



INVITATION TO BID, BID FORMS  
AND BID SPECIFICATIONS FOR

**ACCORDION DOOR/PARTITION REMOVAL and REPLACEMENT**  
**AT THE VICTORIA COMMUNITY CENTER ANNEX**

**BID REFERENCE#IB-072810-S1**

BIDS WILL BE RECEIVED UNTIL 1:30P.M. CST ON WEDNESDAY, JULY 28, 2010  
AT THE CITY OF VICTORIA, PURCHASING OFFICE,  
1201 E. PINE STREET  
VICTORIA, TEXAS 77901

AFTER 1:30P.M. CST ALL BIDS SHALL BE DELIVERED TO  
CITY OF VICTORIA – 700 MAIN CENTER  
702 N. MAIN STREET, SUITE 204  
VICTORIA, TEXAS 77901

**BID OPENING DATE: WEDNESDAY, JULY 28, 2010 at 2:00P.M. CST**  
**CITY OF VICTORIA – 700 MAIN CENTER**  
**702 N. MAIN STREET, SUITE 204**  
**VICTORIA, TEXAS 77901**

PROJECT CONTACT PERSON

**Shane Simon**

TELEPHONE: 361-485-3200

E-mail: ssimon@victoriatx.org

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## INVITATION TO BID

Sealed bids, addressed to the City of Victoria, Purchasing Department, will be received for:

### ACCORDION DOOR/PARTITION REMOVAL AND REPLACEMENT AT THE VICTORIA COMMUNITY CENTER ANNEX

in accordance with the attached specifications and contract documents. Bids will be received at the office of the City Purchasing Department, 1201 E. Pine Street, Victoria, Texas until 1:30 p.m. **CST** on Wednesday, July 28, 2010. After 1:30 p.m. CST all bids shall be delivered to 700 Main Center, 702 N. Main Street, Suite 204, Victoria, Texas 77901. Bids will be opened and publicly read aloud at **2:00 p.m CST on Wednesday, July 28, 2010** at 700 Main Center, 702 N. Main Street, Suite 204, Victoria, Texas 77901. Any bid received after 2:00 p.m. will be returned unopened. The envelope containing the bid shall be clearly marked "**Bid for Accordion Door/Partition Removal and Replacement at the Victoria Community Center Annex.**"

A pre-bid conference will be held at the Victoria Community Center, 2905 E. North Street, Victoria, Texas 77901 on July 21, 2010 at 10:00a.m. CST. The pre-bid conference is not mandatory but prospective bidders are strongly urged to attend.

The City of Victoria reserves the right to reject any and/or all bids, to waive any and/or all formalities and to accept the one deemed most advantageous to the City of Victoria.

Lana Schultz,  
Purchasing Agent  
City of Victoria

# CITY OF VICTORIA, TEXAS

## GENERAL TERMS AND CONDITIONS

### 1. PURCHASE CONTRACT

The successful bidder will be asked to enter into a contract with the City of Victoria. The contract will include the specifications herein listed and any other pertinent information.

### 2. DESCRIPTION OF SUPPLIES

Any catalog or manufacturer's reference used is merely descriptive, and not restrictive, unless otherwise noted and is used only to indicate type and quality of material. Bidders shall state exactly what they intend to furnish; otherwise they shall be required to furnish the items as specified.

### 3. DISCOUNTS

Bids submitted will be considered as competitive and should reflect any and all discounts offered to the City of Victoria.

### 4. FIRM TIME OF BIDS

The Bidder shall state the length of time for which bid prices are firm. The City of Victoria requests a minimum of 90 days.

### 5. LEAD TIME

Lead time must be specified on the Bid Sheet as to the number of calendar days from receipt to release. Bids submitted on the basis of "as required" may be rejected as being non responsive.

### 6. PAYMENT

Full payment will be made within 30 days of the delivery of each completed order. Invoices shall be submitted by the successful bidder to the City of Victoria – Finance Office, P.O. Box 1758, Victoria, Texas 77902.

### 7. SALES TAX

These items will be exempt from payment of Sales and Local Sales Tax. The City of Victoria will furnish Exemption Certificate to successful bidder in the amount of merchandise cost, if required.

### 8. TRANSPORTATION

All bids must include the cost of transportation, FOB Victoria, Texas.

### 9. FUNDING SOURCE

The purchases will be funded by the City of Victoria. One complete Bid Document which contains the Invitation to Bid, Bid Specifications and Bid Forms must be returned in its entirety.

### 10. BID EVALUATION FACTORS

A. The City retains the authority to award a bid based on findings in accordance with Texas Local Government Code § 271.905. If the City awards a bid based on Section 271.905, the City may condition such award on the awarded bidder providing additional requested information from the bidder and indemnifying the City for all costs of litigation arising from the use of said statute.

B. Partial Awards. Bidders may furnish pricing for all or any portion of the bid invitation. Unless the bidder specifies otherwise in his bid, the City may award the contract for any item or group of items shown on the bid invitation. The City reserves the right to award a contract based on the "low total bid" for all items.

C. Reservations. The City expressly reserves the right to:

1. Waive as an informality minor deviations from specifications that do not impair overall functions;

2. Waive any defect, irregularity or informality in any bid or bidding procedure;
3. Reject or cancel any or all bids;
4. Reissue a bid invitation;
5. Extend the bid opening time and date;
6. Procure any item by other means;
7. Increase or decrease the quantity specified in the bid invitation, unless the bidder specifies otherwise;
8. Consider and accept an alternate bid as provided herein when most advantageous to the City.
9. Negotiate with any bidder after proposals have been made regarding price, warranty, or any other factor being considered in reference to this proposal.

## **11. ADDENDA**

Any interpretations, corrections or changes to this bid packet will be made by addenda and distributed by the Purchasing Department to all known prospective bidders on record. It is the sole responsibility of each prospective Bidder to verify that he/she has received all addenda issued before delivering their bid to the City. All bidders shall acknowledge receipt of all addenda with their bid or they will be declared non-responsive.

## **12. INDEMNIFICATION**

The successful bidder shall defend, indemnify and hold harmless the City of Victoria and its officers, agents, and employees from all suits, actions, or claims of any character, name and description including attorney's fees/expenses brought for any injuries to persons or damages to property in connection with this contract including any claims for damages accruing during the delivery of the item supplied hereunder. Any money due the successful bidder under this Contract as shall be considered necessary to the City of Victoria may be retained for the use of the City to secure this indemnity. The successful bidder expressly agrees to defend, indemnify and hold harmless the City of Victoria and its officer, agents, and employees in accordance with this clause regardless of whether the injury or damage is caused in whole or in part by the acts of omissions, including negligence, of the City of Victoria, its officer, agents or employees.

# CITY OF VICTORIA, TEXAS

## BID SPECIFICATIONS FOR ACCORDION DOOR/PARTITION REPLACEMENT AT THE VICTORIA COMMUNITY CENTER ANNEX

### 1. GENERAL PROVISIONS AND CLASSIFICATION

The City of Victoria will accept sealed bids from qualified bidders to remove existing partitions and tracks and furnish and install three (3) manually operated, accordion door/partitions and track system in accordance with the specifications, terms and conditions stated herein.

### 2. SCOPE OF WORK

Contractor shall provide all necessary parts, labor, tools, materials, equipment and resources required to Remove and Dispose of Existing Panel Partitions and Furnish and Install three (3) Manually Operable Panel Partitions at the Victoria Community Center Annex at 2905 E. North Street, Victoria, Texas 77901.

- 2.1 The Contractor shall obtain and pay for all applicable permits and inspections as required by local, state and/or federal codes and regulations prior to beginning any work.
- 2.2 The Contractor shall not act on requests or take direction from anyone except the designated City Project Manager, Shane Simon.
- 2.3 The Contractor shall provide vertical lift for all installations.
- 2.4 The Contractor shall provide adequate protection for all structures at the site. Any damage to facilities by the Contractor shall be repaired or replaced at the Contractors expense and to the complete satisfaction of the City.
- 2.5 The Contractor shall promptly remove from the premises all work and/or materials condemned by the City as failing to conform to the contract, whether incorporated or not, and the Contractor shall promptly replace and re-execute condemned work in accordance with the contract and without expense to the City and shall bear the expense of making good all work.

### 3. INSURANCE

3.1 Bidders must comply with all applicable federal, state, and local laws and regulations. Must be able to provide adequate (a) general liability, (b) vehicle and (c) Worker's Compensation insurance and may not be on a local, state or federal consolidated list of Debarred, Suspended and Ineligible Contractors and Grantees.

#### A. General Public Liability Insurance as follows:

\$250,000 for injuries per occurrence and \$100,000 for property damage per occurrence  
OR  
\$250,000 combined single limit per occurrence.

The policy shall name the City of Victoria as an additional insured, be on the commercial general liability form, and include a waiver of subrogation against the City and its officers, agents, and employees. The policy shall provide a products/completed operations endorsement and coverage for contractual liability and acts of independent contractors. No XCU exclusions will be allowed.

- B. Automobile liability coverage for all owned, non-owned and hired vehicles with limits of bodily injury of \$250,000 for each person and \$500,000 for each occurrence and property damage limits of \$250,000 (each occurrence)

OR

\$600,000 combined single limit per occurrence

The policy shall name the City of Victoria as an additional insured and include a waiver of subrogation against the City and its officers, agents and employees.

- C. Workers' Comp & Employer's Liability (contractor must comply with requirements of Texas Workers' Compensation Act of 1993, TEX. LAB CODE ANN. §§ 401-506 (West 2010) and 28 TAC § **110.110**). In addition, insurance certificate must provide:

- a. Policy Limits --- "Statutory Limits" box should be checked on certificate & coverage must comply with rules of Texas Workers' Compensation Commission applicable to public construction contracts.
- b. Waiver of Subrogation against the City of Victoria and its officers, agents, and employees shall be included.
- c. If any of the Contractor's employees engaged in hazardous work on the project under this contract are not protected under the Worker's Compensation Statute, then the Contractor shall provide adequate employer's general liability insurance for the protection of this class of employees.

- D. The certificates of insurance furnished to the City of Victoria shall contain a provision that coverage under such policies shall not be canceled or materially changed unless at least 10 days prior written notice has been given to the City. All policies shall be issued by an insurer authorized by Texas Department of Insurance to issue the applicable policies in the State of Texas.

- E. The Contractor will require all subcontractors who provide services on the project to adhere to these requirements.

#### 4. APPLICABLE SPECIFICATIONS

The following is a list of minimum specifications acceptable to the City of Victoria. The listed requirements are to be considered descriptive and not restrictive and is indicative of the type and quality the City desires to purchase. Any exception taken must be explained in detail on a separate sheet and shall be provided to assure an adequate bid evaluation.

##### 4.1 Manufacturers:

- A. Modernfold, Inc.
- B. Panelfold, Inc.
- C. OR a City of Victoria Approved Equal

##### 4.2 Materials

- A. Steel frame: cold formed sections, with nominal uncoated steel thickness of not less than 18 gauge.

##### 4.3 Operable Panels

- A. Panel Construction shall provide top reinforcement as required to support panel from suspension components and provide reinforcement for hardware attachment. Fabricate continuously hinged panels so finished in-place partition is rigid; level; plumb; aligned, with tight joints and uniform appearance; and free of bow, warp, twist, deformation, and surface and finish irregularities. Frame is designed so that full vertical edges of panels are of formed steel and provide concealed protection of the edges of the panel face. Steel face shall be welded to steel frame.

- B. Dimensions: Fabricate operable panel partitions, to form an assembled system of dimensions indicated and verified by field measurements.
  - 1. (3) each, bi-parting 58' ft wide x 11'11" high doors with curved storage track, switch, and hardware.
- C. Acoustical rating of panel: STC: Not less than 39.
- D. Panel weight: Maximum 9 pounds per square foot.
- E. Hardware: Manufacturers standard as required to operate panel partition and accessories and latching/locking jamb hardware.
- F. Finish: Hard surfaced rigid vinyl panel with a textured finish that resembles the original partition system currently installed.
- G. Color: Bidder to supply color selection options that are readily available. The City will make final color selection upon award of contract.

#### 4.4 Seals

- A. General: Provide types of acoustical seals indicated that produce operable panel partitions complying with acoustical performance requirements and the following:
  - 1. Manufacturer's standard seals
  - 2. Seals made from materials and in profiles that minimize sound leakage.
  - 3. Seals fitting tight at contact surfaces and sealing continuously between adjacent panels and between operable panel partition perimeter and adjacent surfaces, when operable panel partition is extended and closed.
- B. Vertical Seals: Deep-nesting, continuous interlocking sound seals, tongue and groove astragals mounted on each panel edge creating a continuous acoustical seal.
- C. Horizontal Top and Bottom Seals: Continuous contact acoustical seal type. Bottom seals shall provide nominal operating clearance and accommodate building deflection.

#### 4.5 Suspension Systems

- A. Suspension Tracks: Indicated steel tracks with steel hanger rods and steel brackets or angles connected to existing building structural system for overhead support, designed for type of operation, size and weight of operable panel partition. Size track to support partition operation and storage without damage to suspension system, operable panel partition, or adjacent construction. Limit track deflection to no more than 0.10 inch between bracket supports. Provide a continuous system of track sections and accessories to accommodate configuration and layout indicated for partition operation and storage.
  - 1. Exposed track soffit: removable for service and maintenance, attached to track bracket without exposed fasteners, and pre-painted to coordinate with partition.
  - 2. Panel Guide: aluminum, finished with factory applied, decorative, protective finish.
- B. Carriers: All steel trolley system as required for configuration type, size, and weight of partition and for easy operation: with steel ball-bearing wheels.

## **5. EXECUTION**

### 5.1 Examination

- A. Examine existing conditions, flooring, structural support, ceiling and opening, with Installer present, for compliance with requirements for installation tolerances and other conditions affecting installation and performance of operable panel partitions. Proceed with installation only after unsatisfactory conditions have been corrected.

### 5.2 Demolition

- A. Remove existing accordion folding partitions, track system, and accessories. Remove from site and dispose of properly.

### 5.3 Installation

- A. General: Comply with ASTM E 557, operable panel partition manufacturer's written installation instructions, drawings, and approved shop drawings.
- B. Protect adjacent surfaces, floor, and ceiling from damage.
- C. Broken, cracked, chipped, deformed, or unmatched panels are not acceptable.
- D. All trash, debris, and materials generated from work shall be removed from site and disposed of properly.

### 5.4 Adjusting

- A. Adjust operable panel partitions to operate smoothly, easily, and quietly without warping, binding, or excessive deflection, distortion, nonalignment, misplacement, or malfunction, throughout entire operational range. Lubricate hardware and other moving parts.

### 5.5 Cleaning

- A. Clean soiled surfaces of operable panel partitions to remove dust, loose fibers, fingerprints, adhesives, and other foreign materials according to manufacturer's written instructions.

### 5.6 Demonstration

- A. Demonstrate proper operation to facility personnel. Provide Operation and Maintenance Manual to owner's representative.

## **6. QUALITY ASSURANCE**

### 6.1 Installer Qualifications:

Operable Panel Partition: An employer of experienced workers trained and approved for partition installation.

### 6.2 Acoustical Performance: Test operable partitions in an independent acoustical laboratory in accordance with ASTM E90 test procedure to attain no less than the STC rating specified. Provide written test report by the testing laboratory upon request.

### 6.3 Preparation of the opening shall conform to the criteria set forth per ASTM E557 "Standard Practice for Architectural Application and Installation of Operable Partitions".

6.4 Fire-Test Response Characteristics: Provide operable panel partitions with the following surface burning characteristics as determined by testing identical products per ASTM E 84 by UL or another testing and inspecting agency acceptable to authorities having jurisdiction.

**7. PROJECT CONDITIONS**

7.1 Field measurements: Verify operable panel partition openings by field measurements before fabrication and indicate measurements on Shop Drawings.

**8. WARRANTY**

8.1 Provide written warranty by manufacturer of partitions agreeing to repair or replace any components with manufacturing defects.  
a. Failures include, but are not limited to faulty operation of operable panel partition or deterioration of metals, metal finishes, or other materials beyond normal wear.

8.2 Minimum Warranty period is two (2) years.

**9. JOB SITE**

9.1 The Contractor shall at all time, keep the premises free from accumulation of waste materials or rubbish caused by the work performed. Upon completion of work, waste materials, rubbish, tools, equipment, machinery and surplus materials shall be removed from and about the job, and the Contractor shall clean all building surfaces and leave the work area “broom clean”.

**10. REFERENCES**

10.1 All bidders shall include, with their bids, a list of three (3) references for whom comparable work has been performed.

The lists shall include names and addresses of projects, and names, addresses and current phone numbers of architects and/or owners.

**10. BIDDER INFORMATION**

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

Address:\_\_\_\_\_City, State, Zip:\_\_\_\_\_

Telephone No.:\_\_\_\_\_Fax Number:\_\_\_\_\_

E-Mail:\_\_\_\_\_

Signature of Authorized Representative:\_\_\_\_\_

Print Name & Title:\_\_\_\_\_

## CITY OF VICTORIA, TEXAS INVITATION TO BID AND BID QUOTATION FORM

THIS DOES NOT REPRESENT AN ORDER FOR A PURCHASE BY THE CITY OF VICTORIA

### USE THIS FORM IN SUBMITTING ALL BIDS

BIDDERS NAME & CONTACT INFORMATION      (INCLUDE FULL LEGAL NAME {OR EXACT CORPORATE NAME} & TRADE NAME, ADDRESS PHONE NUMBER & FAX NUMBER AND E-MAIL ADDRESS {IF AVAILABLE})		→  SHOW THIS INFORMATION ON THE FACE OF THE ENVELOPE	DATE: JULY 11, 2010      QUOTATION No.: IB072810-S1  REQUEST FOR: <b>ACCORDION FOLDING PARTITION REPLACEMENT</b> SEALED BIDS WILL BE RECEIVED UNTIL 1:30P.M. CST ON WEDNESDAY , JULY 28, 2010 AT THE CITY OF VICTORIA PURCHASING DEPARTMENT, 1201 E. PINE STREET, VICTORIA, TEXAS 77901. AFTER 1:30P.M.CST ALL BIDS SHALL BE DELIVERED TO 700 MAIN CENTER, 702 N. MAIN STREET, SUITE 204, VICTORIA, TEXAS 77901. <b>BIDS WILL BE OPENED AND PUBLICLY READ ALOUD AT 2:00P.M. CST ON WEDNESDAY, JULY 28, 2010 AT 700 MAIN CENTER, 702 N. MAIN STREET, VICTORIA, TEXAS 77901.</b>  LANA SCHULTZ 361-485-3170 PHONE	
ITEM	QTY	DESCRIPTION	UNIT PRICE	AMOUNT
1	3 Each	Remove,Furnish and Install Accordion Door/Partition Replacements as per City of Victoria Bid Specifications.		
<b>TOTAL BID</b>				\$
<b>ALL TAXES TO BE EXCLUDED FROM BID</b>			<b>PRICES TO BE QUOTED F.O.B. VICTORIA, TEXAS</b>	

**DELIVERY IN \_\_\_\_\_ DAYS FROM RECEIPT OF ORDER.**

**Note:**  
By submitting the above and signing below, the signer agrees that acceptance of any or all quotations by the governmental unit that posted the bid constitutes a contract in accordance with the Invitation to Bid and Bid Quotation Form, General Conditions, Technical Specifications and other contract documents that accompanies the request for bid or were available for examination by bidders with respect to this item. Including provisions as to indemnification that may be included therein.

The City of Victoria reserves the right to reject any and/or all bids and to waive any and/or all formalities and to award purchase on individual item basis.

Acceptance of the successful bid shall obligate the bidder to provide up to the amount bid at the bid terms and conditions stated herein. Acceptance of the successful bid shall only obligate the City to purchase some of the item from that bidder.

The City reserves the right to require any successful bidder to enter a separate written contract containing the terms herein and other reasonable conditions.

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

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**Contract between the City of Victoria and \_\_\_\_\_ for the Removal of Existing Accordion Door/Partitions and Furnish and Install Three (3) Manually Operated Accordion Door/Partitions and Track System**

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

**City:** City of Victoria, a Texas municipal corporation, hereinafter known as "City" or "Owner".

**City's Representative:** **Shane Simon, Recreation Services Manager;** P.O. Box 1758, Victoria, Texas 77902; 361-485-3200

**Site of Work:** 2905 E. North Street, Victoria, Texas as depicted on **Attachment A.**

**Project Description:** Contractor shall provide all labor and equipment for the removal of existing partitions and track systems and the proper disposal of materials. The Contractor shall also furnish and install all materials and labor necessary for the installation of three manually operated accordion door/partitions and new track system at the Site of Work in accordance with the attached **proposal (Attachment B)**. This is a contract to provide services to the City of Victoria and is not a Public Works contract.

**Payment:** Contractor shall do the aforementioned work at the Site of Work in exchange for payment by the City of Victoria in the amount of \$\_\_\_\_\_. Contractor shall provide an invoice to the City within 30 days after the City accepts the completed work pursuant to this contract. The City shall pay Contractor within 30 days after receipt of the invoice, following acceptance of the work completed in accordance with this contract.

**Project Time:** Contractor shall **complete** all of the work described herein within **120 calendar days** after the City's issuance of a Notice to Proceed. Time is of the essence to the completion of this contract. Contractor shall **begin** developing a work schedule and timeline with the City Representative as to not interfere with ongoing events at the Community Center, within **10** calendar days after the date of written Notice to Proceed is issued by the City's Representative, and the Contractor shall continuously prosecute same with such diligence as will enable it to complete the work in a satisfactory manner. The Contractor shall not begin performance of the work until after issuance of the written Notice to Proceed from the City's Representative. At any time prior to the Contractor's completion of the services pursuant to this contract, the City may terminate this contract without penalty or damages, and upon such termination shall only owe Contractor for the cost of materials and services actually provided pursuant to this contract prior to such termination, in an amount not to exceed the amount shown in the "Payment" section hereof.

**No Damage for Delay:** A delay in completion of this Project for any cause shall **not** entitle Contractor to additional payment from the City. Should the Contractor be delayed in the completion of any work by any act or neglect of the City, by other contractors employed by the City, by changes in the work, by materials or labor shortages, or by unavoidable causes, then the Contractor may present a written request to the City for an extension of time for completing the work. If the basis for and the amount of the extension are determined by the City to be justified, then the City shall issue a written extension to the Contractor. Contractor's sole remedy for any hindrance or delay shall be an extension of time for completion of the work.

**Insurance:** Until all activities under this contract are completed, Contractor shall maintain the insurance described in the **Certificate(s) of Insurance** attached hereto and shall notify the City of Victoria if any provision thereof is altered or modified in any way. Contractor shall furnish to the City a Certificate of insurance from a reputable insurance company or companies acceptable to the City from such companies licensed to write insurance in the State of Texas showing that the Contractor is covered by the insurance and shall maintain such insurance during the term of the contract.

**Project Guarantee:** Contractor warrants that all work under this contract will be free from faulty materials and improper workmanship, except from proper and usual wear, and agrees to replace or re-execute, without cost to the City, all work found to be improper or imperfect, and make good all damage caused to other work or materials due to such required replacement or re-execution. The warranty shall cover a period of one year from the date of the City issues the "Certificate of Acceptance" for this Project.

**Completion of Work:** Upon completion of the work, the work will be inspected by the City's Representative and be performed to his satisfaction in accordance with the contract and specifications. The City's Representative will decide all questions which may arise as to the quality or acceptability of the work performed and the acceptable interpretations of the specifications and the acceptable fulfillment of the contract on the part of the Contractor.

**Hours of Work:** Contractor shall limit its hours of operation to the daytime hours between 7:00 a.m. and 9:00 p.m. without prior authorization from the City's Representative. Contractor may not work on weekends or the following City holidays: (New Year's Day, Good Friday, Labor Day, Memorial Day, Independence Day, Veterans Day, Thanksgiving, Day after Thanksgiving, Christmas Eve, Christmas) unless notified otherwise by the City's Representative. Such notification may be oral or written.

**Compliance with Laws & Barricading:** During the performance of this work, Contractor shall comply with all federal, state, and City laws and regulations. Contractor shall remove all debris resulting from the work being performed to a suitable site for disposal, and shall dispose of same in a manner that does not violate any City, State, or federal law or regulation. If this work is to be performed in a public street or right-of-way, Contractor shall be solely responsible for all barricading and shall equip and maintain all work sites in accordance with applicable provisions of the Texas Manual on Uniform Traffic Control Devices.

**Protection of Property:** Contractor shall avoid damaging or unlawfully entering privately owned property. Before beginning work, the Contractor shall view all pipes, wires, conduits, poles or other structures within or adjacent to the work which may affect operations. Contractor shall be responsible for damage caused by his/her agents, employees, and subcontractors in the performance of the work provided pursuant to this contract. Contractor shall protect all City and private property, including, but not limited to, driveways, streets, sidewalks, pipes, fences, utilities, structures, shrubs, and trees. Contractor shall report all property damage to private or public property to the City, and shall repair and/or compensate any damaged party for the repair or replacement of property damaged by the Contractor. The City's Representative may inspect any such repairs prior to authorizing payment under this contract.

**Non-performance or Misfeasance:** If Contractor fails to begin the work within the specified time, fails to perform the work with sufficient workmen & equipment, fails to use sufficient materials or equipment to ensure completion of the work within the contract time, fails to complete the work within the contract time, performs the work unsuitably, fails to remove materials or re-perform rejected work, discontinues prosecution of the work without authority, fails to pay workers or subcontractors in a timely manner, commits an act of insolvency, or otherwise fails to complete the work appropriately, then the City's Representative may give notice to Contractor of such delay, neglect or default. If Contractor fails to correct the deficiencies within 7 calendar days after the notice, then the City may prosecute the work out of the hands of the Contractor and enter into an agreement for the completion of the project or use such other methods as the City's Representative determines are appropriate for completion of the project. The City may deduct all costs necessitated by the breach and completing the work from any funds due to Contractor. If the City's cost of remedying the breach exceeds the amount payable under the contract, then the Contractor shall pay to the City the amount of such excess.

Indemnity: Contractor shall defend, indemnify and hold harmless the City and the City's officers, agents, and employees from all suits, actions or claims of any character, name and description including attorneys' fees and expenses brought for any injuries to persons or damages to property in connection with the performance or attempted performance of this contract. So much of the money due Contractor under this contract, as shall be considered necessary by the City, may be retained for the use of the City until all suits, actions, and claims shall have been settled and satisfactory evidence to that effect furnished to the City. Contractor expressly agrees to defend, indemnify and hold harmless the City and the City's officers, agents, and employees in accordance with this clause regardless of whether the injury or damage is caused in whole or in part by the acts or omissions, including negligence, of the City or the City's officers, agents or employees or any condition of any property owned or controlled by the City.

**No Subcontractors or Assignments:** Contractor shall perform this contract with its own crews. Contractor shall not assign or subcontract any part of this contract or duties, rights, compensation or work to be performed hereunder without the approval of the City's Representative, which may be withheld for any reason or issued subject to additional conditions as established by the City's Representative. No sub-contract will, in any case, relieve the Contractor of his responsibility under the contract. Written consent to sublet, assign or otherwise dispose of any portion of the contract shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract.

**Venue:** This agreement is performable and is to be governed by the law applicable in Victoria County, Texas. Venue for any action arising under this Agreement shall be in Victoria County, Texas.

**Independent Contractor:** In performing services under this agreement, the relationship between the City and Contractor is that of independent contractor, and the execution of this agreement does not change the independent contractor status of Contractor. No term or provision of this agreement or act of Contractor in the performance of this agreement shall be construed as making Contractor or any agent, servant or employee of Contractor an agent, servant or employee of the City.

Executed this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**OWNER: City of Victoria**

**CONTRACTOR:** \_\_\_\_\_

\_\_\_\_\_  
Charles E. Windwehen, City Manager

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name & Title

seal

seal (if corporation)

ATTEST:

ATTEST:

\_\_\_\_\_  
Scarlet Swoboda, City Secretary

\_\_\_\_\_  
Signature

FORM APPROVED:

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

\_\_\_\_\_  
By Thomas Gwosdz, City Attorney

ATTACHMENT – A  
COMMUNITY CENTER ANNEX-LAYOUT

