

**Agreement Between Laredo Housing Authority
And
River City Environmental LLC**

This Hazardous Materials Removal Services contract ("Contract") is entered into as of September 29, 2017 ("Effective Date") by and between the Housing Authority of the City of Laredo, a public body, corporate and politic (hereinafter "Laredo Housing Authority", "LHA", or "Contractor") and RIVER CITY ENVIRONMENTAL, LLC, a limited liability corporation, whose address is 2018 Lennon Avenue, San Antonio, TX 78223 (hereinafter called "Subcontractor" or "RIVER CITY ENVIRONMENTAL, LLC ") as described below.

WITNESSETH:

WHEREAS, LHA is a public body corporate and politic organized and validly existing and in good standing under the laws of the State of Texas and currently engaged in such business as defined in the Housing Authority Law in the Local Government Code of the State of Texas, including the services of providing decent, safe and sanitary housing to the residents of its facilities, low-income families, the elderly, the handicapped and the disabled; and

WHEREAS, LHA issued: Request for Proposals for **Hazardous Materials Removal Services**, RFP No. LHA2017_0709_3 (hereinafter referred to as the "RFP") to procure the Hazardous Materials Removal Services for the Russell Terrace Revitalization project; and

WHEREAS, RIVER CITY ENVIRONMENTAL, LLC submitted a proposal in response to the RFP; and

WHEREAS, LHA selected the RIVER CITY ENVIRONMENTAL, LLC to serve as LHA's Hazardous Materials Removal Subcontractor to specifically include serving as the Subcontractor in connection with the RFP;

NOW THEREFORE, Contractor ("LHA") and the Subcontractor agree as follows:

1. Scope of Services

Subcontractor shall provide the Contractor services for all work as described in the "Scope of Work", section 2.0, page 5, of the RFP as requested by LHA. The RFP is attached hereto as **Exhibit A** and is incorporated herein in its entirety by reference. Such Hazardous Materials Removal Services to be provided by Subcontractor shall include professional services specifically described in **Exhibit B, OES Project No. OES-OES-E1905-02**, also attached hereto.

2. Time of Performance

The initial term of this Contract shall begin on the Effective Date for a period of one (1) year, with an option to renew annually by the parties for a maximum of five (5) years, unless earlier terminated as provided herein.

3. Compensation Billing Rates, and Method of Payment

A. Compensation. Subcontractor's bid amount shall expire within no less than 60 days from the time of the award. LHA shall compensate Subcontractor according to the fee schedule attached as **Exhibit C**. LHA and the Subcontractor shall execute any amendment, as may become necessary, to this Contract by letter agreement reflecting the negotiated changes, if any.

- 1) Billings by the Subcontractor are to be directed to Accounts Payable, Finance Department, Laredo Housing Authority, 2000 San Francisco Avenue, Laredo, Texas 78040.
- 2) Invoices shall be accompanied with the following information, which may be supplied by computer printout: AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT – a schedule of values itemized per duplex type, itemizing duplex units completed for the period being invoiced, previous duplex units completed and paid and number and types of duplex units pending to complete.
- 3) Payments made by Subcontractor to others for services in connection with a matter shall be included in the statement and supporting invoices shall be attached to the billing. LHA will reimburse or make such payments to third parties secured by Subcontractor only if such third parties were retained by Subcontractor with prior approval of LHA. There shall be a retainage 10% of all payments; this retainage will be released upon substantial work completion as approved by owner.
- 4) The time set forth in the proposal for the completion of the work is an essential element of the Contract. For each working day under the conditions described in the proceeding paragraph, that any work shall remain uncompleted after the expiration of the working days specified in the Contract, together with any additional working days allowed, the liquidated damages amount per day will be deducted from the money due or to become due the Contractor, not as a penalty but as liquidated damages. Liquidated damages will be assessed at a rate of \$200 per day from the assigned date of completion on the "Notice To Proceed" Form.

- B. Method of Payment. Subcontractor will submit monthly billing invoices to LHA. The invoices shall include the billing amount, total hours invoiced, hourly billing rate, description of services rendered, and supporting documentation. LHA staff will review these invoices for payment.
- C. Taxes. No payroll or employment taxes of any kind will be withheld or paid by LHA on behalf of Subcontractor. LHA will not treat Subcontractor as an employee with respect to the Contract services for any purpose, including federal and state tax purposes. Subcontractor understands and agrees that it is Subcontractor's responsibility to pay all taxes required by law, including self-employment social security tax. LHA will issue an IRS 1099 Form, or other appropriate tax reporting document, to Subcontractor for the Contract services.
- D. Benefits. Subcontractor will not be eligible for, and will not participate in, any health, pension, or other benefit of LHA that exists solely for the benefit of LHA employees during the Contract term.

4. **Records for Audit Purposes.**

Subcontractor shall maintain all records concerning Services performed and for which Subcontractor requires compensation under this Contract for three (3) years from the expiration date of the Contract unless a longer period is required under Title 24, Code of Federal Regulations, Section 85.42. Subcontractor shall provide LHA and, subject to LHA approval, HUD, the Comptroller General of the United States, the General Accounting Office, or any of their authorized representatives, all records pertaining to the services provided hereunder. This right shall continue as long as the records are required to be maintained.

5. **No Personal Liability**

No member, official or employee of LHA shall be liable personally to Subcontractor or any successor in interest in the event of any default or breach by LHA or for any amount which may become due to Subcontractor or any successor or on any obligation under the terms of this Contract.

6. **Assignment of Contract**

Subcontractor shall not assign this Contract, or any part thereof, without the prior, express, written consent of LHA.

7. HUD Requirements

Subcontractor agrees to comply with all relevant HUD requirements, including General Conditions for Non-Construction Contracts, form HUD-5370 (11/2006), Attachment "G-3" to the RFP referred to in this contract.

8. Indemnification

Subcontractor shall defend, hold harmless and indemnify LHA and its respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising out of or connected with the performance of this Contract and any of Subcontractor's operation or activities related thereto, excluding the alleged or actual negligence, gross negligence, and/or willful misconduct of the person or entity seeking to be defended, indemnified or held harmless. Further, Subcontractor shall refrain from encumbering LHA with any in kind or financial debts, burdens or any other encumbrances without prior written approval of LHA, and Subcontractor will hold harmless and indemnify LHA and its respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising out of or connected with the such unauthorized encumbrances.

In addition, Subcontractor shall assume all risks and liability associated with the removal of hazardous materials that he and his work crews may encounter during the course of his hazardous materials removal work.

9. Independent Subcontractor

Subcontractor hereby declares that it is engaged in an independent business and agrees to perform its services as an independent subcontractor and not as the agent or employee of LHA. Subcontractor has and hereby retains the right to exercise full control and supervision of the services and work to be provided under this Contract and full control over the employment, direction, compensation and discharge of all persons assisting it in the performance of the services and work hereunder. Subcontractor agrees to be solely responsible for all matters relating to payment of employees, including, but not limited to, compliance with all federal, state and local payroll tax and withholding requirements, workers' compensation requirements and all regulations governing such matters. Subcontractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of the Contract.

10. Insurance and Bonding

- A. Insurance Duration: Subcontractor agrees to procure and maintain for the duration of the Contract, including any extensions, insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work under this Contract by Subcontractor, its agents, representatives, employees or sub-subcontractors.
- B. Insurances and Changes: Any subcontractor required insurance (general liability, automobile, bond, builders risk, etc.) for the project shall list the LHFC and Russell Terrace as additional insured. A copy is to be provided and all subcontractors must report any change or termination in insurance carriers or coverages. Failure for any Subcontractor to report any insurance or bonding changes, may lead to termination of subcontractor and agreement.
- C. Insurance and Bonding Requirements: Requirements shall be at least the minimum as required by the RFP.

11. Conflicts of Interest

LHA requires the Subcontractor inform Contractor in writing of any potential, apparent, or actual conflict the Subcontractor may have or develop during the term of this Contract. At this time, Subcontractor is not aware of any relationship with any other party interested in the subject matter of Subcontractor's services for LHA under this Contract. As long as Subcontractor's services for LHA continue under this Contract, Subcontractor will not agree to provide services for any such conflicted party without LHA's prior written and informed consent.

12. Nondiscrimination

Subcontractor agrees that there shall be no discrimination against any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of this Contract. Subcontractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status). Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations to clients or the general public.

13. Termination

Either party may terminate this Contract at any time without cause upon thirty (30) days' written Notice of Termination to the other party; provided, however, that in the event of such termination, LHA shall compensate Subcontractor for work completed to the satisfaction of LHA as of the date of such notice or the date of termination specified in and directed by such notice.

14. Non-Appropriations

Subcontractor understands that LHA is a governmental entity and may not be funded for any period during the term of this Contract for the requested services. LHA agrees to provide Subcontractor written notice within thirty (30) days, if at all practicable, after learning that such funding will not become available to LHA. For this Contract, LHA hereby certifies that adequate funding is available to complete requested services for LHA's current fiscal year.

15. Compliance with Federal Regulations

Subcontractor agrees to comply with federal laws and regulations, as applicable, including, but not necessarily limited to, the following:

- The requirements of Title VII of the Civil Rights Act of 1968 and Title VI of the Civil Rights Act of 1964 relating to prohibitions against the discrimination in housing and the benefits of federally funded programs because of race, color, religion, sex, or national origin.
- The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 and prohibited discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.
- The requirements of Executive Order 11246 relating to equal employment opportunity in connection with federally funded programs.
- The requirements of Section 3 of the Housing and Urban Development Act of 1968 relating to the training and employment of individuals and contracting for business opportunities in metropolitan areas in which federally funded programs are being operated.
- The requirements of Executive Orders 11625, 12432, and 12138 to implement Minority Business Enterprises and Women's Business Enterprise participation goals in programs of federal agencies.
- The applicable provisions of Section 1 of the General Conditions for Non-Construction Contracts contained in form HUD-5370-C (10/2006). To the extent that any provision of this Contract conflicts with any required

- provision in HUD-5370-C for this Contract, the conflicting provision in HUD-5370-C shall apply.
- The applicable Wage Rate Determination General Decision scale, number: TX170059 01/06/2017 TX59, attached as **Exhibit D**, will apply for this particular type of residential service.

16. Proprietary Interests

Subcontractor understands and agrees that Subcontractor's work product, including memoranda, charts, plans, financial analyses, feasibility analyses, applications, forms, worksheets, reports and any other documents developed on behalf of LHA remain the sole property of LHA and shall not be reproduced by Subcontractor without LHA's prior written consent.

17. Miscellaneous Provisions

A. Notices. All notices, demands, consents, or approvals required under this Contract shall be in writing and shall be deemed given when delivered personally or by facsimile transmission or three (3) business days after being deposited in the U.S. Mail, first class postage prepaid, return receipt requested, addressed as follows:

If to LHA: Executive Director
Laredo Housing Authority
2000 San Francisco Avenue
Laredo, TX 78040

If to Subcontractor: Juan Olivares
River City Environmental, LLC
2018 Lennon Ave.
San Antonio, TX 78223

or to such other addresses as the parties may designate by notice as set forth above.

B. Successors and Assigns. This Contract shall be binding upon and inure to the benefit of the successors and assigns of LHA and Subcontractor. When the term "Subcontractor" or "LHA" is used in this Contract, it shall mean and include their respective successors and assigns; provided, however, that LHA shall have no obligation under this Contract to, nor shall any benefit of this Contract accrue to, any unapproved successor or assign of Subcontractor where LHA approval of a successor assign is required by this Contract.

- C. Modification, Waiver and Amendment. Any modification, waiver or amendment of any of the provisions of this Contract shall be in writing and signed by both LHA and Subcontractor.
- D. Entire Contract. This Contract represents the complete agreement between the parties as to the matters described herein, and there are no oral understandings between Subcontractor and LHA affecting this Contract not set forth herein. This Contract supersedes all previous negotiations, arrangements, agreements and understandings between Subcontractor and LHA with respect to the subject matter hereof.
- E. Severability. If any provision of this Contract shall be determined to be illegal or unenforceable, such determination shall not affect any other provision and all such other provisions shall remain in full force and effect.
- F. Governing Law. This Contract shall be governed by and interpreted and construed in accordance with the laws of the State of Texas, and shall be subject to the exclusive jurisdiction of the state courts therein. Venue for any court action brought by either party under this Contract shall remain exclusively in Webb County, Texas. It is the responsibility of Subcontractor to be informed of local, state and federal laws and requirements applicable to this Contract and to perform all work in compliance with those laws and requirements.
- G. Headings. Titles of parts or sections of this Contract are inserted for convenience only and shall be disregarded in construing or interpreting its provisions.
- H. Attorneys' Fees. In any action or proceeding arising out of the interpretation of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs.
- I. Alternative Dispute Resolution. In the event of a dispute between the parties regarding the interpretation of this Contract, the parties may agree to mediation or another form of alternative dispute resolution.
- J. Authority. Each of the undersigned represents and warrants that he or she has full power and authority to enter into this Contract on behalf of his or her respective party and to bind the party in accordance with its terms.

IN WITNESS WHEREOF, LHA and Subcontractor have executed this Contract as of the Effective Date first above written.

LAREDO HOUSING AUTHORITY ("CONTRACTOR")

By: Melissa Ortiz

Name: Melissa Ortiz

Title: Acting / Interim Executive Director

Date: 10/6/2017

RIVER CITY ENVIRONMENTAL, LLC ("SUBCONTRACTOR")

By: [Signature]

Name: Juan Olivares

Title: President

Date: 10-6-17

Initials JO