

**CITY OF SAN ANGELO  
REQUEST FOR BID**

**Construction and Facilities Maintenance**

**Auditorium Window Asbestos Abatement and Lead Paint  
Stabilization**

**RFB CFM-01-17**



City of San Angelo  
72 West College Ave.  
San Angelo, Texas 76902

**SUBMITTAL DEADLINE**

**March 17, 2017 at 2:00 PM, Local Time**



*This Table of Contents is intended as an aid and not as a comprehensive listing of the RFB package. Bidders are responsible for reading the entire RFB package and complying with all specifications.*

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**CITY OF SAN ANGELO**  
PURCHASING DIVISION  
72 West College Avenue, San Angelo, Texas 76903  
Tel: (325) 657-4219

## 1. INVITATION

### Scope of Work

The City of San Angelo is seeking pricing bids for the scraping and stabilizing of all lead-based paint and the removal of caulking and panes on the windows of the City Auditorium. All vendors must be appropriately licensed and approved by the State of Texas and will be vetted by the abatement consultant. All work must be completed no later than April 25, 2017.

### Award of Contract

The City reserves the right to accept or reject any or all quotes, and to waive any informalities or irregularities in the RFB process. The City is an equal opportunity employer.

### Acceptance of Quote Content

Before submitting a bid, each bidder shall make all investigations and examinations necessary to ascertain all conditions and requirements affecting the performance of the contract and to verify any representations made by the City upon which the bid will rely. If the bidder receives an award, failure to have made such investigation and examinations will in no way relieve the vendor from his obligation to comply in every detail with all provisions and requirements.

## 2. DEADLINE AND DELIVERY LOCATION

### Deadline

Sealed bids must be received and time stamped **on or before March 17, 2017 at 2:00 PM, Local Time**. The clock located in the Purchasing division will be the official time. All submissions received on time will be opened publicly and will be read aloud. The public is invited to attend.

*It is the sole responsibility of the submitting party to ensure that their bid is delivered by the specified deadline regardless of method chosen by the firm for delivery. Late submissions will be rejected.*

### Copies

Submit: Two (2) unbound original (binder clips acceptable) documents and one (1) electronic copy in PDF format on USB Flash Drive of all required RFB forms.

### Addressing Instructions for Sealed Envelope

All quotes and attachments must be submitted in a sealed envelope. *FAX or Email Quotes will not be accepted.*

- Top Left Hand Corner of Envelope: Business Name & Address
- Place sealed envelope in a separate delivery envelope if using a delivery service.

### Delivery Address

City of San Angelo  
Purchasing Division, RFB: CFM-01-17  
72 West College Avenue, Suite 330  
San Angelo, Texas 76903

**Please ensure that the Delivery Envelope states, "Sealed Bid Enclosed."**

### Points of Contact

<b>Candice Blake, Purchasing Specialist</b> City of San Angelo 72 W. College Ave. San Angelo, TX 76903 sapurch@cosatx.us (325) 657-4219	<b>David Knapp, Construction Manager</b> City of San Angelo 702 S. Chadbourne San Angelo, TX 76903
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## CITY OF SAN ANGELO

### PURCHASING DIVISION

72 West College Avenue, San Angelo, Texas 76903  
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### 3. EVALUATION FACTORS

It is **not** the policy of the City to purchase on the basis of low bids alone. In evaluating bids, the following considerations shall be taken into account to determine the "best value" for the City.

- a. the purchase price;
- b. the reputation of the vendor and of the vendor's goods or services;
- c. the quality of the vendor's goods or services;
- d. the extent to which the goods or services meet the City's needs;
- e. the vendor's past relationship with the City
- f. the impact on the ability of the City to comply with laws and rules relating to historically underutilized businesses;
- g. the total long-term cost to the City to acquire the vendor's goods or services; and
- h. any other relevant factor specifically listed in the request for bids and proposals.

### 4. EMPLOYMENT REQUIREMENTS AND WAGE RATES

#### General

The selected Respondent shall comply with all requirements of the prevailing wage law of the State of Texas, Texas Government Code, Chapter 2258, including the latest amendments thereto.

The selected Respondent and his Subcontractors shall pay wage rates not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work as listed in the current Davis-Bacon Wage rates.

The prevailing wage law does not prohibit payment of more than the general prevailing rate of wages.

#### Records

The selected Respondent and each Subcontractor shall keep an accurate record showing the names and occupations of all laborers, workers, and mechanics employed, together with the actual wages paid to each worker. At all reasonable hours, such records shall be open to inspection by the representatives of Owner.

Certified Payrolls are to be submitted to the City's representative weekly.

#### Penalty

If the selected Respondent or any Subcontractor fails to comply with the prevailing wage law, he shall forfeit to Owner sixty dollars (\$60.00) per day for each laborer, workman, or mechanic who is paid less than the specified rate, **pursuant to §2258.023 of the Texas Government Code.**

#### Hours of Labor

The selected Respondent shall comply with all requirements of the hours of work on public works defined by Texas Government Code **§2258.021**, including the latest amendments thereto, as an eight (8) hour work day. Violation of this provision is punishable by fine and imprisonment pursuant to **§2258.022 of the Texas Government Code.**

#### Veterans Preference

Pursuant to **Texas Government Code**, §657.004, the selected Respondent shall give preference in employment to honorably discharged veterans who were engaged in the services of the United States in time of war or conflict and who are and have been citizens of Texas for not less than five (5) years.

#### Prevailing Wage and Hour Decision

Chapter 2258 of the Texas Government Code requires contractors and subcontractors performing work on public works contracts to pay wages at a rate consistent with the rate prevailing in the area. Under federal law, the United State Department of Labor is required to maintain a prevailing Wage and Hour decision for each geographical area. Compliance with the published decision meets the requirements of the Texas Government Code.



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Additionally, all contractors and subcontractors must pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area.

If the Wage Decision lists fringe benefits, you must either provide the benefits or pay the hourly equivalent in cash in addition to the predetermined wage.

Labor classifications not appearing on the Wage Decision will be deferred to the U.S. Department of Labor (DOL) for approval.

The selected Respondent will be responsible for compliance with the applicable portion of Davis-Bacon and Related Acts and any such decision applicable at the timework is performed.

Prevailing Wage and Hour Decision

General Decision Number: TX170336 01/06/2017 TX336

Superseded General Decision Number: TX20160336

State: Texas

Construction Type: Building

Counties: Irion and Tom Green Counties in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was 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 \$10.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. 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](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/06/2017

BOIL0074-003 01/01/2014

	Rates	Fringes
BOILERMAKER.....	\$ 23.14	21.55
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ENGI0178-005 06/01/2014		

	Rates	Fringes
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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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IRON0084-011 06/01/2015

	Rates	Fringes
IRONWORKER, ORNAMENTAL.....	\$ 23.02	6.35

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\* PLUM0404-001 07/01/2016

	Rates	Fringes
PLUMBER.....	\$ 25.91	9.40

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SUTX2014-062 07/21/2014

	Rates	Fringes
BRICKLAYER.....	\$ 20.00	0.00
CARPENTER, Excludes Drywall Hanging, and Metal Stud Installation.....	\$ 13.82	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 13.76	0.00
DRYWALL HANGER AND METAL STUD INSTALLER.....	\$ 16.72	0.00
ELECTRICIAN.....	\$ 23.18	6.31
INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation).....	\$ 19.77	7.13
IRONWORKER, REINFORCING.....	\$ 12.27	0.00
IRONWORKER, STRUCTURAL.....	\$ 22.16	5.26
LABORER: Common or General.....	\$ 9.74	0.00
LABORER: Mason Tender - Brick...	\$ 11.38	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 10.58	0.00
LABORER: Pipelayer.....	\$ 12.49	2.13



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LABORER: Roof Tearoff.....	\$ 11.28	0.00
OPERATOR:		
Backhoe/Excavator/Trackhoe.....	\$ 14.25	0.00
OPERATOR: Bobcat/Skid		
Steer/Skid Loader.....	\$ 13.93	0.00
OPERATOR: Bulldozer.....	\$ 18.29	1.31
OPERATOR: Drill.....	\$ 16.22	0.34
OPERATOR: Forklift.....	\$ 14.83	0.00
OPERATOR: Grader/Blade.....	\$ 13.37	0.00
OPERATOR: Loader.....	\$ 13.55	0.94
OPERATOR: Mechanic.....	\$ 17.52	3.33
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 16.03	0.00
OPERATOR: Roller.....	\$ 12.70	0.00
PAINTER (Brush, Roller, and Spray).....	\$ 15.00	0.73
PIPEFITTER.....	\$ 25.80	8.55
ROOFER.....	\$ 13.17	0.26
SHEET METAL WORKER (HVAC Duct Installation Only).....	\$ 22.73	7.52
SHEET METAL WORKER, Excludes HVAC Duct Installation.....	\$ 15.00	0.00
TILE FINISHER.....	\$ 11.22	0.00
TILE SETTER.....	\$ 14.74	0.00
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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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

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



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



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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 SAN ANGELO**

### **PURCHASING DIVISION**

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#### **5. ADDITIONAL DOCUMENTS**

- Plans
- Lead Stabilization Specifications
- Asbestos Abatement Specifications
- Attachment 1: Construction General Conditions



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## **6. SUBMITTAL FORMS**

Submit: Two (2) unbound original (binder clips acceptable) documents and one (1) electronic copy in PDF format on USB Flash Drive of all required RFB forms listed below:

- Bid Sheet
- Authorized Signature/Contact Information
- Certificate of Pre-Start Submittals
- Certificate of Worker's Release
- Disposal Site Information
- Draft Contract

**SUBMIT ALL DOCUMENTS BEYOND THIS POINT**

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**Bid Sheet**

Description:	Unit Cost	Quantity	Extended Cost
Base Proposal – Part 1: Asbestos Abatement Removal of caulk, etc.		28 panes	
Base Proposal – Part 2: Lead Paint Stabilization Removal of lead paint, priming, painting, etc.		8 windows	
Disposal Fee for all asbestos and lead paint materials		1	
Alternate – Additional Asbestos Abatement Removal of caulk, disposal fees, etc.		20 panes	
<b>Total Cost*</b>			

**\*All price quotes must include any and all costs associated with this work. The above pricing is the maximum the City commits to paying for any contract award associated with this project.**

Vendor can **complete work by April 25, 2017** (circle one): Yes      No

Unit Cost of lead abatement per pane: \_\_\_\_\_

This quote is valid for: \_\_\_\_\_ days

Are these prices based on a purchasing cooperative contract? Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, Name of cooperative \_\_\_\_\_ Contract No \_\_\_\_\_  
(Texas DIR, TXMAS, Buyboard, etc.)

Will Vendor accept Procurement Card as a method of purchase? Yes \_\_\_\_\_ No \_\_\_\_\_ %Disc \_\_\_\_\_

Payment Terms/Discount (if any): \_\_\_\_\_

**Authorized Signature/Contact Information (Attach IRS W-9 Form)**

*Submissions that are not signed and dated or that do not comply with all of requirements herein, may be considered non-responsive and may be rejected.*

I certify items quoted are in exact accordance with specification, unless noted and furthermore that this certifies that prices in this quote have been arrived at independently, without consultation or agreement with any competitor for restricting competition.

Firm Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State Zip Code: \_\_\_\_\_

Contact/Authorized Signature: \_\_\_\_\_

Print Name/Title: \_\_\_\_\_ Date: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_



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**Addendum Acknowledgement**

Receipt is hereby acknowledged of the following addenda to the Contract documents.

Addendum No. 1 dated _____	Received _____
Addendum No. 2 dated _____	Received _____
Addendum No. 3 dated _____	Received _____
Addendum No. 4 dated _____	Received _____
Addendum No. 5 dated _____	Received _____
Addendum No. 6 dated _____	Received _____

Please Print

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State Zip Code



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## Disclosure of Certain Relationships

### NOTICE TO VENDORS

**Effective January 1, 2006**, Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local governmental entity make certain disclosures concerning any affiliation or business relationship that might cause a conflict of interest with the local governmental entity. The provisions of Chapter 176 and the Form CIQ questionnaire that you must complete, if applicable, to comply with this new law, are available and explained in more detail at the Texas Ethics Commission website at [https://www.ethics.state.tx.us/filinginfo/conflict\\_forms.htm](https://www.ethics.state.tx.us/filinginfo/conflict_forms.htm).

A current list of City of San Angelo and City of San Angelo Development Corporation officers is available in the office of the City of San Angelo City Clerk, Room 201 of City Hall or on the City's website at <http://cosatx.us>. If you are considering doing business with the City of San Angelo or the City of San Angelo Development Corporation and have an affiliation or business relationship that requires you to submit a completed Form CIQ, it must be filed with the records administrator (City Clerk) of the City of San Angelo not later than the 7<sup>th</sup> business day after the date you become aware of facts that require the form to be filed. See Section 176.006, Texas Local Government Code. It is a Class C misdemeanor to violate this provision.

By Submitting a response to a City of San Angelo or City of San Angelo Development Corporation Request for Bid proposals, Request for Bids, or Request for Qualifications or by conducting business with either of those two entities, you are representing that you are in compliance with the requirements of Chapter 176 of the Texas Local Government Code.

Purchasing Manager

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### **LOCAL GOVERNMENT OFFICERS OF THE CITY OF SAN ANGELO As defined by Chapter 176 of the Texas Local Government Code (Revised 03/02/17)**

For purposes of completion of the required Conflict of Interest Questionnaire for the City of San Angelo (required by all Vendors who submit bids/proposals), Local Government Officers are:

#### **City of San Angelo City Council:**

Mayor: Dwain Morrison, Mayor  
Councilmembers: Vacant, SMD 1  
Marty Self, SMD 2  
Harry Thomas, SMD 3  
Lucy Gonzales, SMD 4  
Lane Carter, SMD5  
Charlotte Farmer, SMD 6 (Mayor Pro Tem)  
City Manager: Daniel Valenzuela

#### **City of San Angelo Development Corporation officers are:**

Tommy Hiebert - President  
Edward Carrasco - First Vice President  
Juan Flores - Second Vice President  
Scott Tankersley - Director  
Todd R. Kolls - Director  
Richard Crisp - Director  
John Edward Bariou, Jr. - Director  
Executive Director: Roland Peña





**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

**FORM CIQ**

**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



## **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

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.



## CITY OF SAN ANGELO

### PURCHASING DIVISION

72 West College Avenue, San Angelo, Texas 76903

Tel: (325) 657-4219

#### Debarment and Suspension Certification

- (1) The prospective primary vendor certifies to the best of its knowledge and belief that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) Have not within a three-year period preceding this 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, 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 governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (2) Where the prospective primary vendor is unable to certify to any of the statements in this certification, such prospective primary vendor shall attach an explanation to this bid proposal.

**Business Name** \_\_\_\_\_

\_\_\_\_\_  
**Date**

**By:** \_\_\_\_\_  
**Name and Title of Authorized Representative**

\_\_\_\_\_  
**Signature of Authorized Representative**



## CITY OF SAN ANGELO

### PURCHASING DIVISION

72 West College Avenue, San Angelo, Texas 76903

Tel: (325) 657-4219

## Debarment and Suspension Certification

### INSTRUCTIONS

1. By signing and submitting this proposal, the prospective vendor is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective vendor shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the determination whether to enter into this transaction. However, failure of the prospective vendors to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the City of San Angelo determined to enter into this transaction. If it is later determined that the prospective vendor knowingly rendered an erroneous certification, in addition to other remedies available, the City of San Angelo may terminate this transaction for cause.
4. The prospective vendor shall provide immediate written notice to the City of San Angelo to which this proposal is submitted if at any time the prospective vendor learns that its certification was erroneous when submitted or has become erroneous because of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "vendor," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549(13 CFR Part 145). You may contact the City of San Angelo for assistance in obtaining a copy of these regulations.
6. The prospective vendor agrees by submitting this proposal that, should the proposed transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the City of San Angelo.
7. The prospective vendor further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment and Suspension" provided by the City of San Angelo, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A vendor in a covered transaction may rely upon a certification of a prospective vendor in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A vendor may decide the method and frequency by which it determines the ineligibility of its principals. Each vendor may, but is not required to, check the Non-procurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a vendor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a vendor in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the City of San Angelo, the City of San Angelo may terminate this transaction for cause.



## CITY OF SAN ANGELO

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Tel: (325) 657-4219

#### Certificate of Pre-Start Submittals

Contractor Name \_\_\_\_\_ Date \_\_\_\_\_

Activity/Type and Quantity of ACBM removed \_\_\_\_\_

Project Address 72 West College Avenue, San Angelo, Texas 76903

Area where work will be conducted \_\_\_\_\_

Requirements for work to proceed:

Contractor's TDSHS License No. \_\_\_\_\_ Expiration Date \_\_\_\_\_

Contractor's Certificate of Insurance ☐ Yes ☐ No

Waste Transporter's TDSHS License No. \_\_\_\_\_ Expiration Date \_\_\_\_\_

Waste Transporter's Certificate of Insurance ☐ Yes ☐ No

MSDS Sheets for Supplies ☐ Yes ☐ No

Respirator Program ☐ Yes ☐ No

Safety Program ☐ Yes ☐ No

Hazardous Communications Program ☐ Yes ☐ No

Job Specifications and all revisions ☐ Yes ☐ No

TDSHS Notification ☐ Yes ☐ No

Abatement Workers' Certifications ☐ Yes ☐ No

Project Manager Signature \_\_\_\_\_

Printed Name \_\_\_\_\_





## CITY OF SAN ANGELO

### PURCHASING DIVISION

72 West College Avenue, San Angelo, Texas 76903

Tel: (325) 657-4219

#### Certificate of Worker's Release (Per Worker)

Owner: City of San Angelo

Project: Auditorium Window Asbestos Abatement and Lead Paint Stabilization

Address: 72 West College Avenue; San Angelo, Texas

Employee Name: \_\_\_\_\_

Employee SSN: \_\_\_\_\_

In consideration of my employment by \_\_\_\_\_ (Contractor) in conjunction with the removal and proper disposal of asbestos containing materials, or other work in asbestos-contaminated work area(s), and for good, valuable, and sufficient consideration, herewith exchanged, the undersigned does hereby acknowledge, warrant, represent, covenant, and agree as follow:

- (1) I acknowledge and understand that I have been or will be employed in connection with the removal of, proper disposal of, or other work in asbestos-contaminated work area. I acknowledge that I have been advised of and understand the dangers inherent in handling asbestos and breathing asbestos dust, including, but not limited to, THE FACT THAT ASBESTOS CAN CAUSE ASBESTOSIS AND IS A KNOW CARCINOGEN AND CAN, THEREFORE, CAUSE VARIOUS TYPES OF CANCER.
- (2) I acknowledge and understand that ANY CONTACT WITH ASBESTOS, WHETHER IT CAN BE SEEN OR NOT, MAY CAUSE ASBESTOSIS AND VARIOUS FORMS OF CANCER, WHICH MAY NOT SHOW UP FOR MANY YEARS, and I covenant and agree faithfully to take all precautions required of me.
- (3) I hereby warrant and represent that I have not been disabled, laid-off, or compensated for damages due to asbestosis or any other cancer disease.
- (4) I represent that I can read the English language, or that I have had someone read this instrument to me, and I understand the meaning of all the provisions contained herein.

Employee: \_\_\_\_\_  
(Signature and Date)

I hereby certify and represent that the above information is correct and further certify that documentation of the above represented facts will be provided to the Owner, if so directed. This Certificate of Worker's Release is valid for the duration of the Project.

Contractor: \_\_\_\_\_  
(Signature and Date)

Name: \_\_\_\_\_

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

Witness: \_\_\_\_\_  
(Signature and Date)



**CITY OF SAN ANGELO**  
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**Disposal Site Information**

Owner: City of San Angelo

Project: Auditorium Window Asbestos Abatement and Lead Paint Stabilization

Address: 72 West College Avenue, San Angelo, Texas

The proposed disposal site for use in disposing of asbestos-containing waste and/or asbestos-contaminated debris meets or exceeds all current federal and state regulatory requirements.

Landfill Name: \_\_\_\_\_

Owner: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone: \_\_\_\_\_

I hereby certify and represent that the above information is correct and further certify that documentation of the above represented facts will be provided to the Owner, if so directed.

Contractor: \_\_\_\_\_

Name: \_\_\_\_\_

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

\_\_\_\_\_

(Signature and Date)



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**Draft Contract**

**PERFORMANCE CONTRACT FOR  
AUDITORIUM WINDOW ASBESTOS ABATEMENT AND LEAD PAINT  
STABILIZATION  
RFB No. CFM-01-17**

This Contract is entered into by and between the City of San Angelo, a Texas home-rule municipal corporation, (“City” or “Owner”) and \_\_\_\_\_, a Texas for profit corporation, (“Contractor”), effective as of the \_ day of \_\_\_\_\_, 2017 (Effective Date).

**RECITALS**

**A.** The City has issued a Request for Bids Construction and Facility Maintenance, Auditorium Window Asbestos Abatement and Lead Paint Stabilization, No. CFM-01-17 (“RFB No. CFM-01-17”) for the scraping and stabilizing of all lead-based paint and the removal of caulking and panes on the windows of the City Auditorium located at 72 W. College Ave., San Angelo (“Work”); and

**B.** Contractor’s bid, in response thereto, has been selected as the bid providing the best value to City for the provision of Work; and

**C.** Provider’s representative executing this Agreement on behalf of Provider has full and complete authority of Provider’s governing body to bind Provider. The parties intend that this Agreement constitute the legal, valid and binding obligation of Provider and that this Agreement be enforceable in accordance with its terms.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises herein contained, Contractor and City agree as follows:

**TERMS**





1. **RECITALS AND INCORPORATIONS:** The recitals are true and correct and are hereby incorporated into and made a part of this Contract. The Contract Documents are identified at Section 7, and are incorporated as part of this Contract as therein provided.

2. **STATEMENT OF WORK:**

A. Contractor agrees to perform all Work and furnish all of the material, supplies, tools, equipment, labor, site preparation, mobilization, preparatory clean up work, lay down, bagging, and the removal or abatement of all identified asbestos to include: window caulk and lead paint acoustic, ceiling plaster, adhered ceiling tiles with brown glue dots, drywall, base cove, floor tile with mastic, and resilient sheet flooring with mastic, and other services necessary for the completion of Work described in RFB No. CFM-01-17. Removal and disposal of asbestos shall be by competent person; trained, knowledgeable and qualified in the techniques of abatement, handling and disposal of asbestos containing and asbestos contaminated materials and the subsequent cleaning of contaminated areas. Contractor agrees to complete all Work as specifically described and indicated under the special terms and conditions set forth in the Contract Documents, which by this reference is incorporated herein by reference in Section 7 of this Contract. Contractor shall comply with all applicable Federal, State and Local regulations.

B. Contractor represents and warrants to City that: (i) it possesses all qualifications, licenses and expertise required under the specifications and price quote for the performance of Work; (ii) it is not delinquent in the payment of any sums due City, including payment of permit fees, occupational licenses, etc., nor in the work of any obligations to City; (iii) all personnel assigned to perform Work are and shall be, at all times during the term hereof, fully qualified and trained to perform the tasks assigned to each; and (iv) Work will be performed in the manner described in the Contract Documents.

3. **TIME OF PERFORMANCE:** Contractor agrees to substantially complete Work within \_\_\_\_\_ consecutive business days (“Contract Time”) after the date Work commences as established by the Notice to Proceed. Upon Contractor’s receipt of the Notice to Proceed from City, Contractor will commence and complete Work in accordance with specifications as set out in Contract Documents. Contractor further agrees that approval for beginning Work on the project will



not be given and that Work will not start until all required bonds and insurance certificates specified in the bid documents have been received and approved by City.

4. **LIQUIDATED DAMAGES:** City and Contractor recognize that the time of performance is of the essence in this Contract and that City will suffer financial loss if Work is not substantially complete within the time specified in Section 3 above, plus any extensions thereof allowed. Both parties hereto also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by City if Work is not substantially complete on time. Accordingly, instead of requiring such proof, City and Contractor agree that a reasonable estimate of liquidated damages for any delay (but not as a penalty) would be for Contractor to pay City SEVEN HUNDRED DOLLARS AND 00/100 (\$700.00) for each calendar day that expires after the time specified in Section 3 until Work is substantially complete. Therefore, Contractor shall pay City the aforesaid liquidated damages for each calendar day that expires from and after the time specified in Section 3. until Work is substantially complete.

5. **CONTRACT PRICE:** City shall pay to Contractor for performance of Work embraced in this Contract, and Contractor shall accept as full compensation therefore, the price of \_\_\_\_\_ AND 00/100 DOLLARS (\$\_\_\_\_\_.00), subject to adjustment only as provided by approved change order, for all Work covered by and included in the Contract award; payment thereof to be made in current funds in the manner provided in Section 6. Payment Procedures.

6. **PAYMENT PROCEDURES:** Within thirty (30) days of completion and acceptance of Work by City, and in accordance with the Owner's Construction General Conditions and Contract Documents, City shall pay the Contract Price to Contractor.

7. **CONTRACT DOCUMENTS:** The following documents from City are incorporated herein by reference for all purposes, as if fully set out verbatim:

- Request for Bid Construction and Facilities Maintenance, Auditorium Window Asbestos Abatement and Lead Paint Stabilization RFB No. CFM-01-17, attached hereto as **Exhibit "A"**;



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- Contractor's response, attached hereto s **Exhibit "B"**;
- All of the documents, conditions, specifications, technical data, drawings, requirements and addenda comprising said request for quotes as of the time this Contract is entered into by Contractor and City; and
- City of San Angelo Owner's Construction General Conditions, **Attachment 1**, hereto and referred to in this Contract as "General Conditions". (**By the execution hereof Contractor acknowledges that Contractor has received a copy of Owner's Construction General Conditions, Attachment 1, has had opportunity to review the same, is familiar with the provisions therein and agrees that Attachment 1 constitutes a part of this Agreement as if set forth herein verbatim.**)

**8. REPRESENTATIONS OF CONTRACTOR:** In order to induce City to enter into this Contract, Contractor makes the following representations to City:

**A.** Contractor has familiarized itself with the nature and extent of the Contract Documents, Work, and with all local conditions and federal, state and local laws.

**B.** Contractor has made, or caused to be made, examinations and investigations of information as it deems necessary for the performance of Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations or similar data are, or will be required by Contractor for such purposes.

**C.** Contractor has given City advanced written notice of all conflicts, errors, or discrepancies that it has discovered in Contract Documents prior to bidding and the written resolution thereof by City is acceptable to Contractor.

**D.** Contractor is skilled and experienced to responsibly perform the type of Work described in Contract Documents in a timely manner.

**9. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS:** Contractor understands that contracts between private entities and local governments are subject to certain laws and regulations, including laws pertaining to public records, conflict of interest, recordkeeping, etc.



City and Contractor agree to comply with and observe all applicable laws, codes and ordinances as they may be amended from time to time.

**10. OWNERSHIP OF DOCUMENTS:** Contractor understands and agrees that any information, document, report or any other material whatsoever which is given by City to Contractor or which is otherwise obtained or prepared by Contractor pursuant to or under the terms of this Contract is and shall at all times remain the property of City. Contractor agrees not to use any such information, document, report or material for any other purpose whatsoever without the written consent of City, which may be withheld or conditioned by City in its sole discretion.

**11. AUDIT AND INSPECTION RIGHTS:**

**A.** City may, at reasonable times, and for a period of up to three (3) years following the date of final payment by City to Contractor under this Contract, audit, or cause to be audited, those books and records of Contractor which are related to Contractor's performance under this Contract. Contractor agrees to maintain all such books and records at its principal place of business for a period of three (3) years after final payment is made under this Contract.

**B.** City may, at reasonable times during the term hereof, inspect Contractor's facilities and perform such tests, as City deems reasonably necessary, to determine whether the goods or services required to be provided by Contractor under this Contract conform to the terms hereof. Contractor shall make available to City all reasonable facilities and assistance to facilitate the performance of tests or inspections by City representatives. All tests and inspections shall be subject to, and made in accordance with, the provisions of the City of San Angelo Code of Ordinances, as same may be amended or supplemented from time to time.

**12. AWARD OF CONTRACT:** Contractor represents and warrants to City that it has not employed or retained any person or company employed by City to solicit or secure this Contract and that it has not offered to pay, paid, or agreed to pay any person any fee, Council, percentage, brokerage fee, or gift of any kind contingent upon or in connection with the award of this Contract.

**13. PUBLIC RECORDS:** Contractor understands that the public shall have access, at all reasonable times, to all documents and information pertaining to City contracts, and agrees to allow



access by City and the public to all documents subject to disclosure under applicable law. Contractor's failure or refusal to comply with the provisions of this section shall be considered a material breach of this Contract and result in the immediate termination of this Contract by City.

**14. DEFAULT:** If Contractor fails to comply with any term or condition of this Contract, or fails to perform any of its obligations hereunder, then Contractor shall be in default. Upon the occurrence of a default hereunder, City in addition to all remedies available to it by law, may immediately, upon written notice to Contractor, terminate this Contract whereupon all unpaid contract funds shall be available to City to complete the construction and/or remedy any defective performance by Contractor. Should Contractor default, any advances for work to be performed or materials to be ordered which have been paid by City to Contractor shall be immediately returned to City. Should the costs to complete the construction and/or remedy any defective performance by Contractor exceed the remaining Contract balance, Contractor shall be liable to City for all costs and expenses to complete the construction and/or remedy any defective performance, to include any cost associated with re-procurement, and for any consequential and incidental damages suffered by City. Contractor understands and agrees that termination of this Contract under this section shall not release Contractor from any obligation accruing prior to the effective date of termination.

**15. TERMINATION RIGHTS OF CITY:**

**A.** City shall have the right to terminate this Contract, in its sole discretion, at any time, for any reason, by giving written notice to Contractor at least five (5) business days prior to the effective date of such termination. In such event, City shall pay to Contractor compensation for Work rendered and expenses incurred prior to the effective date of termination. In no event shall City be liable to Contractor for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

**B.** City shall have the right to terminate this Contract, without notice or liability to Contractor, upon the occurrence of an event of default hereunder. In such event, City shall not be obligated to pay any amounts to Contractor and Contractor shall reimburse to City all amounts received while Contractor was in default under this Contract.

**16. RESOLUTION OF CONTRACT DISPUTES:**



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**A.** Contractor understands and agrees that all disputes between Contractor and City concerning or relating to the denial or partial denial of a change, change order or extra work under paragraphs 2.17, 2.18 or 2.19 of the General Conditions of the Contract shall be held for resolution until the Project has been substantially completed. Contractor shall make a written request for resolution of the dispute (the “Request”) to City’s designated official (the City Manager or his designee) for determination of the matter in dispute. The Request shall clearly state the disputed issue and include or incorporate by specific reference all information or documents that Contractor wants the official to consider in reaching a determination. The official shall issue a written notice of decision upon Contractor’s Request within the thirty (30) days of receipt of Contractor’s Request. If the official cannot issue a decision within thirty (30) days of the receipt of Contractor’s Request, the official shall notify Contractor the date upon which a decision shall be issued. Submission of a Contractor’s Request for determination of the dispute is a condition precedent to Contractor’s ability to engage in litigation against City. If a decision is not issued by the date indicated by the official or within ninety (90) days after the submission of Contractor’s written Request for determination, whichever occurs first, Contractor will be deemed to have met the condition precedent required by this provision. Should the dispute be resolved through the submission of Contractor’s Request, the resolution of the dispute will be documented, if necessary, through a change to the Contract in accordance with the provisions contained in the Contract, to include but not limited to, paragraphs 2.17, 2.18 and 2.19. Should the dispute fail to reach resolution through the submission by Contractor’s Request, the dispute may be submitted to mediation at the sole discretion of City. City agrees that it shall make an election within no later than sixty (60) days after the issuance of a determination by the official in response to a Contractor’s Request, final completion, abandonment or termination of the Project, whichever is later. Such mediation shall be conducted by and between the parties in accordance with the AAA Rules of Mediation for Construction Cases then in effect. Contractor understands and agrees that it shall continue to perform Work under the Contract unless further performance has been excused by termination of Contractor or stopping Work is specifically allowed under the laws of the State of Texas. Contractor understands that should a settlement be reached at mediation it is subject to the approval of the City Council. If either mediation is unsuccessful or City elects not to proceed to mediation, then the dispute shall be submitted to litigation in keeping with the terms of this Contract and the laws of the State of Texas.



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**B.** Contractor understands and agrees that any and all other disputes arising between Contractor and City not related to changes, change orders or extra work, may be submitted to mediation at the sole discretion of City. City agrees that it shall make such an election within no later than sixty (60) days from the date of final completion, abandonment or termination, whichever is later. Such mediation shall be conducted by and between the parties in accordance with the AAA Rules of Mediation for Construction Cases then in effect. Contractor understands and agrees that it shall continue to perform Work under the Contract unless further performance has been excused by termination of Contractor or is specifically allowed under the laws of the State of Texas. Contractor understands that should a settlement be reached at mediation it is subject to the approval of the City Council. If either mediation is unsuccessful or City elects not to proceed to mediation, then the dispute shall be submitted to litigation in keeping with the terms of this Contract and the laws of the State of Texas.

**17. INSURANCE:**

**A.** Contractor shall, at all times during the term hereof, maintain such insurance coverage as may be required by City of the types and in the amounts specified in **Exhibit "C"** attached hereto, which by this reference is incorporated into this Agreement for all purposes, and with insurers licensed to do business in Texas. All insurance required herein shall be drawn in the name of Contractor, with City, its council members, board and commission members, officials, agents, guests, invitees, consultants and employees named as additional insureds, except on coverage for Workers' Compensation. Every policy required above shall be primary insurance. Any insurance or self-insurance benefits carried by City, its officers, or its employees, shall be excess and not contributory to that provided by Contractor. All such insurance, including renewals, shall be subject to the approval of City for adequacy of protection and evidence of such coverage shall be furnished to City on Certificates of Insurance indicating such insurance to be in force and effect and providing that it will not be canceled during the performance of Services under this Agreement without thirty (30) calendar days prior written notice to City. Completed Certificates of Insurance shall be filed with City's Risk Manager at City Hall, 72 W. College Avenue, San Angelo, Texas 76903 prior to the performance of Services hereunder, provided, however, that Contractor shall at any time upon request file duplicate copies of the policies of such insurance with City.





**B.** The procurement of insurance coverage by Contractor shall not be construed to be a limitation upon Contractor's liability or as a full performance on its part of Contractor's indemnification requirements under this Agreement. Contractor's obligations are, notwithstanding any policy of insurance, for the full and total amount of any damage, injury or loss caused by or attributable to its activities conducted at or upon the premises. Failure of Contractor to maintain adequate coverage shall not relieve Contractor of any contractual responsibility or obligation.

**C.** Contractor shall require its insurance carrier(s), with respect to all insurance policies, to waive all rights of subrogation against City, its council members, board and commission members, officials, agents, guests, invitees, consultants and employees.

**D.** Contractor shall cause each subcontractor and sub-subcontractor of Contractor to purchase and maintain insurance of the types and in the amounts specified in **Exhibit "C"** hereto. Contractor shall require subcontractors and sub-subcontractors to furnish copies of certificates of insurance to Contractor's Risk Manager evidencing coverage for each subprovider and sub-subprovider

**E.** If, in the judgment of City, prevailing conditions warrant the provision by Contractor of additional liability insurance coverage or coverage which is different in kind, City reserves the right to require the provision by Contractor of an amount of coverage different from the amounts or kind previously required and shall afford written notice of such change in requirements thirty (30) days prior to the date on which the requirements shall take effect. Should Contractor fail or refuse to satisfy the requirement of changed coverage within thirty (30) days following City's written notice, this Contract shall be considered terminated on the date that the required change in policy coverage would otherwise take effect.

## **18. INDEMNIFICATION:**

**A. GENERAL INDEMNIFICATION.** Contractor shall indemnify, defend and hold harmless City and its officials, employees and agents (collectively referred to as "Indemnitees") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including reasonable attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance





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or non-performance of Services contemplated by this Contract but only to the extent caused by the negligent acts, errors or omissions, intentional torts, intellectual property infringement, or a failure to pay a subcontractor or supplier committed by Contractor or Contractor's agent, consultant under contract, or another entity over which Contractor exercises control, or its employees, agents or subcontractors (collectively referred to as "Contractor") (ii) the failure of Contractor to comply with any of the paragraphs or provisions of this contract or contract documents, or the failure of Contractor to conform services or work to statutes, ordinances, or other regulations or requirements of any governmental authority, federal, state or local, in connection with the performance of this Contract. Contractor expressly agrees to indemnify and hold harmless the Indemnitees, or any of them, from and against all liabilities which may be asserted by an employee or former employee of Contractor, or any of its subcontractors, as provided above, for which Contractor's liability to such employee or former employee would otherwise be limited to payments under State Workers' Compensation or similar laws. Nothing herein shall require Contractor to indemnify, defend, or hold harmless any Indemnatee for the Indemnatee's own gross negligence or willful misconduct. Any and all indemnity provided for in this Contract shall survive the expiration of this Contract and the discharge of all other obligations owed by the parties to each other hereunder and shall apply prospectively not only during the term of this Contract but thereafter so long as any liability could be asserted in regard to any acts or omissions of Contractor in performing Services under this Contract.

**B. ENVIRONMENTAL INDEMNIFICATION.** Contractor agrees to indemnify, defend and hold City and its council members, board and commission members, officials, agents, guests, invitees, consultants and employees free and harmless from and against any and all claims, demands, proceedings, suits, judgments, costs, penalties, fines, damages, losses, attorneys' fees and expenses asserted by local, state or federal environmental agencies or private individuals or entities in connection with or resulting from or arising out of Contractor's handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse by any person under Contractor's direction or control of waste collected, transported or landfilled or any cleanup associated with environmental contamination, whether such cleanup is of air, soil, structure, ground water or surface water contamination.



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Contractor specifically agrees to indemnify, defend and hold harmless City against all claims, damages and liabilities of whatever nature asserted under CERCLA caused by acts or omissions of contractor regardless of when such incident is discovered. Contractor shall be responsible and liable for any spill, underground pollution or any other environmental impairment incident caused by acts or omissions of Contractor regardless of when such incident is discovered. It is the intent of the parties that this section shall in no way limit other coverage herein as it may relate to any environmental claim, damage, loss or liability of any kind.

C. **PROSPECTIVE APPLICATION.** Any and all indemnity provided for in this Contract shall survive the expiration of this Contract and the discharge of all other obligations owed by the parties to each other hereunder and shall apply prospectively not only during the term of this Contract but thereafter so long as any liability (including but not limited to liability for closure and post closure costs) could be asserted in regard to any acts or omissions of Contractor in performing under this Contract.

D. **RETROACTIVE APPLICATION:** The indemnity provided for in this Contract shall extend not only to claims and assessments occurring during the term of this Contract but retroactively to claims and assessments which may have occurred during the term of previous agreements between City and Contractor.

E. **APPLICATION TO SURROUNDING PROPERTY:** The indemnification provisions of this Contract extend to claims and assessments relating to runoff, leachate, or other infiltration that may occur or has occurred at or near the site of landfills, transfer stations, or other solid waste facilities and surrounding areas which are or were used by Contractor, during the term of this Contract or previous agreements between City and Contractor. This section does not make Contractor liable for any site it has never used, closed, managed or monitored.

**19. WARRANTY:**

A. The Contractor warrants and guarantees to the Owner that all Materials or Equipment will be new unless otherwise specified, free from faults or defects, and that all Work will be performed



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in a workmanlike manner, and in accordance with the specifications and requirements of the Contract Documents as well as of any required or applicable regulations, codes, inspections, tests, or required approvals. All unsatisfactory, faulty or un-workman like Work and all Work not conforming to the requirements of the Contract Documents or of such inspections, tests, or approvals shall be considered defective. Prompt notice of all defective Work shall be given to the Contractor. All defective Work, whether or not in place, may be rejected.

**B.** If required by the Owner prior to approval of final payment the Contractor will promptly, without cost to the Owner, either correct any defective Work, whether or not fabricated, installed, or completed, or remove it from the site and replace it with non-defective Work. The Contractor will also bear the expenses of making good all work of others destroyed or damaged by its correction, removal, or replacement of Contractor's defective Work. If the Contractor does not diligently proceed to correct such defective Work or remove and replace such rejected Work within a reasonable time, as required by written notice from the Owner, the Owner may have the deficiency corrected or the rejected Work removed and replaced. All direct or indirect costs of such correction or removal and replacement, including compensation for additional professional services shall be charged to the Contractor, and an appropriate Change Order shall be issued deducting all such costs from the Contract Price or otherwise paid by Contractor.

**C.** Prior to the expiration of one (1) year after the date of Final Completion (or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee or warranty required by the Contract Documents), if any Work is found to be defective, the Contractor will promptly without cost to the Owner and in accordance with the Owner's written instruction, either correct such defective Work, or, if it has been rejected by the Owner, remove it from the site and replace it with non-defective Work. Any such corrected or replaced defective work shall be warranted by the Contractor for one year from and after such correction or replacement of work.

**D.** If the Contractor does not promptly comply with the terms of such instructions to correct or replace defective Work, the Owner may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, will be paid by the Contractor. In such



case, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price. Should the remaining contract balance be insufficient to complete the works, Owner will seek reimbursement from the Contractor and/or its surety for the damages in excess of the remaining contract balance. If the acceptance occurs after approval of final payment, an appropriate amount shall be paid by the Contractor within thirty (30) days of written demand for payment accompanied by supporting documentation.

**20. INDEPENDENT CONTRACTOR:** Nothing contained in this Contract is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Contractor shall at all times remain an independent contractor with respect to Work to be performed under this Contract. City shall be exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and workers' compensation insurance on Contractor's employees.

**21. NONDISCRIMINATION:** Contractor represents and warrants to City that Contractor does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with Contractor's performance under this Contract on account of race, color, sex, religion, age, handicap, marital status or national origin. Contractor further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Contract.

**22. VERIFICATION OF EMPLOYMENT ELIGIBILITY:** Contractor must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Contractor -- not City -- must verify eligibility for employment as required by IRCA.

**23. AMENDMENTS:** City and Contractor may amend this Contract at any time provided that such amendments make specific reference to this Contract, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by City. Such amendments shall only address the items or issues dealt with in the amendment and shall not invalidate any other portion



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or provision of this Contract, nor relieve or release City or Contractor from their respective obligations under this Contract except as may be specifically set forth in the amendment.

**24. ASSIGNMENT:** No assignment by a party hereto of any rights under, or interest in, the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, moneys that may become due, and moneys that are due, may not be assigned without such prior consent (except to the extent that this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

**25. SUCCESSORS AND ASSIGNS:** This Contract shall be binding upon the parties hereto, their heirs, executors, legal representatives, successors, or assigns.

**26. NOTICES:** Communications and details concerning this Contract shall be directed in writing to the following representatives:

**CITY**

City of San Angelo  
Attn: David Knapp  
72 W. College Ave.  
San Angelo, Texas 76903

**CONTRACTOR**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Before City shall be liable to Contractor or any of its successors or assigns for any alleged breach of this Contract, notice must first be given City no later than ninety-one (91) days of the date Contractor alleges the breach occurred. Such notice shall be given in accordance with this provision and shall state the date, time, and circumstances of the alleged breach.

**27. MISCELLANEOUS PROVISIONS:**

**A. Remedies:** In the event of default by Contractor under the Contract Documents, City shall have all rights and remedies afforded to it at law or in equity to enforce the terms of the Contract. City's exercise of any one right or remedy shall be without prejudice to the enforcement of any other



right or remedy allowed at law or in equity that may be available to City against either Contractor or its Surety.

**B. Attorneys' Fees:** If any action at law or in equity is necessary by either City or Contractor to enforce or interpret the terms of the Contract Documents, the party prevailing on the majority of issues shall be entitled to reasonable attorneys' fees and costs and any necessary disbursements in addition to any other relief to which the prevailing party is entitled.

**C. Conflicts:** This Contract, the documents required to be provided, and the Contract Documents constitute the entire Contract between the parties hereto and supersede any prior written or oral agreements and understandings between the parties. If any provision of this Contract, the General Conditions, the Specifications or any other provision contained within the Contract Documents conflicts, or is inconsistent with any other provision of the Contract Documents, then the conflict or inconsistency will be resolved first by reference to the terms of this Contract, then to the General Conditions to this Contract and then finally to the Specifications therein, unless a federal law, regulation or restriction would require otherwise, in which case the federal provision would control.

**D. Severability:** If any provision of this Contract is held invalid or unenforceable, the remainder of this Contract shall not be affected thereby and all other parts of this Contract shall nevertheless be in full force and effect.

**E. Venue:** This Contract, including the Contract Documents, is governed by the laws of the State of Texas. Venue for any suit or claim or cause of action arising out of or related to Work covered by this Contract shall be in Tom Green County, Texas.

**F. Counterparts:** This Contract may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Contract. By affixing their signature to this Contract, each individual is representing that he or she has the authority to sign this Contract and to bind the party that they represent to this Contract.

**G. Enforcement:** This Contract shall be construed and enforced according to the laws of the State of Texas.



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**H. Headings:** Titles and paragraphs are for convenient reference and are not a part of this Contract.

**I. No Waiver:** No waiver or breach of any provision of this Contract shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

**J. Governing Laws:** Should any provision, paragraph, sentence, word or phrase contained in this Contract be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Texas or the City of San Angelo, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Contract shall remain unmodified and in full force and effect or limitation of its use.

**K. Applicable Law:** This Contract and the Contract Documents are subject to all applicable federal and state laws, statutes, codes, rules and regulations and local ordinances, rules and regulations.

**28. CONTINGENCY CLAUSE:** Funding for this Contract is contingent on the availability of funds and continued authorization for program activities and the Contract is subject to amendment or termination for convenience due to lack of funds, reduction of funds and/or change in regulations, upon thirty (30) days' notice.

**29. ENTIRE CONTRACT:** This Contract constitutes the sole and entire agreement between the parties hereto. No modification or amendment hereto shall be valid unless in writing and executed by properly authorized representatives of the parties hereto.

**30. REAFFIRMATION OF REPRESENTATIONS/WARRANTY OF AUTHORITY:** Contractor hereby reaffirms all of the representations contained in Contract Documents. Each person executing this Contract on behalf of Contractor warrants that he or she has the authority of the governing body of Contractor to lawfully bind Contractor to this Contract.



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**IN WITNESS WHEREOF**, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized, this the\_\_\_\_ day of \_\_\_\_\_, 2017.

CONTRACTOR:

**CITY OF SAN ANGELO,**

\_\_\_\_\_

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

By:\_\_\_\_\_  
Daniel Valenzuela, City Manager

ATTEST:

ATTEST:

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

By:\_\_\_\_\_  
Bryan Kendrick, City Clerk

Date: \_\_\_\_\_ 20\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

APPROVED AS TO CONTENT:

APPROVED AS TO INSURANCE  
REQUIREMENTS:

\_\_\_\_\_  
David Knapp, Construction Manager

\_\_\_\_\_  
Charles Hagen, Risk Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Daniel T. Saluri, Deputy City Attorney





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**PERFORMANCE CONTRACT FOR  
AUDITORIUM WINDOW ASBESTOS ABATEMENT AND LEAD PAINT  
STABILIZATION RFB No. CFM-01-17**

**EXHIBIT "A"**

***RFB No. CFM-01-17***



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**PERFORMANCE CONTRACT FOR  
AUDITORIUM WINDOW ASBESTOS ABATEMENT AND LEAD PAINT  
STABILIZATION RFB No. CFM-01-17**

**EXHIBIT "B"**

*Contractor's Response*



**PERFORMANCE CONTRACT FOR  
AUDITORIUM WINDOW ASBESTOS ABATEMENT AND LEAD PAINT  
STABILIZATION RFB No. CFM-01-17**

**EXHIBIT "C"**

**SPECIAL INSURANCE RIDER**

**TYPES AND AMOUNTS OF INSURANCE REQUIRED.** Provider shall obtain and continuously maintain in effect at all times during the term hereof, at Provider's sole expense, insurance coverage as follows with limits not less than those set forth below:

**1.1 Commercial General Liability.** This policy shall be an occurrence-type policy and shall protect Provider and additional insureds against all claims arising from bodily injury, sickness, disease or death of any person (other than Provider's employees) and damage to property of City or others arising out of the act or omission of Provider or its agents and employees. This policy shall also include protection against claims for the contractual liability assumed by Provider under the paragraph of this Agreement entitled "Indemnification," including completed operations, products liability, contractual coverage, broad form property coverage, explosion, collapse, underground, premises/operations, and independent contractors (to remain in force for two years after final payment). Coverage limits shall not be less than:

\$2,000,000.00	General Aggregate
\$1,000,000.00	Products – Completed Operations
\$1,000,000.00	Personal & Advertising Injury
\$1,000,000.00	Each Occurrence
\$ 100,000.00	Fire Damage (any one fire)

**1.2 Business Automobile Liability.** This policy shall be written in comprehensive form and shall protect Provider and the additional insureds against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles and shall cover operation on and off the premises of all motor vehicles licensed for highway use, whether they are owned, non-owned or hired. Coverage shall be as follows:

\$ 1,000,000.00	Combined Single Limit
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**1.3 Workers' Compensation and Employer's Liability.** If Provider hires any employees, Provider shall maintain Workers' Compensation and Employer's Liability insurance, which shall protect Provider against all claims under applicable state workers' compensation laws and employer's liability. The insured shall also be protected against claim for injury, disease or death of employees which for any reason, may not fall within the provisions of a workers' compensation law. Coverage shall not be less than:

Statutory Amount	Workers' Compensation
\$ 500,000.00	Employer's Liability, Each Accident



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\$ 500,000.00	Employer's Liability, Disease - Each Employee
\$ 500,000.00	Employer's Liability, Disease - Policy Limit

If Provider uses contract labor, Provider shall require its sub-provider to maintain the above referenced coverage and furnish copies of certificates of insurance as required herein.

1.4 Environmental Liability. This insurance shall be maintained in force for the full period of this Contract and cover losses caused by pollution conditions including, but not limited to, any spill, underground pollution or any other environmental impairment. It shall apply to bodily injury; (including death) property damage, including loss of use of damaged property or of property that has not been physically injured; cleanup costs; including, but not limited to, any costs required under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims. If coverage is written on a claims made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract, and continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning from the time the Contract has expired. Coverage shall not be less than:

<b>\$2,000,000.00</b>	<b>Combined Single Limits</b>
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**PERFORMANCE CONTRACT FOR  
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STABILIZATION RFB No. CFM-01-17**

**Attachment 1**

*City of San Angelo Owner's Construction General Conditions*