



## **Agenda Commentary**

**Item Title/ Subject:** Consider Agreement with SWODA to administer the CDBG grant and PAC Filter Project at Clinton Lake Water Treatment Plant.

**Staff Source:** Gene McCullough, Acting/Interim City Manager

**Date:** September 15, 2020

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**History/Background Information:** The City of Clinton has accepted the CDBG grant for the PAC Filter Project at the Lake Treatment Plant.

**Subject Summary:** The agreement, for \$28,000, commits SWODA to help the City of Clinton administer the project in a manner that will adhere to the grant's guidelines, including helping with bid documentation and bid process.

**Recommendation:**

**Price/Cost:** \$28,000, which may be withheld from the grant amount, going directly to SWODA for payment.

**CDBG - ADMINISTRATIVE CONTRACT AGREEMENT  
PART I  
SUMMARY**

<b>Municipality Name and Address:</b>	<b>Contracting Agency Name and Address:</b>
City of Clinton P.O. Box 1177 Clinton, Oklahoma 73601-1177	South Western Oklahoma Development Authority P.O. Box 569 Burns Flat, Oklahoma 73624-0569

**Contract Title:** Community Development Block Grant

**Contract Number:** **17852 CDBG 20**

**Contract Period:** August 3, 2020 through August 2, 2022

**Project Description:** **CLINTON LAKE WATER TREATMENT PROJECT**

**Scope of Services:** The Contractor agrees to perform administrative consulting services as specified in the SCOPE OF SERVICE FOR CDBG GRANT ADMINISTRATOR until successful completion of the Community Development Block Grant awarded to the City of Clinton, Oklahoma.

**Compensation and Method of Payment:** The City agrees to pay the Contractor **\$28,000.00** for administering the CDBG contract. The total sum of the contract shall not exceed **\$28,000.00** unless additional fees have been negotiated and approved by both parties. The City shall reimburse the Contractor for stated services

**Agreement Component:** Part I – Contract Summary and Signatures  
Part II – General Terms and Conditions  
Part III – Scope of Service for CDBG Grant Administrator

**EXECUTION OF CONTRACT – SIGNATURES**

**EXECUTED BY:**

**CITY OF CLINTON,  
OKLAHOMA**

\_\_\_\_\_  
David Berrong, Mayor

\_\_\_\_\_  
Date

**EXECUTED BY:**

**SOUTH WESTERN  
OKLAHOMA DEVELOPMENT  
AUTHORITY**

\_\_\_\_\_  
Debora Glasgow, Executive Director

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Signature

**(CITY SEAL)**

## **PART II - GENERAL TERMS AND CONDITIONS**

This Agreement between the City of Clinton, Oklahoma, hereinafter referred to as the City, and South Western Oklahoma Development Authority (SWODA), hereinafter referred to as the Contractor, for the considerations set forth, provides as follows:

### **Subcontract Notification Provision**

None of the work and services covered by this contract may be sub-contracted by this contract without written consent of the City. In no event will any sub-contract incur any obligation for the City.

### **Modification**

This contract is subject to such modification as may be required by federal, state, or local laws or regulations. The work and services given, and the total contract amount may be modified only upon written agreement of both parties.

### **Interpretation, Remedies**

In the event the parties fail to agree on changes or interpretations of this contract, the decision of the City shall prevail.

In the event of any disagreement between the Contractor and the City relating to the technical competence of the work and services being performed, and conformity to the requirements of this contract, the decision of the City shall prevail.

Neither acceptance nor payment by the City shall be construed to constitute waiver of any remedies for any default or breach by the Contractor that exists then or occurs later.

### **Severability Clause**

Any provision under this contract or its application to any person or circumstance held invalid by any court of competent jurisdiction shall not affect any other provision of this contract or its application that can be given effect without the invalid provision or application.

### **Hold Harmless Clause**

The Contractor shall, without limitations placed on such by state law, save harmless the City, its agents, officers and employees from all claims and actions, and all expenses defending the same, that are brought as a result of injury or damage sustained by any person or property in consequence of any act or omission by the Contractor. The Contractor shall, within limitations placed on such entities by state law, the City, its agents, officers and employees from any claim or amount recovered under Worker's Compensation law or any other law. In any agreement with any subcontractor or any agent for such Contractor, the Contractor shall specify that such subcontractors or agents shall hold harmless the City, its agents, officers and employees for all hereinbefore described expenses, claims, actions, or amounts recovered.

**Personnel**

The Contractor represents that he/she has, or will secure at his/her own expense, all personnel required to perform the services under this contract. Said personnel shall not be employees of or have any contractual relationship with the City.

The Contractor has full responsibility for payment of worker's compensation insurance, unemployment insurance, social security, state and federal income tax, and any other deductions required by law for its employees.

All services required hereunder will be performed by the Contractor or under the Contractor's supervision. All personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such service.

**Termination of Contract for Cause**

If, through any cause, the Contractor shall fail to fulfill obligations of this contract in a timely manner, or if the Contractor shall violate any covenants, agreements, or stipulations of this contract the City shall thereupon have the right to terminate this contract by giving written notice to the Contractor.

Written notice shall be rendered at least thirty (30) days before the effective date of such termination. In such event, the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed under the contract.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the contract by the Contractor. The City may withhold any payments to the Contractor until the exact amount of damages due the City from the Contractor is determined.

**Termination for Convenience of the City**

The City may terminate this contract at any time by giving thirty (30) days notice in writing to the Contractor. If the contract is terminated by the City as provided herein, the Contractor shall be compensated for time and all allowable expenses incurred up to the termination date.

**Conflict of Interest**

No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises responsibilities concerning the planning and carrying out of the program shall have any personal financial interest, direct or indirect, in this agreement. The Contractor shall take appropriate steps to assure compliance.

**Interest of Contractor and Employees**

The Contractor affirms that he now has no interest and shall not acquire interest, either direct or indirect, in the project area or any parcels therein, or any other interest that would conflict in any manner or degree with the performance of services provided hereunder. The Contractor further affirms that no person having interest, either director or indirect, that would conflict in any manner with services provided hereunder, shall be employed.

**Reports and Information**

The Contractor, at such time and on such forms as the City may require, shall furnish the City periodic reports as it may request pertaining to work or services undertaken pursuant to the contract, costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by the contract.

The Contractor shall furnish the City narrative reports and financial reports regarding elements of this contract in the form and at such times as may be required by the Town or federal and state grantor agencies.

**Compliance with Local Laws**

The Contractor shall comply with all applicable laws, ordinances and codes of the state and local government. The Contractor shall save the City harmless from any damages arising from any tort done in performing any of the work embraced by this contract.

**Copyright**

No reports, maps, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or for the Contractor.

**Records and Audits**

The Contractor shall assist the City in pertaining all books, documents, papers, records and other material involving all activities and transactions pertaining to this contract for at least three (3) years from the date of submission of the final expenditure report or until all audit findings have been resolved, whichever is later. The Contractor shall, as often as deemed necessary by the City, permit authorized representatives of the Oklahoma Department of Commerce, the U.S. Department of Housing and Urban Development (HUD) the federal or state Department of Labor and the U.S. Comptroller General to have full access to and the right to examine all such materials.

**Anti-kickback Regulations**

The Contractor shall comply with all applicable anti-kickback regulations covered under Department of Labor Regulation 29 CFR, Part III.

**Equal Opportunity Employment**

The Contractor shall comply with the following equal opportunity requirements as part of CDBG assurances:

**a. Civil Rights Act of 1964, Title VI**

Contractor shall comply with Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall on the grounds of race, religion, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives federal financial assistance.

**b. Housing and Community Development Act of 1974, Section 109**

Contractor shall comply with Section 109 of the Housing and Community Development Act of 1974, which provides that no person in the United States shall on the grounds of race, color, religion, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded under the Act.

**c. Housing and Urban Development Act of 1968, Section 3**

Contractor shall comply with Section 3, which provides that to the greatest extent feasible, training and employment opportunities shall be made available to lower income residents of the unit of local government or metropolitan City, or (non-metropolitan City) in which the project is located, and that contracts be awarded to small businesses located within or owned in substantial part by residents of the same metropolitan area (or non-metropolitan City) as the project.

**d. Affirmative Action**

Contractor shall take affirmative action steps to contract with small and minority owned firms and women business enterprises as part of the requirements of 24 CFR Part 85.36 or 24 CFR Part 570, Sub-part J. Affirmative Action steps include, but are not limited to, the following:

1. Including small, minority and women business enterprises on solicitation lists.
2. Assuring that small, minority owned, and women business enterprises are solicited when they are potential sources.
3. When economically feasible, dividing total requirements into smaller tasks or quantities to permit maximum small, minority and women business enterprises participation.
4. Where the requirement permits, establishing delivery schedules which encourage participation by small, minority and women business enterprises.
5. Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprises of the U.S. Department of Commerce, and the local minority business development center that assists with management and technical aspects and maintains a directory of minority contractors, suppliers and vendors.
6. If and sub-contracts are to be let, requiring the prime contractor to take the affirmative steps in 1 through 5 above.

**Age Discrimination Act of 1975**

Contractor shall comply with the provisions of the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services and benefits supported by federal funds.

**Rehabilitation Act of 1973, Section 504**

Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap in any programs or activities receiving federal financial assistance.

**PART III - SCOPE OF SERVICE FOR CDBG GRANT ADMINISTRATOR**

The Contractor shall:

1. With assistance of the community help conduct public hearings. This includes, but is not limited to, such items as preparing notices, answering questions at the hearing, and conducting the hearings.
2. Prepare Environmental Review Records for all activities. Responsibilities include making a recommendation to the local governing body regarding the level of impact of the project, preparation of all public notices, preparation for request for release of funds, and compilation of adequate documentation. For activities that are not exempt from environmental assessment an environmental assessment will be prepared. If activities are exempt from environmental review, the Contractor will prepare a written finding of exemption. The finding of exemption will identify the project/s or activities that are exempt or excluded from assessment. Such documentation shall also include compliance with all other federal and state review requirements.
3. Prepare release of funds documents as required by the Oklahoma Department of Commerce.
4. Establish and maintain project files in the principle offices of the grant recipient. Project files will demonstrate compliance with federal, state and local policies and procedures. Monitor project files throughout the project to ensure completeness and accuracy.
5. Ensure the grantee has an acceptable financial management system that will manage grant funds in accordance with federal, state and local fiscal management policies and procedures.
6. Coordinate with the grantee all requests from payments to ensure draw downs are in compliance with current policies and procedures guidelines established by the Oklahoma Department of Commerce (ODOC), as well as federal policies and procedures.
7. Assist Engineer or Architect in gathering data for bid documents, supervise the bidding process and ensure compliance with state and federal regulations pertaining to the bid process.
8. Ensure Oklahoma Department of Labor Wage Decisions is obtained for projects that fall under Davis-Bacon.
9. Ensure all construction and/or procurement contracts comply with federal and state regulations. Ensure contractor and sub-contractor compliance with all applicable regulations.
10. Obtain contractor and sub-contractor clearance from the Oklahoma Department of Commerce. (Check debarred lists.)
11. When applicable, conduct on-site interviews with employees of contractors and sub-contractors to insure Davis-Bacon compliance.

12. Periodically review contractor and sub-contractor weekly payroll reports to ensure compliance with Davis-Bacon.
13. Conduct progress inspections on construction projects and certify partial payment requests.
14. Conduct final project inspection and issue certificate of final payment.
15. Assist in the preparation of final project closeout documents.