

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
PARKS AND RECREATION DEPARTMENT**

TO: Mayor and City Council

FROM: Malcolm Matthews, Director, Parks and Recreation Department

THROUGH: Terry M. Brechtel, City Manager

COPIES: Christopher J. Brady; Finance; Management and Budget; Legal; Environmental Services; File

SUBJECT: Ordinance Authorizing Payment to ATC Associates, Inc. for Consultant Services at the Tower of the Americas

DATE: February 19, 2004

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes payment from Certificates of Obligation funds in the amount of \$23,200.00 to ATC Associates, Inc. for environmental services under an existing professional services contract for the Tower of the Americas in City Council District 1 and authorizes payment of \$5,800.00 for consultant contingency expenses.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

A Request for Proposals for the redevelopment and operation of the Tower of the Americas was issued on October 28, 2003. A pre-proposal conference was held on December 4, 2003. During that conference, the potential proposers asked about the environmental condition of the Tower of the Americas and whether they would be provided a "clean" facility. The City agreed to conduct an asbestos survey of the facility so that the proposers could incorporate this information into their design plans, if their proposal is accepted.

ATC Associates, Inc. will conduct a comprehensive asbestos survey of the Tower of the Americas including the observation level, restaurant, lounge, kitchen, storage area, offices, and mechanical rooms. Services will include inspections, sampling and a final report. This firm has an existing environmental services consultant agreement with the Environmental Services Department approved through Ordinance 95384 on February 28, 2002. An ordinance is required to allocate available Certificates of Obligation funds for the Tower project. Total fees previously approved for this firm under its contract are \$124,903.80, with a contract cap of \$180,000.00. This project falls within the available balance of funds associated for this firm.

Following completion of the asbestos study, the information will be provided to the selected Tower of the Americas proposer for consideration and appropriate action, in coordination with the City.

POLICY ANALYSIS

The consultant was chosen in accordance with all of the City's consultant selection procedures and was approved by Ordinance 95384 on February 28, 2002.

FISCAL IMPACT

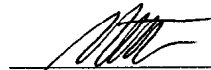
Funds are available from 1985 Certificates of Obligation Funds for HemisFair Renovations and Improvements (\$9,151.88) and from 1994 Certificates of Obligation Funds for Tower of the Americas Renovations (\$175,411.35). The total amount of \$29,000.00 will be allocated through this action. The asbestos consultant fee is \$23,200.00 and the consultant contingency is \$5,800.00.

COORDINATION

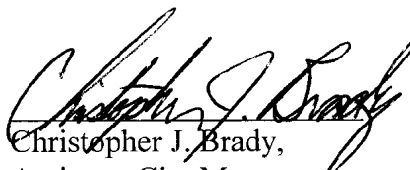
The Environmental Services Department has assisted with this action.

SUPPLEMENTARY COMMENTS

A Discretionary Contracts Disclosure Form is attached from ATC Associates, Inc.



Malcolm Matthews,
Director of Parks and Recreation



Christopher J. Brady,
Assistant City Manager

Approved:

✓ 

Terry M. Brechtel
City Manager

| Name of On-Call Professional Services Contractor | Specialty | SBEDA | Contract Cap | Authorized YTD | Balance | Ordinance # and Date | Project Manager |
|--|--|---------------|-----------------|----------------|---------------|------------------------|-----------------|
| ATC ^{1,2} | Phase II Environmental Site Assessments (ESA), mold assessment, environmental construction oversight | n/a | \$ 180,000.00 | \$ 124,903.80 | \$ 55,096.20 | Ord. 95384 on 2/28/02 | John Cantu |
| Drash ^{1,2} | Phase II ESA, environmental specification preparation | WBE, SBE | \$ 180,000.00 | \$ 128,823.00 | \$ 51,177.00 | Ord. 95384 on 2/28/02 | John Cantu |
| EFI ^{1,2} | Risk based closures, Phase II ESA, mold remediation, environmental construction oversight | n/a | \$ 180,000.00 | \$ 162,532.10 | \$ 17,467.90 | Ord. 95384 on 2/28/02 | John Cantu |
| Geo Marine ^{1,2} | Phase II ESA, geophysical assessments | SBE, MBE, DBE | \$ 180,000.00 | \$ 96,691.70 | \$ 83,308.30 | Ord. 95384 on 2/28/02 | John Cantu |
| Geo Strata ^{1,2} | Phase I and Phase II ESA, RCRA facility compliance audits | WBE, SBE | \$ 180,000.00 | \$ 111,484.49 | \$ 68,515.51 | Ord. 95384 on 2/28/02 | John Cantu |
| Kei ^{1,2} | Petroleum Storage Tank (PST) corrective action, subsurface investigations, risk based closure procedures | n/a | \$ 180,000.00 | \$ 116,177.00 | \$ 63,823.00 | Ord. 95384 on 2/28/02 | John Cantu |
| Pape Dawson ^{1,2} | Phase II ESA, geologic assessments, water pollution abatement plans, environmental specifications | n/a | \$ 180,000.00 | \$ 107,163.00 | \$ 72,837.00 | Ord. 95384 on 2/28/02 | John Cantu |
| Eagle ² | Environmental Construction activities, such as soil excavation, emergency response, tank removal | n/a | \$ 1,500,000.00 | \$ 661,137.10 | \$ 838,862.90 | Ord. 95847 on 5/30/02 | John Cantu |
| Raba-Kistner | Groundwater Sampling & Risk Assessment for closed Landfills | WBE, SBE, DBE | \$ 150,000.00 | \$ 99,346.00 | \$ 50,654.00 | Ord. 97612 on 5/15/03 | John Cantu |
| SCS Engineers | Design, Operation and Maintenance of landfill gas collection systems | DBE, SBE | \$ 150,000.00 | \$ 127,159.39 | \$ 22,840.61 | Ord. 97612 on 5/15/03 | John Cantu |
| HNTB | Preparation of Environmental documents related to NEPA/FHWA regulations | DBE, SBE | \$ 100,000.00 | \$ 70,005.40 | \$ 29,994.60 | Ord. 97613 on 5/15/03 | John Cantu |
| PBS&J | Preparation of Environmental documents and conduct cultural resources surveys related to NEPA/FHWA regulations | DBE, SBE | \$ 100,000.00 | \$ 44,570.76 | \$ 55,429.24 | Ord. 97613 on 5/15/03 | John Cantu |
| OpTECH | Asbestos surveys and air monitoring during abatement activities | MBE | \$ 80,000.00 | \$ 78,570.35 | \$ 1,429.65 | Ord. 95551 on 4/4/02 | Abe Diaz |
| Bexar Env. | Asbestos abatement contractor for City structures | n/a | \$ 366,000.00 | \$ 82,428.26 | \$ 283,571.74 | Ord. 96837 on 12/22/02 | Abe Diaz |

Notes

¹ From Council Memo dated 2/28/02. "The actual work activities will be allocated as delivery orders to each individual consulting firm on a rotating basis in an alphabetical fashion, with the exception of specific engineering work activities or where the proposed work requires certain qualifications held by only a particular firm.

² All of the consultants perform adequate phase II Environmental Site Assessments. Beyond this level of service, various consultants have strengths in the fields described above.

Revised 2/3/04

MBE - Minority owned business, SBE - Small business enterprise, DBE - Disadvantaged business enterprise, WBE - Woman owned business enterprise

NOV-22-2002 FRI 11:41 AM ATC

FAX NO. 2812408909

P. 02

City of San Antonio Discretionary Contracts Disclosure*

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2

Attach additional sheets if space provided is not sufficient.

State "Not Applicable" for questions that do not apply.

* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.

Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the City in the enforcement of provisions contained in the City Charter and the Code of Ethics, an individual or business entity seeking a discretionary contract from the City is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any **individual** who would be a party to the discretionary contract:

| | | | |
|------|--|--|--|
| None | | | |
|------|--|--|--|

(2) the identity of any **business entity** that would be a party to the discretionary contract:

| | | | |
|------|--|--|--|
| None | | | |
|------|--|--|--|

and the name of:

(A) any individual or business entity that would be a **subcontractor** on the discretionary contract;

| | | | |
|------|--|--|--|
| None | | | |
|------|--|--|--|

and the name of:

(B) any individual or business entity that is known to be a **partner**, or a **parent** or **subsidiary** business entity, of any individual or business entity who would be a party to the discretionary contract;

| | | | |
|------|--|--|--|
| None | | | |
|------|--|--|--|

A business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

ATC
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City of San Antonio Discretionary Contracts Disclosure*

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2
Attach additional sheets if space provided is not sufficient.
State "Not Applicable" for questions that do not apply.

* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.

(3) the identity of any lobbyist or public relations firm employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

| |
|------|
| NONE |
|------|

Political Contributions

Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any current or former member of City Council, any candidate for City Council, or to any political action committee that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyist of the entity.

| To Whom Made: | Amount: | Date of Contribution: |
|---------------|---------|-----------------------|
| NONE | | |

Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which reasonably understood, raise a question² as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require refusal or require careful consideration of whether or not refusal is required.

**City of San Antonio
Discretionary Contracts Disclosure***

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2
Attach additional sheets if space provided is not sufficient.
State "Not Applicable" for questions that do not apply.

* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.

| | | |
|-----------------------------------|--|-------------------------------|
| | | |
| Signature: <i>Cynthia Casa</i> | Title: <i>Senior Project Manager</i> Company: <i>ATC Associates</i> | Date: <i>Nov. 22, 2002</i> |

(ATC Group Services)



140 Heimer Rd, Suite 675
San Antonio, TX 78232
www.atcassociates.com
210-496-3434
Fax 210-496-1397

December 31, 2003 revised January 14, 2004

MM/RS FOR REVIEW
APPROVAL

Mr. Gilbert Hernandez
Contract Service Manager
City of San Antonio
Contract Service Division
114 W. Commerce, 11th Floor
San Antonio, Texas 78205

1.21.04
CofD

RE: Proposal for a Comprehensive Asbestos Survey at:
The Tower of the Americas
Hemisfair Park
600 Hemisfair Way
San Antonio, Texas 78205
ATC Proposal No. 46-25-2811 revision 1

Dear Mr. Hernandez:

ATC Associates Inc. (ATC) is pleased to submit this proposal to provide asbestos consulting services. This proposal outlines the project characteristics, our scope of services, and our compensation for these services.

PROJECT CHARACTERISTICS

It is our understanding City of San Antonio (COSA) has requested an asbestos survey of The Tower of the Americas (Tower) located at Hemisfair Park at 600 Hemisfair Way, in San Antonio, Texas. As discussed in the pre-proposal walk through with COSA representative Mr. Abraham Diaz on Thursday December 18, 2003, COSA requires a comprehensive asbestos survey of the interior of the Tower which was constructed in 1966-1968 and is comprised of the following: observation level, restaurant, lounge, kitchen, storage areas, office and mechanical rooms. The Tower also contains radio communication facilities for radio stations and COSA. It should be noted that the elevator shafts and the roof are not a part of the scope as noted during the pre-proposal meeting.

SCOPE OF WORK

ATC proposes the following break down in the services that would best facilitate the successful completion of this project:

INTERIOR ASBESTOS SURVEY

- ATC will provide licensed Texas Department of Health (TDH) Asbestos Inspectors to conduct the asbestos survey of the interior of the above referenced site. The survey will be performed in accordance with TDH and federal regulations. Upon written authorization, ATC estimates that the

field work may be completed within twelve (12) work days, and the final report will be completed within ten (10) work days of the last day of fieldwork.

- Collected suspect bulk samples will be sent to an accredited American Industrial Hygiene Association (AIHA) laboratory certified under the National Voluntary Laboratory Accreditation Program (NVLAP). Analysis will be performed utilizing Polarized Light Microscopy (PLM) under a standard turnaround time. If the analytical results indicate levels between 1 and 10% asbestos, COSA has the option to analyze the samples further by point-count analysis to better quantify the asbestos content at an additional cost.

REPORT

- ATC will provide three (3) original and two (2) copies of the report to COSA upon receiving all analytical results from the laboratory. The report shall include but is not limited to the following: site drawings (CAD), summary table with analytical results and recommendations/conclusions.

COMPENSATION


Based upon the above stated work a not to exceed lump-sum fee of **\$23,200.00** will be required for the asbestos survey. This fee is based on the collection and analysis of a maximum of five hundred (500) suspect asbestos-containing bulk samples. If the site conditions and plan review indicate the need for additional sampling, COSA will be notified for authorization. Price per sample for collection and analysis in excess of 500 samples is \$15.00 per sample. In addition, if point count analysis is warranted and requested, the fee will be \$65.00 per sample.

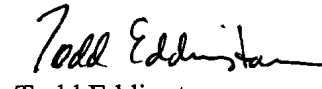
COSA has the **option** to implement an Asbestos Operations and Maintenance (O&M) Program which will serve to reduce exposure potential to asbestos materials. Even if removal is planned, an O&M Program is recommended as an interim control measure. An O&M Program is a detailed approach to controlling the disturbance of ACM. An O&M Program will directly affect maintenance, cleaning, and contractor personnel who may on occasion need to work in close proximity to these materials. In general, implementation of the O&M Program will affect all building occupants and maintenance personnel to some degree. An additional lump sum fee of **\$1,000.00** will be required for the O&M Program development. This quoted fee is valid for a nine month period from the date of this proposal. All work will be performed in accordance with the ATC Terms and General Conditions with the Client, which are incorporated into and made part of this proposal.

ATC has transmitted an original proposal. Should you wish to initiate this proposal, please sign the attached "Proposal Acceptance and Agreement" sheet and return it to our office. We appreciate the opportunity you have given us to provide you with our professional services. Should you have any questions regarding this proposal, please contact us at 210-496-3434 or by e-mail at carrasco46@atc-enviro.com.

Sincerely,

ATC ASSOCIATES INC.


Osanna Carrasco-Rehfeld
Asbestos/Lead Department Manager


Todd Eddington
Branch Manager

PROPOSAL ACCEPTANCE AND AGREEMENT

This Agreement is made by acceptance below of the Contract Document this 31st day of December 2003 by and between City of San Antonio Contract Service Division of 114 W. Commerce, 11th Floor, San Antonio, Texas 78205 and ATC Group Services Inc. d/b/a ATC Associates Inc. of 140 Heimer Road, Suite 675, San Antonio, Texas 78232.

Client and ATC AGREE as follows:

1. **CONTRACT DOCUMENTS** - Referred to as the "Contract Documents" or "Agreement." Defined as: PROPOSAL ACCEPTANCE FORM, the GENERAL TERMS AND CONDITIONS, and any proposals that include a scope of services, fee schedules and other documents listed below under PROFESSIONAL SERVICES.
2. **PROFESSIONAL SERVICES** - ATC Associates Inc. will provide professional services ("Services") for the Client as indicated in the following documents:
 - 2.1. Proposal No. 46-25-2811 revision 1 dated December 31, 2003 revised January 14, 2004 AND
 - 2.2. Other proposal documents by reference (list here), AND
 - 2.3. Other subcontracts, service agreements, and/or vendor contracts (list): _____
3. **DESIGNATED REPRESENTATIVES** - The parties designate the following named individuals as their authorized representatives to provide approvals, directives, and permissions, including changes, and to receive notices or other communications under this agreement at the following addresses:

ATC GROUP SERVICES
d/b/a ATC Associates Inc.

CITY OF SAN ANTONIO CONTRACT SERVICE DIVISION

Name: Todd Eddington
Address: 140 Heimer Road, Ste. 675
San Antonio, Texas 78232
Phone: (210) 496-3434

Name: Mr. Gilbert Hernandez
Address: 114 W. Commerce, 11th Floor
San Antonio, Texas 78205
Phone: _____

YOUR SIGNATURE INDICATES ACCEPTANCE OF THE CONTRACT DOCUMENT, AS DEFINED ABOVE, UNLESS EXPRESSLY MODIFIED IN WRITING.

ACCEPTED BY:

ATC GROUP SERVICES, INC
D/B/A ATC ASSOCIATES INC.

CITY OF SAN ANTONIO CONTRACT SERVICE DIVISION

By: _____

By: _____
(Person authorized to execute contracts)

Title: _____

Title: _____

Date: _____

Date: _____