

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
CONTRACT FOR ASBESTOS ABATEMENT  
AGENCY CONTRACT NO. AC-0024B**

**PARTIES TO THE CONTRACT**

This contract is made and entered into by and between the Oklahoma Department of Transportation, hereinafter referred to as the “DEPARTMENT” and Environmental Action, Inc., hereafter referred to as the “CONTRACTOR”.

**SECTION 1. PURPOSE OF THE CONTRACT**

This agency contract is for asbestos abatement for the DEPARTMENT for projects across the State of Oklahoma. This Contract is for use by the DEPARTMENT, Oklahoma Turnpike Authority (OTA), and Oklahoma Aeronautics Commission (OAC).

**SECTION 2. TERM OF CONTRACT**

This contract shall be effective from the date the Contract is fully executed and extends until June 30, 2022. Upon mutual agreement by the DEPARTMENT and CONTRACTOR, this contract may be renewed for three (3) consecutive 1-year periods, at a negotiated price escalation not to exceed 2% which may occur at the time of each renewal.

This contract will include, by reference and incorporation, the contract bid proposal, instructions to bidders, Specifications, and all other documents contained in the bid packet for RFP# AC-0024. All actions, duties, and obligations required by the CONTRACTOR apply to the CONTRACTOR’S agents and employees. All legal protections offered to the State of Oklahoma shall also be extended to the Oklahoma Department of Transportation and any other state entity involved with this contract

**SECTION 3. COMPENSATION**

**3.1)** The DEPARTMENT agrees to pay, and the CONTRACTOR agrees to accept, in full consideration for the performance of the CONTRACTOR’s obligations, compensation based on the CONTRACTOR’s bid for the various pay items (See Attachment 1), for completed work assigned as Task Orders.

Total compensation for services rendered under this contract will be a maximum not to exceed amount of **FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00)**. This contract is for an indefinite quantity and the DEPARTMENT may or may not utilize the entire amount listed in the contract.

**3.2)** The billing shall not demand payment within any time period less than 30 days. Billing shall be submitted electronically to: [MJames@odot.org](mailto:MJames@odot.org) and [JPearl@odot.org](mailto:JPearl@odot.org). Hard copy

invoices are not required but if desired may be mailed to: Oklahoma Department of Transportation (ODOT), Attn: Misty James, Environmental Programs Division, 200 NE 21<sup>st</sup> Street, Oklahoma City, OK 73105.

#### **SECTION 4 TRAVEL**

It is anticipated that travel may be a factor in some approved Task Orders based upon the project locations and the nature of the required work.

Travel expenses, consisting of Mileage and Lodging will be in accordance with GSA or State of Oklahoma rates. Travel expenses will apply to pay items listed in Attachments.

#### **SECTION 5. DISPUTE RESOLUTION**

Any dispute concerning the question of fact in connection with the work, not disposed of by the contract between the parties hereto, shall be referred to the state agency that initially awarded this contract (e.g., Department of Central Services). The decision of the administrator of said agency, or his/her duly authorized representatives, shall be final and conclusive on the parties to this contract.

#### **SECTION 6. TERMINATION**

This Contract may be terminated, without recourse, in the following circumstances:

**6.1) For Convenience** - The DEPARTMENT or CONTRACTOR may terminate this Contract by giving thirty (30) days written notice.

**6.2) For Cause** - The DEPARTMENT may, by written notice to the CONTRACTOR, terminate this Contract for any of the following reasons:

**6.2.1)** The CONTRACTOR discontinues providing services as required by the Contract.

**6.2.2)** The CONTRACTOR takes any action pertaining to this Contract without the approval of the DEPARTMENT and which, under the conditions set by this Contract, would have required the approval of the DEPARTMENT.

**6.2.3)** The commencement, execution or timely completion by the CONTRACTOR is, for any reason, rendered improbable, impossible, or illegal.

**6.2.4)** The CONTRACTOR shall be in default under any provision of this Contract.

**6.3) Mutual Agreement** - By mutual agreement and consent of the parties hereto this Contract may be terminated upon sixty (60) days written notification.

Should this Contract be terminated for any of the reasons specified above, the DEPARTMENT shall be liable to the CONTRACTOR, or CONTRACTOR's successors in interest, only for the reasonable value of services and work satisfactorily performed, up to and including the date of notice of termination.

## **SECTION 7. GOVERNING RULES AND REGULATIONS**

The CONTRACTOR and its subcontractor's if any, shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any nature affecting the performance of this Contract, including worker's compensation laws, minimum and maximum salary and wage statutes and regulations. When required, the CONTRACTOR shall furnish the DEPARTMENT with satisfactory proof of its compliance therewith.

## **SECTION 8. COVENANT AGAINST CONTINGENT FEES**

The CONTRACTOR warrants that it has not employed or retained any company or person specifically to solicit or secure this Contract, and that it has not paid or agreed to pay any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty the DEPARTMENT shall have the right to annul this Contract without liability, or at its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee.

## **SECTION 9. TITLE VI - CIVIL RIGHTS ACT OF 1964**

The CONTRACTOR shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (P.L. 88-352), the Regulations of Department of Transportation issued thereunder (CFR Title 49, Subtitle A, Part 21), and the assurance by the CONTRACTOR pursuant thereto.

During the performance of this Contact, the CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:

- (a) Compliance with Regulations: The CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (hereinafter, "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- (b) Nondiscrimination The CONTRACTOR, with regards to the work performed by it during this Contract, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited in Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (c) Solicitations for Subcontracts: In all solicitations either by competitive bidding or

negotiation made by the CONTRACTOR for work to be performed under a subcontract, if such subcontracting is approved by the DEPARTMENT, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONTRACTOR of the CONTRACTOR'S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.

- (d) Information and Reports: The CONTRACTOR shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the DEPARTMENT to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information is required or a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the CONTRACTOR shall so certify to the DEPARTMENT, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (e) Sanctions for Noncompliance: In the event of the CONTRACTOR'S noncompliance with the nondiscrimination provisions of this Contract, the DEPARTMENT shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:
  - (1) Withholding of payments to the CONTRACTOR under the Contract until the CONTRACTOR complies, and/or,
  - (2) Cancellation, termination or suspension of the Contract, in whole or in part.
- (f) Incorporation of Provisions: The CONTRACTOR shall include the provisions of Paragraph (a) through (f) of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONTRACTOR shall take such action with respect to any subcontract or procurement as the DEPARTMENT may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONTRACTOR may request the DEPARTMENT to enter into such litigation to protect the interest of the DEPARTMENT.

#### **SECTION 10. BINDING EFFECT**

This Contract shall be binding upon and inure to the benefit of the DEPARTMENT and the CONTRACTOR and shall be binding upon their successors and assigns subject to the limitations of Oklahoma law.

#### **SECTION 11. HOLD HARMLESS CLAUSE**

The CONTRACTOR shall indemnify and save harmless the DEPARTMENT, their

respective officers, employees and agents from all claims, suits, or actions of every kind and character made upon or brought against the DEPARTMENT, their respective officers, employees and agents, for or on account of any injuries or damages received or sustained by any party or parties by or from acts of said CONTRACTOR or its servants, agents and subcontractors, in doing the work and rendered the services Contracted for, or by or consequence of any negligence in operations or any improper material or equipment used, or by or on account of any act or omission of said CONTRACTOR or his or its servants, agents and subcontractors. This hold harmless and indemnity obligation shall include attorney's fees, court costs and all other expenses incurred in the investigation and defense of any claim or suit.

## **SECTION 12. PRIOR UNDERSTANDINGS**

This contract incorporates and reduces to writing all prior understandings, promises, agreements, commitments, covenants, or conditions, and constitutes the full and complete understanding and contractual relationship of the parties.

## **SECTION 13. INSURANCE**

CONTRACTOR shall maintain at all times during the term of this contract, with an insurance carrier reasonably acceptable to the DEPARTMENT and authorized to conduct business in the State of Oklahoma, insurance coverage as set forth in this Article:

1) Workers' Compensation Insurance as required by the statutes of the State of Oklahoma, and adequate (but in no event less than \$100,000) Employer's Liability Insurance.

2) Public Liability and Property Damage Insurance covering all operations and activities hereunder in the following minimum limits (but in no event less than the statutory limits found at 51 Oklahoma Statutes, Section 151 et. seq. or successor or amendatory statutes):

- a) Bodily Injury Liability in the amount of not less than \$100,000 for injuries, including accidental death and products liability, to any one person, and subject to the same limit for each person, in an amount not less than \$1,000,000 for one occurrence.
- b) Property Damage Liability in the amount of not less than \$100,000 for any one accident including products liability and an aggregate limit of \$1,000,000 per occurrence.
- c) Combined aggregate liability coverage shall not be less than \$2,000,000 (two million) for bodily injury, death, and property damage.

3) A Comprehensive Business Auto policy with a minimum limit of not less than One Million Dollar (\$1,000,000) combined single limit for bodily injury and property damage,

providing coverage for at least any and all leased, owned, hired or non-owned vehicles used in any of CONTRACTOR's activities pursuant to this agreement, with any self-insured retention not exceeding One Hundred Thousand Dollars (\$100,000). Any and all mobile equipment which is not covered under this Comprehensive Business Auto policy shall have said coverage provided for under the Comprehensive General Liability policy.

CONTRACTOR shall furnish the DEPARTMENT with a certificate evidencing the existence of all such insurance coverage; and the certificates evidencing the existence of the insurance coverage specified in these specifications. Said insurance coverage shall provide that the DEPARTMENT are additional named insured under said policy or policies and that said policy or policies cannot be canceled or materially modified except upon thirty (30) days advance written notice to the DEPARTMENT. The foregoing provision regarding additional named insured shall not create or be deemed to create any liability on the part of said additional named insured which would not otherwise exist under the laws of the State of Oklahoma.

#### **SECTION 14. AMENDMENTS OR MODIFICATION OF CONTRACT**

No changes, revisions, amendments or alterations in the manner, scope, or type of work or compensation to be paid by the DEPARTMENT shall be effective unless reduced to writing and executed by the parties with the same formalities as are observed in the execution of this contract.

#### **SECTION 15. GOVERNING LAW AND VENUE**

Any claims, disputes or litigation relating to the solicitation, execution, interpretation, performance or enforcement of this Contract shall be governed by the laws of the State of Oklahoma and the applicable rules, regulations, policies, and procedures of the Oklahoma Transportation Commission. Venue for any action, claim, dispute or litigation, mediation or arbitration shall be in Oklahoma County, Oklahoma.

#### **SECTION 16. RECORDS**

The CONTRACTOR and any subcontractor shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred under this contract, and shall make all such materials available to the DEPARTMENT or any of its duly authorized representatives and the State Auditor and Inspector at any reasonable time during the term of work on the contract, and for seven (7) years from date of final payment to the CONTRACTOR by DEPARTMENT for work performed hereunder.

#### **SECTION 17. HEADINGS**

Article headings used in the contract are inserted for convenience of reference only and shall not be deemed a part of this contract for any purpose.

**SECTION 18. ASSIGNMENT**

The CONTRACTOR shall NOT sublet, sell, transfer, assign, or otherwise dispose of the contract or contracts or any portion thereof, or of his right, title, or interest therein, without written consent of the DEPARTMENT. In case such consent is given, the CONTRACTOR will be permitted to sublet a portion thereof, but shall perform with his own organization, work amounting to not less than 50% of the total contract cost. Request for permission to sublet, assign or otherwise dispose of any portion of the contract shall be in writing and accompanied by a statement showing that the organization which will be performing the work is particularly experienced and equipped for such work. No sub-contracts, or transfer of contract, shall in any case release the CONTRACTOR of his liability under the contract and bonds.

**SECTION 19. NOTICES**

All notices, demands, requests, or other communications which may be or are required to be given, served or sent by either party to the other pursuant to the Contract shall be in writing and shall be deemed to have been properly given or sent:

- (a) if intended for the DEPARTMENT, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to DEPARTMENT as:

Oklahoma Department of Transportation Environmental Programs Division  
Attn: Misty James and Jeff Pearl  
200 NE 21<sup>st</sup> Street  
Oklahoma City, OK 73105

With electronic copies to: [MJames@odot.org](mailto:MJames@odot.org) and [JPearl@odot.org](mailto:JPearl@odot.org).

- (b) if intended for CONTRACTOR, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, to an address supplied by the CONTRACTOR upon award of this Contract.

Environmental Action, Inc.  
Attn: Darwin Chesnut, Vice President  
1644 NW 5<sup>th</sup> Street  
Oklahoma City, OK 73106

With electronic copies to: [dchesnut@environmentalactioninc.com](mailto:dchesnut@environmentalactioninc.com).

**SECTION 20. SEVERABILITY**

If any provision, clause, or paragraph of this contract or any document incorporated by reference shall be determined invalid by a court of competent jurisdiction, such determination shall not affect the other provisions, clauses, or paragraphs of this contract

which are not affected by the determination. The provisions, clauses, or paragraphs and any documents incorporated by reference are declared severable.

**SECTION 21. PAYMENT OF CLAIMS**

The CONTRACTOR shall pay all just claims due for the payment of all employees and mechanics for labor that shall be performed, for the payment of all material and equipment rental which is actually used or rented in the performance of the contract.

**SECTION 22. BREACH OF CONTRACT**

Failure to perform any and all of the terms and conditions of this contract shall be deemed a substantial breach thereof and give the DEPARTMENT cause to cancel this contract on seven (7) days written notice to the CONTRACTOR. The DEPARTMENT then reserves the right to re-award the contract to the next lowest responsible available bidder -OR- should this contract be awarded to multiple vendors; the DEPARTMENT may utilize those vendors. In the event of cancellation of this contract, the CONTRACTOR shall not be entitled to damages and agrees not to sue the DEPARTMENT for damages thereof. After notice of cancellation, the CONTRACTOR agrees to perform the terms and conditions of this contract up to and including date of cancellation, as though no cancellation had been made and notwithstanding other legal remedies which may be available to the DEPARTMENT because of the cancellation, agrees to indemnify the DEPARTMENT for its costs in procuring the services of a new CONTRACTOR.

**SECTION 23. COUNTERPARTS**

This Contract may be executed in counterparts, including by means of facsimile or electronic signature pages, any of which need not contain the signature of more than one party and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

This contract is awarded pursuant to Oklahoma Statute, Title 74, Chapter 4, Section 85.12.B.3.

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IN WITNESS WHEREOF: This Contract is executed by the CONTRACTOR on the 23 day of July, 2021; and the DEPARTMENT on the 4th day of August, 2021.

CONTRACTOR:  
Environmental Action, Inc.

*Darwin Chesnut*  
Darwin Chesnut (Jul 23, 2021 13:00 CDT) 07/23/2021  
Darwin Chesnut, Vice President Date

**Oklahoma Department of Transportation**

Recommend for Approval:

*Jennifer K. Hawkins* 07/23/2021  
Procurement Division Date

*Srinivas S. Sundararam* 07/23/2021  
Environmental Programs Division Date

Approved as to Form and Legality:

*David Allen Milroy*  
David Allen Milroy (Aug 2, 2021 09:58 CDT) 08/02/2021  
General Counsel Date

For Department:

*Quinty A. Taylor* 08/04/2021  
Director of Engineering Date

*B. Taylor* 08/04/2021  
Chief Engineer Date

STATUTORY CERTIFICATE

Title 74 Okla. Stat. §85.22

I, Darwin Chesnut, of lawful age, states the following:

1. That I am the agent authorized by the Contractor to submit the attached contract to the State of Oklahoma. I am fully aware of the facts and circumstances surrounding the making of the contract to which this statement is attached and have been personally and directly involved in the procurement of that contract.

2. That the Contractor has not paid, given, or donated or agreed to pay, give, or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract.

3. That no person who has been involved in any manner in the development of this Agreement while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under this contract.

4. That, to the best of my knowledge and belief, the Contractor has not previously entered into a contract with the Oklahoma Department of Transportation or any other agency of the State of Oklahoma which would result in a substantial duplication of the services required by this contract.

5. That the Contractor has registered and fully participates in the Status Verification System, as required by Title 25 O.S. § 1313(B)(1), to verify the work eligibility status of all new employees of the Contractor.

FURTHER AFFIANT SAYETH NOT.

*Darwin Chesnut*

Darwin Chesnut (Jul 23, 2021 13:09 CDT)

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Darwin Chesnut

Environmental Action, Inc.

CONTRACTOR

**PAY ITEMS SHEET**

Personnel Classification	Hourly Rate
Asbestos Abatement Supervisor	\$40.12
Asbestos Abatement Worker	\$33.88
	(EACH)
Mobilization and De-mobilization	\$750.00

ACM	DOLLAR AMOUNT	UNIT
Ceiling Texture (Popcorn) only	4.50	Per Square Foot
Ceiling Texture (Other) only	5.00	Per Square Foot
Wall Texture only	4.50	Per Square Foot
Sheetrock/Wallboard with ceiling texture <sup>1</sup>	5.00	Per Square Foot
Sheetrock/Wallboard with wall texture <sup>1</sup>	5.00	Per Square Foot
Sheetrock/Wallboard with Joint Compound <sup>1</sup>	5.00	Per Square Foot
Joint Compound only	4.50	Per Square Foot
Sheetrock/Wallboard with Taping Compound	5.00	Per Square Foot
Taping Compound only	4.50	Per Square Foot
Wall Mastic	4.50	Per Square Foot
Blown-In Insulation <sup>2</sup>	5.00	Per Square Foot
Spray-On Fireproof Insulation	10.00	Per Square Foot
Floor Tile (Vinyl)	2.00	Per Square Foot
Floor Tile (Asphalt)	2.00	Per Square Foot
Floor Tile Mastic	2.00	Per Square Foot
Vinyl Sheet Flooring	5.00	Per Square Foot

Leveling Compounds and Fillers	5.00	Per Square Foot
Stair Treads	2.50	Per Linear Foot
Thermal Pipe Insulation ( $\leq$ 6" diameter)	12.00	Per Linear Foot
Thermal Pipe Insulation ( $>$ 6" diameter)	15.00	Per Linear Foot
Thermal Fitting Insulation ( $\leq$ 6" diameter)	15.00	Per Linear Foot
Thermal Fitting Insulation ( $>$ 6" diameter)	20.00	Per Linear Foot
Thermal Vibration Isolators	5.00	Per Square Foot
Valve Packing	5.00	Per Each 5.00
Boiler Insulation	12.00	Per Square Foot
HVAC Duct Insulation	5.00	Per Linear Foot
HVAC Gasket	5.00	Per Each 5.00
Roof Felt	5.00	Per Square Foot
Roof Cement	5.00	Per Square Foot
Waterproof Flashing	5.00	Per Linear Foot
Window Caulk	3.00	Per Linear Foot
Stucco	5.00	Per Square Foot
Galbestos	5.00	Per Square Foot
Category II Non Friable	5.00	Per Square Foot
Category II Non Friable	5.00	Per Linear Foot
Other Waste – Wet Demolition Waste	90.00	Per Ton
Other Waste – Asbestos Contaminated Debris	100.00	Per Yard
Other approved cost	Cost + 3%	Receipts required
ODOL Fees	Cost	Per OAC 380:50-25-1
Mileage	Government Rates	Per mile
Lodging and Per Diem	Government Rates	Lodging receipts required
Subcontractor	Cost + 3%	Receipt required

<sup>1</sup> – Includes associated blown-in insulation that cannot practically be segregated  
<sup>2</sup> – "Stand alone" blown-in insulation abatement cost

*Danin Chasmit*  
 President 6/15/21











# Contract Environmental Action Inc - AC0024 Asbestos Abatement

Final Audit Report

2021-08-04


Created:	2021-07-20
By:	Cheryl Emerson (CEMERSON@ODOT.ORG)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAnQbVapdP9pPbswhzTnImFwdUAuyTHjk

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-  Document created by Cheryl Emerson (CEMERSON@ODOT.ORG)  
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-  Document emailed to Brad Smith (btsmith@odot.org) for approval  
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2021-08-04 - 4:39:08 PM GMT- IP address: 104.143.198.205

 Document e-signed by Tim Tegeler (ttegeler@odot.org)

Signature Date: 2021-08-04 - 4:39:31 PM GMT - Time Source: server- IP address: 165.225.216.87

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 Document e-signed by Brian Taylor (btaylor@odot.org)

Signature Date: 2021-08-04 - 6:42:52 PM GMT - Time Source: server- IP address: 165.225.216.87

 Agreement completed.

2021-08-04 - 6:42:52 PM GMT