charges paid.

10.4 At the time of delivery, a designated City of Lincoln employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

11. WARRANTIES, GUARANTEES AND MAINTENANCE

11.1 Copies of the following documents, if requested, shall accompany the bid proposal for all items being bid:
- 11.1.1 Manufacturer's warranties and/or guarantees.
- 11.1.2 Bidder's maintenance policies and associated costs.

11.2 As a minimum requirement of the City, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the City. Replacement parts of defective components shall be shipped at no cost to the City. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder.

12. ACCEPTANCE OF MATERIAL

12.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.

12.2 Material delivered under this proposal shall remain the property of the Bidder until:
- 12.2.1 A physical inspection and actual usage of the material is made and found to be acceptable to the City; and
- 12.2.2 Material is determined to be in full compliance with the bidding documents and accepted bid.

12.3 In the event the delivered material is found to be defective or does not conform to the bidding documents and accepted bid, the City reserves the right to cancel the order upon written notice to the Bidder and return materials to the Bidder at Bidder's expense.

12.4 Awarded Bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the City of Lincoln, Nebraska, as required by the bidding documents or purchase orders.

12.5 Awarded Bidder's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

13. BID EVALUATION AND AWARD

13.1 The electronic signature shall be considered an offer on the part of the Bidder. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.

13.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each Bidder so agrees in submitting the bid.

13.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.

13.4 The bid will be awarded to the lowest responsible, responsive Bidder whose bid will be most advantageous to the City, and as the City deems will best serve the requirements and interests of the City.

13.5 The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities in bids; such as shall best serve the requirements and interests of the City.

13.6 In order to determine if the Bidder has the experience, qualifications, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by the City. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.

13.7 The City reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the bid incomplete, indefinite or ambiguous.

13.8 Any governmental agency may piggyback on any contract entered into from this bid.

14. INDEMNIFICATION

14.1 The Bidder shall indemnify and hold harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Bidder, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless the City of Lincoln for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.

14.2 In any and all claims against the City or any of its members, officers or employees by an employee of the Bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Bidder or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

15. TERMS OF PAYMENT

15.1 Unless stated otherwise, the City will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

16. LAWS

16.1 The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this bid and any contract reached as a result of this process.

16.2 Bidder agrees to abide by all applicable local, state and federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

17. EQUIPMENT TAX ASSESSMENT

17.1 Any bid for public improvement shall comply with Nebraska Revised Statute Sections 77-1323 and 77-1324. Indicating; every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

18. AFFIRMATIVE ACTION

18.1 The City of Lincoln Purchasing Division provides equal opportunity for all Bidders and encourages minority businesses and women's business enterprises to participate in our bidding process per the Lincoln Municipal Code Chapter 11.

19. LIVING WAGE

19.1 The Bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.

20. INSURANCE

20.1 All Bidders shall take special notice of the insurance provisions required for all City contracts (see *Insurance Requirements for All City Contracts*).

21. EXECUTION OF AGREEMENT

21.1 Depending on the type of service provided, one of the following three (3) methods will be employed. The method applicable to this contract will be checked below:

____ a. The contract shall consist of a **PURCHASE ORDER** and a copy of the Bidder's bid response (or referenced bid number) attached and that the same, in all particulars, becomes the agreement and contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents. Items not awarded, if any, have been deleted.

_X_ b. The contract shall consist of a **YEARLY AGREEMENT** and a copy of the Bidder's bid response attached and that the same, in all particulars, becomes the agreement and contract between the parties hereto. That both parties thereby accept and agree to the terms and conditions of said bid documents. Items not awarded, if any, have been deleted.

_____ c. Three (3) copies of the **CONTRACT,** unless otherwise noted.

1. City will furnish three (3) copies of the Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance, surety bonds properly executed, and Contract signed with the date of signature shall be attached.
2. The prepared documents shall be delivered to the City within 10 days (unless otherwise noted).
3. The City will sign the Contract, insert the date of signature at the beginning of the Contract, prepare an Executive Order to go the Mayor for signature.
4. Upon approval and signature from the Mayor, the City will return one copy to the successful Bidder.

22. TAXES AND TAX EXEMPTION CERTIFICATE

22.1 The City is generally exempt from any taxes imposed by the state or federal government. A Tax Exemption Certificate will be provided as applicable.

23. CITY AUDIT ADVISORY BOARD

23.1 All parties of any City agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make Available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/order, as allowed by law.

24. **E-VERIFY**

24.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

INSURANCE REQUIREMENTS
FOR ALL CITY CONTRACTS

1. GENERAL PROVISIONS

A. **Indemnification.** The Contractor shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including attorney's fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Contractor, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Contractor to indemnify or hold harmless the City of Lincoln for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.

B. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to Protect Contractor and City against all liabilities and hazards as provided in this article throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under this Section and such insurance has been approved by the City Attorney for the City of Lincoln, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.

C. **Occurrence Basis Coverage.** All insurance shall be provided on an ***occurrence basis*** and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.

D. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City Attorney.

E. **Certificates Showing Coverage.** All certificates of insurance shall be filed with the City Attorney, and may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show the City of Lincoln as additional insured, including by specific endorsement where necessary, as indicated in the following requirements. Such certificate shall specifically state that the related insurance policies are to be endorsed to require the insurer to provide the City of Lincoln thirty days, notice of cancellation, non-renewal or any material reduction in the stated amounts or limits of insurance coverage.

F. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

2. INSURANCE REQUIREMENTS

A. **Scope of Required Coverage**. The Contractor shall take out and maintain during the life of Contract such insurance in the forms and minimum amounts as specified in this Article and as will protect Contractor and City from the following claims arising out of or resulting from or in connection

with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(1) Claims under workers' compensation, disability benefit, or other employee benefit acts;

(2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;

(3) Claims customarily covered under personal injury liability coverage;

(4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;

(5) Claims arising out of ownership, maintenance or use of any motor vehicle;

(6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

B. **Worker's Compensation Insurance and Employer's Liability Insurance**. The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees.

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	**Listing**	**Min Amt**	**Notes**
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	$500,000	each accident
	Bodily Injury by disease	$500,000	each employee
	Bodily Injury	$500,000	policy limit

C. **Commercial General Liability Insurance.**

(1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below. Any other exclusions that operate to contradict or materially alter the standard exclusions shall be specifically listed on the certificate of insurance and shall be subject to the prior written approval of the City Attorney.

Coverage	Min Amt	Notes
General	$2,000,000	Aggregate
Products and Completed Operations	$2,000,000	Aggregate
Personal and Advertising Injury	$1,000,000	
Each Occurrence	$1,000,000	
Fire Damage Limit	$ 100,000	any one fire
Medical Damage Limit	$ 10,000	any one person

(2) The required Commercial General Liability Insurance shall also include the following:

- Coverage for all premises and operations
- Endorsement to provide the general aggregate per project endorsement
- Personal and advertising injury included
- Operations by independent contractors included
- Contractual liability coverage included
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
- Contractual Liability coverage shall include contractually assumed defense costs in addition to any policy limits.

(3) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer).

(4) City may at its sole option, and in lieu of being additional insured on the Contractor's policy, by written requirement in the Special Provisions or by written change order, require Contractor to provide a separate Owner's Protective liability policy. The premium cost to obtain such insurance shall be as paid as provided in the Special Provision or change order, with any related cost savings as reasonably determined by the City being reimbursed or paid to the City.

D. Vehicle liability insurance coverage.

- The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles with specific endorsements to include contractual liability coverage and delete any fellow employee exclusion.

- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

E. Railroad Protective Liability. If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with

minimum limits for bodily injury and property damage of $2,000,000 per occurrence, $6,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

F. **Umbrella or Excess Insurance.** The Contractor shall provide Umbrella or Excess insurance coverage with minimum coverage limits of $3,000,000 each occurrence and aggregate.

G. **City included as Insured on Contractor's Policy – Endorsements required.**
The Contractor shall provide adequate written documentation, including applicable ACORD certificates, declarations pages or other acceptable policy information demonstrating that the City is included as an additional insured along with the Contractor with respect to all of the coverages required in this "Section 2A Insurance Requirements," except for applicable Worker's Compensation coverage, to include all work performed for the City and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The documentation or endorsement shall specifically include the city as an additional insured for purposes of Products and Completed Operations. The inclusion of the City as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for the City, whether on an excess, contributory or other basis regardless of any other insurance coverage available to the City.

3. CONTRACTOR'S INDEMNITY – CONTRACTUAL LIABILITY INSURANCE

A. To the same extent as specified for minimum coverage requirements in Section 2 above, the required insurance shall include contractual liability coverage to include indemnification and hold harmless agreements and provisions in the related Contract Documents, specifically including the following provision:

(1) To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the City, its officers, agents, employees, volunteers and consultants from and against any and all claims, damages, losses, costs, and expenses, including but not limited to attorney's fees and costs arising out of or related to the Contract or the Contractor's activities, errors, or omissions related to the Contract including liabilities or penalties imposed by applicable, law, rule or regulation in connection therewith; provided that such claims, damages, losses, costs, and expenses, including but not limited to attorney's fees and costs:

- is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use therefrom, and

- is caused in whole or in part by any act or omission of the Contractor, any subcontractor, agent, officer, employee, or assigns of the same or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in whole or in part by a party indemnified hereunder.

(2) Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against the City, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.

C. The obligations of indemnification herein shall not include or extend to:

(1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to the City and related to the Contract; and

(2) Any claims arising out of the negligence of the City to the extent the same is the sole and proximate cause of the injury or damage so claimed.

D. In the event of any litigation of any such claims shall be commenced against the City, Contractor shall defend the same at Contractor's sole expense upon notice thereof from the City. Contractor shall notify the insuring company that the City reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of the City without the express written consent of the City.

4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.

A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.

B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against the City.

5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.

A. The Contractor shall promptly notify the City in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to the City shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.

B. In the event the City receives a claim or otherwise has actual knowledge of an any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, the City shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however the City shall have no duty to inspect the project to obtain such knowledge, and provided further that the City's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

6. PROPERTY INSURANCE/ BUILDER'S RISK.

A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until the City completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of the City, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be $5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.

B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for City's related costs and expenses (as owner) including labor required as a result of such loss.

C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.

D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by the City.

COMMERCIAL GRINDING OF WOOD PRODUCTS AND YARD WASTE

FOX BROS. HAY CO. INC.

STEVE FOX
1-800-301-3320

Explanation of grinding rates for bid #10-054

1. Grinding of 5000 tons of tree waste and clean wood waste.
   43 tons per hour at $373.00 per hour

2. Grinding of 150 tons of Christmas tree waste.
   43 tons per hour at $373.00 per hour

3. Grinding of Organic Waste.
   35 tons per hour at $373.00 per hour

4. Grinding of Tree Waste Resulting from Natural Disaster
   50 tons per hour at $383.00 per hour

Shirley Fox

P.O. BOX 586 - O'NEILL, NE 68763 - OFFICE: 402-336-3320 - VOICE MAIL: 1-888-529-7250