

**RESOLUTION NO. 24-R-109**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH AR6 CONSTRUCTION & ENGINEERING AND C3 ENVIRONMENTAL SPECIALTIES FOR ON-CALL CONCRETE SERVICES AND OTHER MATTERS IN CONNECTION THEREWITH**

**WHEREAS**, the City of Schertz has solicited proposals for an on-call concrete services contract; and

**WHEREAS**, the City Staff has determined that AR6 Construction & Engineering and C3 Environmental Specialties are qualified to provide this type of work for the City; and

**WHEREAS**, City Staff has determined it is in the best interest of the City and its residents to contract these services on an as-needed basis; and

**WHEREAS**, the City Council desires to allow the City Manager to approve and execute an on-call concrete services contract with AR6 Construction & Engineering and C3 Environmental Specialties.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:**

Section 1. The City Council hereby authorizes the City Manager to execute and deliver a contract with AR6 Construction & Engineering and C3 Environmental Specialties for on-call concrete services in substantially the form attached hereto as Exhibit "A" (SERVICE AGREEMENT, AR6 CONSTRUCTION & ENGINEERING) and Exhibit "B" (SERVICE AGREEMENT, C3 ENVIRONMENTAL SPECIALTIES).

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this \_\_\_\_ day of \_\_\_\_\_, 2024.

CITY OF SCHERTZ, TEXAS

\_\_\_\_\_  
Ralph Gutierrez, Mayor

ATTEST:

\_\_\_\_\_  
Sheila Edmondson, City Secretary

**EXHIBIT "A"**



- (D) *Payments Subject to Future Appropriation.* This Agreement shall not be construed as a commitment, issue, pledge or obligation of any specific taxes or tax revenues for payment to Contractor.
- (1) All payments or expenditures made by the City under this Agreement are subject to the City's appropriation of funds for such payments or expenditures to be paid in the budget year for which they are made.
  - (2) The payments to be made to Contractor, or other expenditures under this Agreement, if paid, shall be made solely from annual appropriations of the City as may be legally set aside for the implementation of Article III, Section 52-a of the Texas Constitution or Chapter 380 of the Texas Local Government Code or any other economic development or financing program authorized by statute or home rule powers of the City under applicable Texas law, subject to any applicable limitations or procedural requirements.
  - (3) In the event the City does not appropriate funds in any fiscal year for payments due or expenditures under this Agreement, the City shall not be liable to Contractor for such payments or expenditures unless and until appropriation of said funds is made; provided, however, that Contractor, in its sole discretion, shall have the right but not the obligation to terminate this Agreement and shall have no obligations under this Agreement for the year in respect to which said unappropriated funds relate.
  - (4) To the extent there is a conflict between this Section and any other language or covenants in this Agreement, this Section 3 shall control.

#### **Section 4. Time of Completion**

The prompt completion of the Work under the Scope of Work relates is critical to the City. Unnecessary delays in providing Work under a Scope of Work shall be grounds for dismissal of the Contractor and termination of this Agreement without any or further liability to the City other than a prorated payment for necessary, timely, and conforming work done by Contractor prior to the time of termination.

*(A) Contract Times: Days*

This section intentionally left blank

*(B) Liquidated Damages*

Contractor and Owner recognize that time is of the essence as stated above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in the Scope of Work, plus any extensions thereof allowed in accordance with the Contract. The Contractor acknowledges and recognizes that the Owner is entitled to full and beneficial occupancy and use of the completed work following expiration of the Contract Time. The Contractor further acknowledges and agrees that, if the Contractor fails to substantially, or cause the Substantial Completion of any portion of the Work within the Contract time, the Owner will sustain actual damages because of such failure. The exact amount of such damage will be difficult to ascertain. Therefore, the Owner and Contractor agree that, if the Contractor shall neglect, fail, or refuse to achieve substantial completion of the Work by the Substantial Completion date, subject to proper extension granted by the Owner, then the Contractor agrees to pay the Owner the sum of **Six hundred dollars (\$600.00) per day** for each day in which such Work is not completed, not as penalty, but as liquidated damages, for the damages

("Liquidated Damages") that would be suffered by Owner as a result of delay for each and every calendar day that the Contractor shall have failed to have completed the Work as required herein. The Liquidated Damages shall be in lieu of any and all other damages which may be incurred by the Owner as a result of the failure of Contractor to complete within the Contract Time.

## **Section 5. Insurance**

Before commencing work under this Agreement, Contractor shall obtain and maintain the liability insurance provided for below throughout the term of the Project plus an additional two years. The contractor shall provide evidence of such insurance to the City. Such documentation shall meet the requirements noted in Exhibit B.

Contractor shall maintain the following limits and types of insurance:

**Workers Compensation Insurance:** Contractor shall carry and maintain during the term of this Agreement, workers compensation and employers' liability insurance meeting the requirements of the State of Texas on all the Contractor's employees carrying out the work involved in this contract.

**General Liability Insurance:** Contractor shall carry and maintain during the term of this Agreement, general liability insurance on a per occurrence basis with limits of liability not less than \$1,000,000 for each occurrence and for fire damage. For Bodily Injury and Property Damage, coverage shall be no less than \$1,000,000. As a minimum, coverage for Premises, Operations, Products and Completed Operations shall be \$2,000,000. This coverage shall protect the public or any person from injury or property damage sustained by reason of the Contractor or its employees carrying out the work involved in this Agreement. The general aggregate shall be no less than \$2,000,000.

**Automobile Liability Insurance:** Contractor shall carry and maintain during the term of this Agreement, automobile liability insurance with either a combined limit of at least \$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage shall include all owned, hired, and non-owned motor vehicles used in the performance of this contract by the Contractor or its employees.

**Subcontractor:** In the case of any work sublet, the Contractor shall require subcontractor and independent contractors working under the direction of either the Contractor or a subcontractor to carry and maintain the same workers compensation and liability insurance required of the Contractor.

**Qualifying Insurance:** The insurance required by this Agreement shall be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B+" or better by the A.M. Best Companies. All policies shall be written on a "per occurrence basis" and not a "claims made" form.

Evidence of such insurance shall be attached as Exhibit "C".

Failure of Certificate Holder to demand a certificate or other evidence of full compliance with these insurance requirements or failure of Certificate Holder to identify a deficiency from evidence that is

provided will not be construed as a waiver of Insured's obligation to maintain such insurance.

**Section 6. Miscellaneous Provisions**

- (A) *Subletting.* The Contractor shall not sublet or transfer any portion of the work under this Agreement, or any Scope of Work issued pursuant to this Agreement unless specifically approved in writing by the City, which approval shall not be unreasonably withheld. Subcontractors shall comply with all provisions of this Agreement and the applicable Scope of Work. The approval or acquiescence of the City in the subletting of any work shall not relieve the Contractor of any responsibility for work done by such subcontractor.
- (B) *Compliance with Laws.* The Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts, administrative, or regulatory bodies in any matter affecting the performance of this Agreement, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish the City with satisfactory proof of compliance.
- (C) *Independent Contractor.* Contractor acknowledges that Contractor is an independent contractor of the City and is not an employee, agent, official or representative of the City. Contractor shall not represent, either expressly or through implication, that Contractor is an employee, agent, official or representative of the City. Income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Contractor.
- (D) *Non-Collusion.* Contractor represents and warrants that Contractor has not given, made, promised or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the City under this Agreement. Contractor further agrees that Contractor shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the City pursuant to this Agreement) for any of the Work performed by Contractor under or related to this Agreement. If any such gift, bonus, commission, money, or other consideration is received by or offered to Contractor, Contractor shall immediately report that fact to the City and, at the sole option of the City, the City may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to Contractor under or pursuant to this Agreement.
- (E) *Force Majeure.* If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the

other party of the occurrence of a force majeure event causing such delay and the other party shall not otherwise be aware of such force majeure event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.

(F) *Conflict of Terms.*

*Scope of work:*

In the case of any conflicts between the terms of this Agreement within the Scope of Work, this Agreement shall govern. The Scope of Work is intended to detail the technical scope of Work, fee schedule, and contract time only and shall not dictate Agreement terms.

*Other Agreements between parties:*

In the case of any conflicts between the terms of this Agreement and wording contained within any other attachment, amendment, and agreement executed between the parties in conjunction with this Agreement, this Agreement shall govern.

- (G) *Non-Boycott of Israel.* Pursuant to Section 2270.002 of the Texas Government Code, Contractor certifies that either (i) it meets an exemption criterion under Section 2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Contractor shall state any facts that make it exempt from the boycott certification as an attachment to this agreement.

Relevant definitions from the bill:

"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

- (H) *Non-Boycott of Energy.* Pursuant to Texas Senate Bill 13 (2021), Contractor certifies that either (i) it does not boycott Israel and will not boycott energy companies; and (2) will not boycott energy companies during the term of the contract resulting from this solicitation. Contractor shall state any facts that make it exempt from the boycott certification as an attachment to this agreement.
- (I) *Non-Boycott of Firearm Entity.* Pursuant to Texas Senate Bill 19 (2021), Contractor certifies that it: (a) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (b) will not discriminate during the term of the contract against a firearm entity or firearm trade association.
- (J) *Access to Premises.* Authorized representatives of the Contractor will be allowed access to the facilities on City premises at reasonable times to fulfil the obligations of the Contractor regarding such facilities. The contractor shall adhere to all City rules, regulations, and

guidelines while on City property. It is expressly understood that the City may limit or restrict the right of access herein granted in any manner considered necessary (e.g., national security, public safety).

**(K) INTERLOCAL PARTICIPATION**

The City may enter Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance the City's purchasing power. At the City's sole discretion and option, City may inform other Entities that they may acquire items listed in this IFB. Such acquisition(s) shall be at the prices stated herein and shall be subject to bidder's acceptance. Entities desiring to acquire items listed in this IFB shall be listed on a rider attached hereto, if known at the time of issuance of the IFB. City may issue subsequent riders after contract award setting forth additional Entities desiring to utilize this bid. VENDOR shall sign and return any subsequently issued riders within ten calendar days of receipt.

In no event shall City be considered a dealer, re-marketer, agent or other representative of Vendor or Entity. Further, City shall not be considered and is not an agent; partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.

Entity purchase orders shall be submitted to Vendor by the Entity. City will not be liable or responsible for any obligations, including, but not limited to, payment, and for any item ordered by an entity other than City.

Vendor authorizes City's use of Vendor's name, trademarks and Vendor provided materials in City's presentations and promotions regarding the availability of use of this contract. The City makes no representation or guarantee as to any minimum amount being purchased by City or Entities, or whether Entity will purchase utilizing City's contract.

**Section 7. Termination**

(A) This Agreement may be terminated:

- (1) By the mutual agreement and consent of both Contractor and City;
- (2) By either party, upon the failure of the other party to fulfill its obligations as set forth in either this Agreement or a Scope of Work issued under this Agreement;
- (3) By the City, immediately upon notice in writing to the Contractor, as consequence of the failure of Contractor to perform the Work contemplated by this Agreement in a timely or satisfactory manner;
- (4) By the City, at will and without cause upon not less than thirty (30) days written notice to the Contractor.

(B) If the City terminates this Agreement pursuant to subsection 7(A)(2) or (3), above, the

Contractor shall not be entitled to any fees or reimbursable expenses other than the fees and reimbursable expenses then due and payable as of the time of termination and only then for those Work that have been timely and adequately performed by the Contractor considering the actual costs incurred by the Contractor in performing work to date of termination, the value of the work that is nonetheless usable to the City, the cost to the City of employing another Contractor to complete the work required and the time required to do so, and other factors that affect the value to the City of the work performed at time of termination. In the event of termination not the fault of the Contractor, the Contractor shall be compensated for all basic, special, and additional Work actually performed prior to termination, together with any reimbursable expenses then due.

**Section 8. Indemnification**

**CONTRACTOR AGREES TO INDEMNIFY AND HOLD THE CITY OF SCHERTZ, TEXAS AND ALL OF ITS PRESENT, FUTURE AND FORMER AGENTS, EMPLOYEES, OFFICIALS AND REPRESENTATIVES HARMLESS IN THEIR OFFICIAL, INDIVIDUAL AND REPRESENTATIVE CAPACITIES FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, JUDGMENTS, LIENS AND EXPENSES (INCLUDING ATTORNEY'S FEES, WHETHER CONTRACTUAL OR STATUTORY), COSTS AND DAMAGES (WHETHER COMMON LAW OR STATUTORY), COSTS AND DAMAGES (WHETHER COMMON LAW OR STATUTORY, AND WHETHER ACTUAL, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL), OF ANY CONCEIVABLE CHARACTER, FOR INJURIES TO PERSONS (INCLUDING DEATH) OR TO PROPERTY (BOTH REAL AND PERSONAL) CREATED BY, ARISING FROM OR IN ANY MANNER RELATING TO THE WORK OR GOODS PERFORMED OR PROVIDED BY CONTRACTOR – EXPRESSLY INCLUDING THOSE ARISING THROUGH STRICT LIABILITY OR UNDER THE CONSTITUTIONS OF THE UNITED STATES.**

**Section 9. Notices**

Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

**Section 10. No Assignment**

Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

**Section 11. Severability**

If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

**Section 12. Waiver**

Either City or the Contractor shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

**Section 13. Governing Law; Venue**

This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Guadalupe County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Guadalupe County, Texas.

**Section 14. Paragraph Headings; Construction**

The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

**Section 15. Binding Effect**

Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

**Section 16. Gender**

Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

**Section 17. Counterparts**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Section 18. Exhibits & Attachments**

All exhibits and attachments to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**Section 19. Entire Agreement**

It is understood and agreed that this Agreement, which incorporates the original RFP, Contractor's Response to RFP, and Purchase Order(s) issued for payment contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

**Order of Precedence.** In the event of a conflict between the terms and conditions included in the body of this Agreement and the terms and conditions included in any of the incorporated documents, the order of precedence shall be: (a) Agreement; (b) the attachments and/or exhibits to

Agreement, (c) Contractor's Response to RFP, and (d) Purchase Order(s).

**Section 20. Relationship of Parties**

Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

**Section 21. Right To Audit**

City shall have the right to examine and audit the books and records of Contractor with regards to the work described in Exhibit A, or any subsequent changes, at any reasonable time. Such books and records will be maintained in accordance with generally accepted principles of accounting and will be adequate to enable determination of: (1) the substantiation and accuracy of any payments required to be made under this Agreement; and (2) compliance with the provisions of this Agreement.

**Section 22. Dispute Resolution**

In accordance with the provisions of Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute. (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute. (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

**Section 23. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire**

Contractor states that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

**Certificate of Interested Parties**

Effective January 1, 2016, pursuant to House Bill 1295 passed by the 84th Texas Legislature (Section 2252.908, Texas Government Code, as amended) and formal rules released by the Texas Ethics Commission (TEC), all contracts with private business entities requiring approval by the Schertz City Council will require the on-line completion of Form 1295 "Certificate of Interested Parties." Form 1295 is also required for all contract amendments, extensions or renewals. Contractors are required to complete and file electronically with the Texas Ethics Commission using the online filing application.

Please visit the State of Texas Ethics Commission website, [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm) and <https://www.ethics.state.tx.us/tec/1295-Info.htm> for more information.

IF YOU HAVE ANY QUESTIONS ABOUT COMPLIANCE, PLEASE CONSULT YOUR OWN LEGAL COUNSEL. COMPLIANCE IS THE INDIVIDUAL RESPONSIBILITY OF EACH PERSON OR AGENT OF A PERSON WHO IS SUBJECT TO THE FILING REQUIREMENT. AN OFFENSE UNDER CHAPTER 176 IS A CLASS C MISDEMEANOR.

**[The remainder of this page is intentionally left blank.]**

**EXECUTED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY:**

**CONTRACTOR:**

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

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

Name: Steve Williams

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

Title: City Manager

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

**ADDRESS FOR NOTICE:**

**CITY:**

**CONTRACTOR:**

City of Schertz  
Attn: Steve Williams, City Manager  
1400 Schertz Parkway  
Schertz, Texas 78154

AR6 Construction & Engineering, LLC  
Attn: Eric Rypple  
26726 Rockwall Parkway  
New Braunfels, TX 78132

# **Exhibit “A”**

## **SCOPE OF WORK**

### Scope of Work

The contractor shall provide all equipment, materials, and personnel necessary to complete the following minimum requirements.

<b>PLACEMENT/ REMOVAL</b>	<b>Sawtooth Curb and Gutter</b>	<b>Unit</b>	<b>Unit Price</b>
Placement	10 – 100	LF	\$37.50
Placement	101 -200	LF	\$37.50
Placement	201 – 500	LF	\$37.50
Placement	501+ LF	LF	\$37.50
Removal		LF	\$12.50
<b>PLACEMENT/ REMOVAL</b>	<b>7” Curb Only</b>	<b>Unit</b>	<b>Unit Price</b>
Placement	10 – 100	LF	\$25.00
Placement	101 -200	LF	\$25.00
Placement	201 – 500	LF	\$20.00
Placement	501+ LF	LF	\$20.00
Removal		LF	\$12.50
<b>PLACEMENT/ REMOVAL</b>	<b>Curb &amp; Gutter</b>	<b>Unit</b>	<b>Unit Price</b>
Placement	10 – 100	LF	\$37.50
Placement	101 -200	LF	\$37.50
Placement	201-500	LF	\$31.25
Placement	501+ LF	LF	\$31.25
Removal		LF	\$12.50
<b>PLACEMENT/ REMOVAL</b>	<b>4” Sidewalk</b>	<b>Unit</b>	<b>Unit Price</b>
Placement	10 – 100	SY	\$73.75
Placement	101 -200	SY	\$73.75
Placement	201 – 500	SY	\$73.75
Placement	501+ LF	SY	\$73.75
Removal		SY	\$33.75

PLACEMENT/ REMOVAL	6" Sidewalk	Unit	Unit Price
Removal	10 – 100	SY	\$33.75
Removal	101 -200	SY	\$33.75
Removal	201 – 500	SY	\$33.75
Removal	501+ LF	SY	\$33.75
Placement		SY	\$91.25
Non-specified Work		Unit	Unit Price
Removal of Misc Concrete		SY	\$37.50
Flush Curb (Ribbon Curb)		SY	\$250.00
Riprap (Concrete 5")		SY	\$43.75
Miscellaneous Concrete Placement (w/#4 Steel at 12" on Center Each Way)		SY	\$112.50
3ft Valley Gutters		LF	\$68.75
Asphalt Patch/Repair Type D		SY	\$62.50
Flowable Fill Placement		CY	\$312.50
5ft Concrete Trickle Channel		LF	\$81.25
Valve Box Concrete Easement		CY	\$437.50
Manhole Ring Concrete Easement Description		CY	\$437.50
5" Driveway Section		SY	\$106.25
6" Driveway Section		SY	\$112.50
ADA Curb Ramp (Type IV)		EA	\$2437.50

ADA Curb Ramp (Type II)	EA	\$2437.50
<b>Non-Specified Fees</b>	<b>Unit</b>	<b>Rate</b>
Non-Specified Work Labor Rate	Per Hour	\$340
Invoice plus Mark Up %	%	2 0%
Mobilization Fee	Rate	\$900 EA
Demobilization Fee	Rate	\$900 EA
Signage & Safety Barricades	Rate	\$1500/MONTH
Pump Truck (per hour)	Per Hour	\$575 .00

# **Exhibit “B”**

## **EVIDENCE OF INSURANCE**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/7/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Edgewood Partners Ins. Center 14881 Quorum Drive Suite 850 Dallas TX 75254	<b>CONTACT NAME:</b> <b>PHONE (A/C. No. Ext):</b> 469-210-3828		<b>FAX (A/C. No):</b>
	<b>E-MAIL ADDRESS:</b>		
<b>INSURER(S) AFFORDING COVERAGE</b>			<b>NAIC #</b>
<b>INSURER A :</b> United Fire and Casualty Company			13021
<b>INSURER B :</b> Lloyd's of London			85202
<b>INSURER C :</b>			
<b>INSURER D :</b>			
<b>INSURER E :</b>			
<b>INSURER F :</b>			

**COVERAGES**

CERTIFICATE NUMBER: 1217466


REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> PD Ded: \$1,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			85327020	9/26/2023	9/26/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			85327020	9/26/2023	9/26/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			85327020	9/26/2023	9/26/2024	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			85327020	9/26/2023	9/26/2024	<input type="checkbox"/> PER STATUTE <input checked="" type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liability			2083483	3/6/2024	3/6/2025	1,000,000 Each Claim/ Agg

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**CERTIFICATE HOLDER****CANCELLATION**

	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY  
 CERTIFICATION OF FILING**

**Certificate Number:**  
 2024-1205018

**Date Filed:**  
 08/23/2024

**Date Acknowledged:**  
 09/09/2024

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**  
 AR6 Construction & Engineering, LLC  
 New Braunfels, TX United States

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**  
 City of Schertz

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**  
 2024-017  
 Concrete On-Call Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

**5 Check only if there is NO Interested Party.**

**6 UNSWORN DECLARATION**

My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.

My address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(month) (year)

\_\_\_\_\_  
 Signature of authorized agent of contracting business entity  
 (Declarant)

**EXHIBIT "B"**

**CITY OF SCHERTZ**  
**SERVICE AGREEMENT**

THE STATE OF TEXAS   §  
  §  
GUADALUPE COUNTY   §

This Service Agreement (“Agreement”) is made and entered by and between the City of Schertz, Texas, (the “City”) a Texas municipality, and C3 Environmental Spacialties (“Contractor”).

**Section 1.    Duration**

This Agreement shall become effective upon the date of the final signature affixed hereto and shall remain in effect through September 30, 2026 with the option to renew for two (2) additional terms of (1) year each unless terminated as provided for in this Agreement.

**Section 2.    Scope of Work**

- (A) Contractor shall perform the Work as more particularly described in the Scope of Work attached hereto as Exhibit “A”. The work as described in the Scope of Work constitutes the “Project”.
- (B) The Quality of Work provided under this Agreement shall be of the level of quality performed by Contractors regularly rendering this type of service.
- (C) The Contractor shall perform its Work for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.
- (D) The Contractor may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent Contractor or when it has actual notice of any defects in the reports and surveys.

**Section 3.    Compensation**

- (A) The Contractor shall be paid in full upon completion of the project or in the manner set forth in Exhibit “A” and as provided herein.
- (B) *Billing Period.* Subject to Chapter 2251, Texas Government Code (the “Prompt Payment Act”), payment is due within thirty (30) days of the City’s receipt of the Contractor’s invoice. Interest on overdue payments shall be calculated in accordance with the Prompt Payment Act.
- (C) *Reimbursable Expenses.* Any and all reimbursable expenses related to the Project shall be included in the scope of Work (Exhibit A) and accounted for in the total contract amount.
- (D) *Payments Subject to Future Appropriation.* This Agreement shall not be construed as a commitment, issue, pledge or obligation of any specific taxes or tax revenues for payment to Contractor.

- (1) All payments or expenditures made by the City under this Agreement are subject to the City's appropriation of funds for such payments or expenditures to be paid in the budget year for which they are made.
- (2) The payments to be made to Contractor, or other expenditures under this Agreement, if paid, shall be made solely from annual appropriations of the City as may be legally set aside for the implementation of Article III, Section 52-a of the Texas Constitution or Chapter 380 of the Texas Local Government Code or any other economic development or financing program authorized by statute or home rule powers of the City under applicable Texas law, subject to any applicable limitations or procedural requirements.
- (3) In the event the City does not appropriate funds in any fiscal year for payments due or expenditures under this Agreement, the City shall not be liable to Contractor for such payments or expenditures unless and until appropriation of said funds is made; provided, however, that Contractor, in its sole discretion, shall have the right but not the obligation to terminate this Agreement and shall have no obligations under this Agreement for the year in respect to which said unappropriated funds relate.
- (4) To the extent there is a conflict between this Section and any other language or covenants in this Agreement, this Section 3 shall control.

#### **Section 4. Time of Completion**

The prompt completion of the Work under the Scope of Work relates is critical to the City. Unnecessary delays in providing Work under a Scope of Work shall be grounds for dismissal of the Contractor and termination of this Agreement without any or further liability to the City other than a prorated payment for necessary, timely, and conforming work done by Contractor prior to the time of termination.

*(A) Contract Times: Days*

This section intentionally left blank

*(B) Liquidated Damages*

Contractor and Owner recognize that time is of the essence as stated above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in the Scope of Work, plus any extensions thereof allowed in accordance with the Contract. The Contractor acknowledges and recognizes that the Owner is entitled to full and beneficial occupancy and use of the completed work following expiration of the Contract Time. The Contractor further acknowledges and agrees that, if the Contractor fails to substantially, or cause the Substantial Completion of any portion of the Work within the Contract time, the Owner will sustain actual damages because of such failure. The exact amount of such damage will be difficult to ascertain. Therefore, the Owner and Contractor agree that, if the Contractor shall neglect, fail, or refuse to achieve substantial completion of the Work by the Substantial Completion date, subject to proper extension granted by the Owner, then the Contractor agrees to pay the Owner the sum of **Six hundred dollars (\$600.00) per day** for each day in which such Work is not completed, not as penalty, but as liquidated damages, for the damages (“Liquidated Damages”) that would be suffered by Owner as a result of delay for each and every calendar day that the Contractor shall have failed to have completed the Work as required herein. The Liquidated Damages shall be in lieu of any and all other damages

which may be incurred by the Owner as a result of the failure of Contractor to complete within the Contract Time.

### **Section 5. Insurance**

Before commencing work under this Agreement, Contractor shall obtain and maintain the liability insurance provided for below throughout the term of the Project plus an additional two years. The contractor shall provide evidence of such insurance to the City. Such documentation shall meet the requirements noted in Exhibit B.

Contractor shall maintain the following limits and types of insurance:

**Workers Compensation Insurance:** Contractor shall carry and maintain during the term of this Agreement, workers compensation and employers' liability insurance meeting the requirements of the State of Texas on all the Contractor's employees carrying out the work involved in this contract.

**General Liability Insurance:** Contractor shall carry and maintain during the term of this Agreement, general liability insurance on a per occurrence basis with limits of liability not less than \$1,000,000 for each occurrence and for fire damage. For Bodily Injury and Property Damage, coverage shall be no less than \$1,000,000. As a minimum, coverage for Premises, Operations, Products and Completed Operations shall be \$2,000,000. This coverage shall protect the public or any person from injury or property damage sustained by reason of the Contractor or its employees carrying out the work involved in this Agreement. The general aggregate shall be no less than \$2,000,000.

**Automobile Liability Insurance:** Contractor shall carry and maintain during the term of this Agreement, automobile liability insurance with either a combined limit of at least \$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage shall include all owned, hired, and non-owned motor vehicles used in the performance of this contract by the Contractor or its employees.

**Subcontractor:** In the case of any work sublet, the Contractor shall require subcontractor and independent contractors working under the direction of either the Contractor or a subcontractor to carry and maintain the same workers compensation and liability insurance required of the Contractor.

**Qualifying Insurance:** The insurance required by this Agreement shall be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B+" or better by the A.M. Best Companies. All policies shall be written on a "per occurrence basis" and not a "claims made" form.

Evidence of such insurance shall be attached as Exhibit "C".

Failure of Certificate Holder to demand a certificate or other evidence of full compliance with these insurance requirements or failure of Certificate Holder to identify a deficiency from evidence that is provided will not be construed as a waiver of Insured's obligation to maintain such insurance.

**Section 6. Miscellaneous Provisions**

- (A) *Subletting.* The Contractor shall not sublet or transfer any portion of the work under this Agreement, or any Scope of Work issued pursuant to this Agreement unless specifically approved in writing by the City, which approval shall not be unreasonably withheld. Subcontractors shall comply with all provisions of this Agreement and the applicable Scope of Work. The approval or acquiescence of the City in the subletting of any work shall not relieve the Contractor of any responsibility for work done by such subcontractor.
- (B) *Compliance with Laws.* The Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts, administrative, or regulatory bodies in any matter affecting the performance of this Agreement, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish the City with satisfactory proof of compliance.
- (C) *Independent Contractor.* Contractor acknowledges that Contractor is an independent contractor of the City and is not an employee, agent, official or representative of the City. Contractor shall not represent, either expressly or through implication, that Contractor is an employee, agent, official or representative of the City. Income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Contractor.
- (D) *Non-Collusion.* Contractor represents and warrants that Contractor has not given, made, promised or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the City under this Agreement. Contractor further agrees that Contractor shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the City pursuant to this Agreement) for any of the Work performed by Contractor under or related to this Agreement. If any such gift, bonus, commission, money, or other consideration is received by or offered to Contractor, Contractor shall immediately report that fact to the City and, at the sole option of the City, the City may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to Contractor under or pursuant to this Agreement.
- (E) *Force Majeure.* If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a force majeure event causing such delay and the other party shall not otherwise be aware of such force majeure event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this

subsection.

(F) *Conflict of Terms.*

*Scope of work:*

In the case of any conflicts between the terms of this Agreement within the Scope of Work, this Agreement shall govern. The Scope of Work is intended to detail the technical scope of Work, fee schedule, and contract time only and shall not dictate Agreement terms.

*Other Agreements between parties:*

In the case of any conflicts between the terms of this Agreement and wording contained within any other attachment, amendment, and agreement executed between the parties in conjunction with this Agreement, this Agreement shall govern.

- (G) *Non-Boycott of Israel.* Pursuant to Section 2270.002 of the Texas Government Code, Contractor certifies that either (i) it meets an exemption criterion under Section 2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Contractor shall state any facts that make it exempt from the boycott certification as an attachment to this agreement.

Relevant definitions from the bill:

"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

- (H) *Non-Boycott of Energy.* Pursuant to Texas Senate Bill 13 (2021), Contractor certifies that either (1) it does not boycott Israel and will not boycott energy companies; and (2) will not boycott energy companies during the term of the contract resulting from this solicitation. Contractor shall state any facts that make it exempt from the boycott certification as an attachment to this agreement.
- (I) *Non-Boycott of Firearm Entity.* Pursuant to Texas Senate Bill 19 (2021), Contractor certifies that it: (a) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (b) will not discriminate during the term of the contract against a firearm entity or firearm trade association.
- (J) *Access to Premises.* Authorized representatives of the Contractor will be allowed access to the facilities on City premises at reasonable times to fulfil the obligations of the Contractor regarding such facilities. The contractor shall adhere to all City rules, regulations, and guidelines while on City property. It is expressly understood that the City may limit or restrict the right of access herein granted in any manner considered necessary (e.g., national security, public safety).

(K) **INTERLOCAL PARTICIPATION**

The City may enter Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance the City's purchasing power. At the City's sole discretion and option, City may inform other Entities that they may acquire items listed in this IFB. Such acquisition(s) shall be at the prices stated herein and shall be subject to bidder's acceptance. Entities desiring to acquire items listed in this IFB shall be listed on a rider attached hereto, if known at the time of issuance of the IFB. City may issue subsequent riders after contract award setting forth additional Entities desiring to utilize this bid. VENDOR shall sign and return any subsequently issued riders within ten calendar days of receipt.

In no event shall City be considered a dealer, re-marketer, agent or other representative of Vendor or Entity. Further, City shall not be considered and is not an agent; partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.

Entity purchase orders shall be submitted to Vendor by the Entity. City will not be liable or responsible for any obligations, including, but not limited to, payment, and for any item ordered by an entity other than City.

Vendor authorizes City's use of Vendor's name, trademarks and Vendor provided materials in City's presentations and promotions regarding the availability of use of this contract. The City makes no representation or guarantee as to any minimum amount being purchased by City or Entities, or whether Entity will purchase utilizing City's contract.

**Section 7. Termination**

(A) This Agreement may be terminated:

- (1) By the mutual agreement and consent of both Contractor and City;
- (2) By either party, upon the failure of the other party to fulfill its obligations as set forth in either this Agreement or a Scope of Work issued under this Agreement;
- (3) By the City, immediately upon notice in writing to the Contractor, as consequence of the failure of Contractor to perform the Work contemplated by this Agreement in a timely or satisfactory manner;
- (4) By the City, at will and without cause upon not less than thirty (30) days written notice to the Contractor.

(B) If the City terminates this Agreement pursuant to subsection 7(A)(2) or (3), above, the Contractor shall not be entitled to any fees or reimbursable expenses other than the fees and reimbursable expenses then due and payable as of the time of termination and only then for those Work that have been timely and adequately performed by the Contractor considering

the actual costs incurred by the Contractor in performing work to date of termination, the value of the work that is nonetheless usable to the City, the cost to the City of employing another Contractor to complete the work required and the time required to do so, and other factors that affect the value to the City of the work performed at time of termination. In the event of termination not the fault of the Contractor, the Contractor shall be compensated for all basic, special, and additional Work actually performed prior to termination, together with any reimbursable expenses then due.

**Section 8. Indemnification**

CONTRACTOR AGREES TO INDEMNIFY AND HOLD THE CITY OF SCHERTZ, TEXAS AND ALL OF ITS PRESENT, FUTURE AND FORMER AGENTS, EMPLOYEES, OFFICIALS AND REPRESENTATIVES HARMLESS IN THEIR OFFICIAL, INDIVIDUAL AND REPRESENTATIVE CAPACITIES FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, JUDGMENTS, LIENS AND EXPENSES (INCLUDING ATTORNEY'S FEES, WHETHER CONTRACTUAL OR STATUTORY), COSTS AND DAMAGES (WHETHER COMMON LAW OR STATUTORY), COSTS AND DAMAGES (WHETHER COMMON LAW OR STATUTORY, AND WHETHER ACTUAL, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL), OF ANY CONCEIVABLE CHARACTER, FOR INJURIES TO PERSONS (INCLUDING DEATH) OR TO PROPERTY (BOTH REAL AND PERSONAL) CREATED BY, ARISING FROM OR IN ANY MANNER RELATING TO THE WORK OR GOODS PERFORMED OR PROVIDED BY CONTRACTOR – EXPRESSLY INCLUDING THOSE ARISING THROUGH STRICT LIABILITY OR UNDER THE CONSTITUTIONS OF THE UNITED STATES.

**Section 9. Notices**

Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

**Section 10. No Assignment**

Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

**Section 11. Severability**

If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

**Section 12. Waiver**

Either City or the Contractor shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit

such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

**Section 13. Governing Law; Venue**

This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Guadalupe County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Guadalupe County, Texas.

**Section 14. Paragraph Headings; Construction**

The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

**Section 15. Binding Effect**

Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

**Section 16. Gender**

Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

**Section 17. Counterparts**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Section 18. Exhibits & Attachments**

All exhibits and attachments to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**Section 19. Entire Agreement**

It is understood and agreed that this Agreement, which incorporates the original RFP, Contractor's Response to RFP, and Purchase Order(s) issued for payment contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

**Order of Precedence.** In the event of a conflict between the terms and conditions included in the body of this Agreement and the terms and conditions included in any of the incorporated documents, the order of precedence shall be: (a) Agreement; (b) the attachments and/or exhibits to Agreement, (c) Contractor's Response to RFP, and (d) Purchase Order(s).

## **Section 20. Relationship of Parties**

Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

## **Section 21. Right To Audit**

City shall have the right to examine and audit the books and records of Contractor with regards to the work described in Exhibit A, or any subsequent changes, at any reasonable time. Such books and records will be maintained in accordance with generally accepted principles of accounting and will be adequate to enable determination of: (1) the substantiation and accuracy of any payments required to be made under this Agreement; and (2) compliance with the provisions of this Agreement.

## **Section 22. Dispute Resolution**

In accordance with the provisions of Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute. (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute. (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

## **Section 23. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire**

Contractor states that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

## **Certificate of Interested Parties**

Effective January 1, 2016, pursuant to House Bill 1295 passed by the 84th Texas Legislature (Section 2252.908, Texas Government Code, as amended) and formal rules released by the Texas Ethics Commission (TEC), all contracts with private business entities requiring approval by the Schertz City Council will require the on-line completion of Form 1295 "Certificate of Interested Parties." Form 1295 is also required for all contract amendments, extensions or renewals. Contractors are required to complete and file electronically with the Texas Ethics Commission using the online filing application.

Please visit the State of Texas Ethics Commission website, [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm) and <https://www.ethics.state.tx.us/tec/1295-Info.htm> for more information.

IF YOU HAVE ANY QUESTIONS ABOUT COMPLIANCE, PLEASE CONSULT YOUR OWN LEGAL COUNSEL. COMPLIANCE IS THE INDIVIDUAL RESPONSIBILITY OF EACH PERSON OR AGENT OF A PERSON WHO IS SUBJECT TO THE FILING REQUIREMENT. AN OFFENSE UNDER CHAPTER 176 IS A CLASS C MISDEMEANOR.

**[The remainder of this page is intentionally left blank.]**

**EXECUTED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY:**

**CONTRACTOR:**

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

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

Name: Steve Williams

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

Title: City Manager

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

**ADDRESS FOR NOTICE:**

**CITY:**

**CONTRACTOR:**

City of Schertz  
Attn: Steve Williams, City Manager  
1400 Schertz Parkway  
Schertz, Texas 78154

C3 Environmental Specialties  
Attn: Randy Kelly  
13730 Interstate 10E  
Converse TX 78109

# **Exhibit “A”**

## **SCOPE OF WORK**

### Scope of Work

The contractor shall provide all equipment, materials, and personnel necessary to complete the following minimum requirements.

<b>PLACEMENT/ REMOVAL</b>	<b>Sawtooth Curb and Gutter</b>	<b>Unit</b>	<b>Unit Price</b>
Placement	10 - 100	LF	\$85.00
Placement	101 -200	LF	\$37.00
Placement	201 – 500	LF	\$33.00
Placement	501+ LF	LF	\$34.00
Removal		LF	\$40.00
<b>PLACEMENT/ REMOVAL</b>	<b>7" Curb Only</b>	<b>Unit</b>	<b>Unit Price</b>
Placement	10 – 100	LF	\$84.00
Placement	101 -200	LF	\$35.00
Placement	201 – 500	LF	\$32.00
Placement	501+ LF	LF	\$25.00
Removal		LF	\$38.00
<b>PLACEMENT/ REMOVAL</b>	<b>Curb &amp; Gutter</b>	<b>Unit</b>	<b>Unit Price</b>
Placement	10 – 100	LF	\$89.00
Placement	101 -200	LF	\$34.00
Placement	201-500	LF	\$47.00
Placement	501+ LF	LF	\$38.00
Removal		LF	\$42.00
<b>PLACEMENT/ REMOVAL</b>	<b>4" Sidewalk</b>	<b>Unit</b>	<b>Unit Price</b>
Placement	10 – 100	SY	\$110.00
Placement	101 -200	SY	\$87.00
Placement	201 – 500	SY	\$80.00
Placement	501+ LF	SY	\$68.00
Removal		SY	\$65.00

PLACEMENT/ REMOVAL	6" Sidewalk	Unit	Unit Price
Removal	10 – 100	SY	\$116.00
Removal	101 -200	SY	\$124.00
Removal	201 – 500	SY	\$93.00
Removal	501+ LF	SY	\$110.00
Placement		SY	\$100.00
Non-specified Work		Unit	Unit Price
Removal of Misc Concrete		SY	\$146.00
Flush Curb (Ribbon Curb)		SY	\$218.00
Riprap (Concrete 5")		SY	\$175.00
Miscellaneous Concrete Placement (w/#4 Steel at 12" on Center Each Way)		SY	\$225.00
3ft Valley Gutters		LF	\$55.50
Asphalt Patch/Repair Type D		SY	\$200.00
Flowable Fill Placement		CY	\$411.00
5ft Concrete Trickle Channel		LF	\$111.00
Valve Box Concrete Easement		CY	\$245.00
Manhole Ring Concrete Easement Description		CY	\$4,795.00
5" Driveway Section		SY	\$211.50
6" Driveway Section		SY	\$217.00
ADA Curb Ramp (Type IV)		EA	\$3,750.00

ADA Curb Ramp (Type II)	EA	\$3,750.00
<b>Non-Specified Fees</b>	<b>Unit</b>	<b>Rate</b>
Non-Specified Work Labor Rate	Per Hour	\$38.50
Invoice plus Mark Up %	%	10%
Mobilization Fee	Rate	\$1,000.00
Demobilization Fee	Rate	\$1,000.00
Signage & Safety Barricades	Rate	\$750.00/Day
Pump Truck (per hour)	Per Hour	\$425.00

# **Exhibit “B”**

## **EVIDENCE OF INSURANCE**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/6/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Hub International Texas, Inc. 106 S. St. Mary's Street #800 San Antonio TX 78205	<b>CONTACT NAME:</b> Cecilia Jurado <b>PHONE (A/C, No, Ext):</b> 210-298-7126 <b>E-MAIL ADDRESS:</b> cecilia.jurado@hubinternational.com	<b>FAX (A/C, No):</b> 210-222-1618	
	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURED</b> C3 Environmental Specialties, LP 13730 Interstate 10 East Converse TX 78109	2835	<b>INSURER A :</b> Amerisure Insurance Company <b>INSURER B :</b> Amerisure Mutual Insurance Company <b>INSURER C :</b> *Continental Casualty Co. <b>INSURER D :</b> <b>INSURER E :</b> <b>INSURER F :</b>	19488 23396 20443

**COVERAGES**

CERTIFICATE NUMBER: 468804896

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	CPP21206710201	5/3/2024	5/3/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	CA21206700202	5/3/2024	5/3/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0	Y	Y	CU21206730202	5/3/2024	5/3/2025	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y	WC21206740201	5/3/2024	5/3/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Contractors Equipment			7092101090	5/3/2024	5/3/2025	Leased/Rented 400,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**

Commercial General Liability Policy includes a blanket automatic additional insured endorsement that provides additional insured status only when there is a written contract requiring such status. Commercial General Liability Policy includes a primary and non-contributory provision only when there is a written contract that requires it. Commercial General Liability Policy includes a blanket automatic waiver of subrogation endorsement that provides this feature only when there is a written contract that requires it. Commercial General Liability Policy includes an endorsement providing 30 days' notice of cancellation to be furnished to the certificate holder except for 10 day notice of nonpayment of premium. Business Auto Policy includes a blanket automatic additional insured endorsement that provides additional insured status when there is a written contract that requires such status. Business Auto Policy includes a blanket automatic waiver of subrogation endorsement that provides this feature only when there is a written contract that requires it. Business Auto Policy includes an endorsement providing 30 days' notice of cancellation to be furnished to the certificate except 10 day notice of nonpayment of premium where required by See Attached...

**CERTIFICATE HOLDER****CANCELLATION**

City of Schertz  
 1400 Schertz Parkway  
 Schertz TX 78154

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**ADDITIONAL REMARKS SCHEDULE**

AGENCY Hub International Texas, Inc.		NAMED INSURED C3 Environmental Specialties, LP 13730 Interstate 10 East Converse TX 78109	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER:** 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

written contract. Umbrella Liability coverage provided by this policy shall follow the terms, definitions, conditions and exclusions of the applicable underlying insurance.  
 RE: On-Call Concrete Repair & Replacement

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY  
 CERTIFICATION OF FILING**

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

C3 Environmental Specialties  
 Converse, TX United States

Certificate Number:  
 2024-1204316

Date Filed:  
 08/22/2024

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City Of Schertz

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

RFP#2024-07  
 Concrete On-Call Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is Dustin Pratt, and my date of birth is 01/20/1979.

My address is 13730 Interstate 10 East, Converse, Tx, 78109.

(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Bexar County, State of Texas, on the 23<sup>rd</sup> day of August, 20 24.

(month) (year)

  
 \_\_\_\_\_  
 Signature of authorized agent of contracting business entity (Declarant)

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY  
 CERTIFICATION OF FILING**

**Certificate Number:**  
 2024-1204316

**Date Filed:**  
 08/22/2024

**Date Acknowledged:**  
 09/06/2024

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**  
 C3 Environmental Specialties  
 Converse, TX United States

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**  
 City Of Schertz

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**  
 RFP#2024-07  
 Concrete On-Call Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

**5 Check only if there is NO Interested Party.**

**6 UNSWORN DECLARATION**

My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.

My address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(month) (year)

\_\_\_\_\_  
 Signature of authorized agent of contracting business entity  
 (Declarant)