

CONTRACT

Project: HMGP Acquisition Program- Asbestos Survey

For: City of Dyersville

Contractor: Hawkeye Environmental LLC

Address: 814 Wood Lily Rd

City: Solon IA 52333

Phone Number: _____

THIS AGREEMENT, entered into this 3rd day of April, 2023, by and between the City of Dyersville, Iowa (hereinafter referred to as "City" or "Applicant"), and Hawkeye Environmental LLC, (hereinafter referred to as "Contractor" or "Proposer").

WHEREAS, the City requires asbestos removal to be performed for the purpose of preparing structures for demolition in connection with the above identified project; and

WHEREAS, the City requires an asbestos survey identifying asbestos containing material (ACM) and monitoring of asbestos removal; and

WHEREAS, the Contractor certifies to be an individual licensed by, or an entity permitted by Iowa Workforce Development to perform asbestos surveys, is an Iowa registered Contractor, is qualified and willing to perform the work required in accordance with standards and criteria hereinafter set forth, and pursuant to the terms provisions and conditions hereof, and

WHEREAS, all bids will be opened on March 29, 2023 at 9:00 a.m. O'clock at ECIA.

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. The Contractor agrees to furnish all tools, labor and materials for the proposed asbestos surveying and monitoring of abatement in accordance with all applicable plans, specifications, codes and ordinances of the City of Dyersville, Iowa, Asbestos Statutes and Rules (published by the Iowa Division of Labor), 40 CFR Part 61, NESHAP, and any other applicable Federal Regulations, as well as all applicable State Regulations of the Iowa DNR. Work to be performed includes the following:

- Performing a comprehensive invasive, destructive investigation of all areas to locate and identify asbestos containing materials (ACM), in each structure located at the address(es) listed as Exhibit "A", unless directed otherwise for a specific address.
- Taking an adequate number of samples to identify all ACM. Sampling is to be accomplished by any means necessary; invasive and destructive techniques will be required in order to thoroughly locate and identify all ACM. Visual sampling may be part of the process but alone is not sufficient.
- Suspect materials will be sampled, submitted to and analyzed in a laboratory accredited by NIST/NVLAP (National Institute of Standards and Technology/ National Voluntary Laboratory Accreditation Program), AIHA (American Industrial Hygienic Association) or another accredited laboratory. Proposer shall indicate the name of the Laboratory(ies) it intends to use and its accreditation with its proposal
- Provide detailed individual reports for the address, which are to include the following:
 - Property address
 - Photo of each structure tested
 - Date tested/sampled
 - Name of inspector who collected the bulk samples
 - Signature of inspector
 - Copy of inspector's current license
 - Name of Laboratory used for bulk sample analysis
- Bulk sample lab analysis sections of the reports must include:
 - Client sample identification number
 - Laboratory sample identification number
 - Analytical technique used
 - Laboratory quality control procedures
 - Physical description of sample, as received
 - Type(s) and estimated percentage of asbestos
 - Type(s) and estimated percentage of non-asbestos fibers
 - Type(s) (if known) and percentage of other components
 - Date of analysis
 - Name of bulk sample analyst
 - Analyst's signature or other authorized laboratory signatory
- Provide written specifications for required asbestos abatement procedures
- Verifying the removal of ACM as outlined in your Survey Report through inspection and providing clearance reports following completion

2. The firm conducting asbestos surveys and monitoring of abatement shall not be eligible to perform asbestos abatement on those same properties.

3. Payment for work completed shall be based upon the actual number of samples taken and submitted in the survey report. Applicant does not warrant or anticipate a fixed number of samples to be taken at the site; the 30 samples indicated in Exhibit "B" will be used only as a measure for the Applicant to compare bid submittals. If the foregoing total price differs from the actual amounts from Bid Tabulation Sheet, the correct summation of the Bid Tabulation Sheet figures shall override. All bids are on a "not to exceed" basis; changes in the scope of work will take the form of written amendments. (See below)

Payment for work completed shall be based on:

- a. Labor and materials required for adequate surveying and sampling of any structures purchased by City as part of the HMGP Buyout Program.
 - b. The accompanying Bid Tabulation Sheet for each structure assumes that 30 samples will be taken and all submittals are based on that number.
 - c. Payment will be based on the actual number of samples taken and submitted in the survey report; an amendment will be required to increase or decrease the contract amount if the actual number of samples are greater or lesser than 30.
 - d. Lab analysis of the samples submitted as outlined in #1.
 - e. Monitoring, verification and reporting of abatement as set out in the resulting reports.
 - f. Issuance of a final clearance letter to indicate successful abatement of asbestos, *which may require multiple inspections.*
1. The Contractor will be paid for all items satisfactorily completed. Such payment will be full compensation for asbestos surveying, monitoring of abatement, clearance letters, all permits, licenses, inspections, sampling, lab analysis, for complying with all laws, rules, regulations and ordinances, including safety, and for furnishing all materials, equipment and labor to complete the work in accordance with these plans and specifications.
 2. The work shall commence within five (5) days after being notified and Asbestos Surveys shall be completed and within five (5) business days of notification.
 3. Payment shall be requested in writing by the Contractor on a properly executed claim, bill or statement. Payment will be made to the Contractor within forty-five (45) days after the submittal of an invoice.
 4. During the performance of this Contract, the Contractor for itself, its assignees and successors in interest agrees to comply with the anti-discrimination laws of the State of Iowa, as contained on Sections 19B, 551.4 of the Code of Iowa, which are herein incorporated by reference and made a part of this Contract.
 14. This Project is totally or partially funded by FEMA. FEMA and Iowa Homeland Security & Emergency Management Division (IHSEMD) site monitor(s) may be present to observe and monitor survey procedures at the worksite.
 15. The successful bidder will protect and hold harmless the County, the US Government, FEMA, State of Iowa, their agencies and agents from claims and damages of any kind arising out of the performance of this contract.

Contractor agrees to maintain the following insurance in force during the term of this contract and until released in writing by the Applicant:

- *Commercial General Liability Insurance* in the minimum amount of \$1,000,000.00
- *Automobile Liability Insurance* in the minimum amount of \$1,000,000.00
- *Worker's Compensation and Employer Liability Insurance* in the minimum amount of \$1,000,00.00
- *Pollution Liability Insurance* in the minimum amount of \$1,000,000.00

16. Government-Mandated Provisions. Because this project activity is funded in whole or in part by the Federal Government, or an Agency thereof, Federal Law requires that the Applicant's contracts relating to the project include certain provisions. Depending upon the type of work or services provided and the dollar value of the resultant contract, some of the provisions set forth in this Section may not apply to the Contractor or to the work or services to be provided hereunder; however, the provisions are nonetheless set forth to cause this Contract to comply with Federal Law. Parenthetical comments in the following paragraphs are taken from 44 CFR § 13.36(h) and (i) and 2 CFR 200 appendix II.

A. Remedies. In the event that the Contractor defaults in the performance or observance of any covenant, agreement or obligation set forth in this Agreement, and if such default remains uncured for a period of five (5) days after notice of default has been given by Applicant to Contractor, then Applicant may take any one or more of the following steps, at its option:

- a. by mandamus or other suit, action or proceeding at law or in equity, require Contractor to perform its obligations and covenants hereunder, or enjoin any acts or things which may be unlawful or in violation of the rights of the Applicant hereunder, or obtain damages caused to the Applicant by any such default;
- b. have access to and inspect, examine and make copies of all books and records of Contractor which pertain to the project;
- c. make no further disbursements, and demand immediate repayment from Proposer of any funds previously disbursed under this Agreement;
- d. terminate this Agreement by delivering to Contractor a written notice of termination; and/or
- e. take whatever other action at law or in equity may be necessary or desirable to enforce the obligations and covenants of Contractor hereunder, including but not limited to the recovery of funds.

No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of Applicant to enforce the same or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times. In the event that Applicant prevails against Contractor in a suit or other enforcement action hereunder, Contractor agrees to pay the reasonable attorneys' fees and expenses incurred by Applicant.

B. Termination for Cause and for Convenience. Applicant may choose to terminate this Agreement at any time by delivering to Contractor five (5) days' advance written notice of intent to terminate.

C. Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60). (Applies to all construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

D. Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (Applies to all contracts and subcontracts for construction or repair)

E. Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276A-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Applies to construction contracts in excess of \$2,000 awarded by grantees and subgrantees when required by federal grant program legislation, but does not apply to projects paid for with disaster funding)

F. Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Applies to construction contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers)

G. Patent Rights and Copyrights. With respect to any discovery or invention which arises or is developed in the course of or under this Agreement, Contractor is responsible for complying with requirements pertaining to patent rights, as defined by the awarding agency. With respect to any publication, documents, or data that arises or is developed in the course of or under this Agreement, the Contractor is responsible for complying with requirements pertaining to copyright, as defined by the awarding agency.

H. Access to Documents. Contractor shall exercise best efforts to maintain communication with Applicant's personnel whose involvement in the project is necessary or advisable for successful and timely completion of the work of the project, including but not limited to the closing of specific transactions. Communications between the parties shall be verbal or in writing, as requested by the parties or as dictated by the subject matter to be addressed. During the term of this Agreement and for the ensuing record-retention period, Contractor shall make any or all project records available upon reasonable request, and in any event within two (2) business days of request, to Applicant, Iowa Homeland Security and Emergency Management Division (HSEMD), the Federal Emergency Management Agency (FEMA), the Comptroller General of the United States, and any other agency of State or Federal government, or the duly authorized representatives of any of the foregoing, that has provided funding or oversight for the project, for the purpose of making audit, examination, excerpts and/or transcriptions. For purposes of this section, "records" means any and all books, documents, papers and records of any type or nature that are directly pertinent to this Agreement. Contractor agrees to furnish, upon termination of this Agreement and upon demand by the Applicant, copies of all basic notes and sketches, charts, computations, and any other data

prepared or obtained by the Contractor pursuant to this Agreement, without cost and without restrictions or limitation as to the use relative to specific projects covered under this Agreement. In such event, the Contractor shall not be liable for the Applicant's use of such documents on other projects.

I. Retention of Documents. Contractor shall maintain all project records for a minimum period of three (3) years after the date of final payment for services rendered under this Agreement.

J. The Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). (Applies to contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

K. Energy Efficiency Standards. The Contractor shall comply with mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation Plan issued pursuant to the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871). [53 FR 8078, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19645, Apr. 19, 1995].

L. Bonding requirements. The minimum bonding requirements are as follows:

- (1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified. Applicant agrees to release this bond within seven (7) days of Contract award.

The City hereby acknowledges receipt of:

- (2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

- (3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

M. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR

part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

N. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award

Contractor is an: Individual _____ Partnership _____ Corporation _____ Firm _____

Company Name: _____

By: _____
(Signature)

(Typed name)

Title: _____

Approved and Accepted by Applicant:

By: _____
(Signature)

(Typed name)

Title: _____

Date: _____