

# Town of Amherst Community Development Program

## **REQUEST FOR PROPOSAL LEAD HAZARD TESTING SERVICES MOLD TESTING SERVICES ASBESTOS TESTING SERVICES**

July 30, 2021

### **BACKGROUND INFORMATION**

The Town of Amherst operates a housing rehabilitation program that is funded with federal Community Development Block Grant and HOME funds. Federal regulations pertaining to lead-based paint hazard evaluation, including paint testing and risk assessment, and clearance testing following completion of rehabilitation work applies to the housing rehabilitation program operated by the Town. The Town also completes mold and asbestos testing for homes that have mold or homes that may contain asbestos.

The Town of Amherst is seeking proposals from EPA Certified personnel to provide the services outlined below.

### **SCOPE OF SERVICES**

All work is to be performed pursuant to regulations of the United States Department of Housing and Urban Development and the United States Environmental Protection Agency.

#### 1) Lead-Paint Testing

Conduct testing of designated surfaces to determine the lead content of painted surfaces by utilizing either x-ray fluorescence (XRF) instrumentation or testing of paint-chip samples by an accredited laboratory, or both, pursuant to federal regulations at 24 CFR 35.1320(a); provide a summary report indicating findings.

#### 2) Lead Risk Assessment

Conduct a comprehensive site investigation of residential dwellings pursuant to federal regulations at 24 CFR 35.1320(b) to determine the presence, nature, severity and location of lead-based paint hazards; and the provision of a report explaining the results of the investigation and options for reducing lead-based paint hazards.

#### 3) Clearance Testing

Performance of a clearance examination pursuant to federal regulations at 24 CFR 35.1340, including a visual assessment; dust sampling of floors, window sills and window troughs; as applicable, assessment of soil at the perimeter of the structure where work was performed; analysis of samples for lead; and preparation of a clearance report.

4) Mold Testing

Provide NYS DOL Mold Assessor to conduct testing of designated surfaces to determine the type of mold present by an accredited laboratory and provide a summary report of the findings and a remediation plan (if there is an area greater than 10 square feet of mold).

5) Asbestos Testing

Provide NYSDOL Licensed and Certified Asbestos inspector to collect samples, perform analysis in accordance with 12 NYCRR Part 56 and all other applicable rules and regulations. Provide a summary report of indicated findings. (Asbestos testing will be needed for only those areas/materials that may be disturbed during a homeowner’s outlined renovation project.)

SUBMISSION OF PROPOSALS

The proposal should include the following information requested below.

LEAD BASED PAINT TESTING:

1. Evidence of required training, education and EPA Certification to perform lead testing, lead hazard risk assessment and clearance testing. Provide a resume for each person who would provide the required services indicating experience, education, training and EPA certifications held.
2. Response Time: indicate the time-period within which the *Lead Hazard Evaluation* would be provided, that is, the number of days needed for each of the following tasks to be performed and a final report to be received by the Town:
  - The lead testing: \_\_\_\_\_ days.
  - The lead hazard risk assessment: \_\_\_\_\_ days.
  - The clearance testing: \_\_\_\_\_ days.

3. Provide evidence of insurance coverage required as per Exhibit “B”.

4. Scope of Service: Indicate how your firm will carry out the functions described on page one.

5. Tasks and Cost:

For each *Lead Hazard Evaluation*, which contains three tasks, 1) Lead Testing, 2) Lead Hazard Risk Assessment and 3) Clearance Testing, identify the steps and the certified personnel necessary to perform the required work. Provide a flat fee for each of the three above listed tasks in your proposal. Please see attachment “A”.

MOLD TESTING:

1. Evidence of required training, education and certification to perform mold testing. Provide a resume for each person who would provide the required services indicating experience, education, training and certifications held.
2. Response Time: Indicate the time-period within which the Mold Report would be provided and received by the Town.
3. Provide evidence of insurance coverage required as per Exhibit "B".
4. Scope of Service: Indicate how your firm will carry out the functions described on page one.
5. Tasks and Cost:

For each mold test, identify the steps and the certified personnel necessary to perform the required work. Provide flat fee(s) for each of the listed tasks in your proposal. Please see attachment "A".

ASBESTOS TESTING:

1. Evidence of required training, education and certification to perform asbestos testing. Provide a resume for each person who would provide the required services indicating experience, education, training and certifications held.
2. Response Time: Indicate the time-period within which the Mold Report would be provided and received by the Town.
3. Provide evidence of insurance coverage required as per Exhibit "B".
4. Scope of Service: Indicate how your firm will carry out the functions described on page one.
5. Tasks and Cost:

For each asbestos test, identify the steps and the certified personnel necessary to perform the required work. Provide flat fee(s) for each of the listed tasks in your proposal. Please see attachment "A".

## General Information

It is not possible to state precisely the number of *Lead Hazard Evaluations* that will be required by the Town, although paint testing/risk assessments generally average 20 homes and clearance tests average 15 homes during a given program year. The fees quote should be valid for a minimum period of two years (**from October 1, 2021 through September 30, 2023**). The Town will retain the option to extend the contract for an additional one-year period.

The contractor hired will be required to hold harmless, defend and indemnify the Town from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the contractor's performance of the services provided.

The contractor will be selected based on an evaluation of qualifications, experience, timeliness of response and cost.

**It is anticipated that the contract will be awarded for one year beginning October 1, 2021 with an option for a one year extension.** The consultant will agree to the attached Exhibit "A", *Federal Requirements*. To be awarded the contract, the contractor will be required to submit the appropriate certificates of insurance as specified in Exhibit "B", *Addendum to Contract*.

## Minority and/or Women Owned Businesses

Minority and/or Women Owned Businesses (M/WBEs) are encouraged to respond. Please indicate if your business is a M/WBEs in the proposal submitted.

## Section 3 Business Concern

Section 3 Businesses are encouraged to respond. Please indicated if your business is a Section 3 Business or employees Section 3 workers.

## SUBMISSION OF PROPOSAL

Your proposal and this form should be submitted no later than **4:00 p.m. on Wednesday, August 20, 2021** to Laurie Stillwell, Associate Planner, Community Development, to the address below:

Amherst Community Development Program  
Amherst Planning Department  
5583 Main Street  
Williamsville, New York 14221

Should you have any questions regarding this proposal, please contact Community Development staff in the Amherst Planning Department at 631-7082.

## Attachment "A"

**Please use this sheet to itemize your costs.**

In past contract years, paint testing/risk assessments were performed on approximately 20 homes annually and clearance tests were performed on approximately 15 homes annually in the Town of Amherst.

### LEAD BASED PAINT

	Paint Testing	Risk Assessment	Paint Testing and Risk Assessment	Clearance Testing	Second Clearance Testing
Labor Costs					
Overhead					
Profit					
Lab Fees/ sample					
Total					
Second Unit (duplex)					

## Attachment "A" Continued

**Please use this sheet to itemize your costs.**

In past contract years, mold and asbestos testing has only been completed a few times on the single family homes that have needed rehabilitation work.

### **MOLD/ASBESTOS**

	Mold Testing	Asbestos Testing
Labor Costs		
Overhead		
Profit		
Lab fees per sample type (i.e. friable, non-friable)		
Total		

## Exhibit "A"

### FEDERAL REQUIREMENTS

#### COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The Consultant will comply with the following requirements:

I. Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), which provides that no person in the United States shall on the ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

II. Section 109 of the Housing and Community Development Act of 1974

Section 109 of the Housing and Community Development Act of 1974 (the Act), as amended, which requires that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act.

Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise handicapped person as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act. The Consultant shall also cause compliance with Section 109 of the Act by all contractors and subcontractors providing labor or services to the Project.

III. Debarred, Suspended or Ineligible Contractor Status

Federal regulations at 24 CFR 570.609, which state that federal assistance shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status under the provisions of 24 CFR Part 24. If applicable, if clearance is not obtained for the contractor from the Department of Housing and Urban Development, this Agreement shall be null and void.

IV. Compliance with Housing and Community Development Act

The Housing and Community Development Act of 1974, as amended, and the implementing regulations at 24 CFR Part 570.

V. Copyrights and Patent Rights

The Consultant will comply with all federal requirements and regulations pertaining to copyrights and rights in data, and patent rights with respect to any discovery or invention which arises or is developed in the course of or under this contract.

#### VI. Access to Books, Documents, Papers and Records

The Department of Housing and Urban Development, the Comptroller General of the United States and the Town of Amherst, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Consultant which are directly pertinent to this agreement for the purpose of making audit, examination, excerpts and transcriptions.

#### VII. Retention of Records

The Consultant will retain all records pertaining to this agreement for a minimum period of three years after final payment for this agreement has been made and after all other pending matters in relationship to this agreement are closed.

#### VIII. Lobbying

(1) To the best of their knowledge and belief, no Federal appropriated funds have been paid or will be paid, by or on behalf of the parties to this Agreement, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the parties to this Agreement will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

#### IX. Interest of Certain Federal Officials

No member of or delegate to Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

#### X. Interest of Members, Officers, or Employees of Grantee, Members of Local Governing Body, or Other Public Officials

No member, officer or employee of the Consultant or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. The Consultant shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

#### XI. Prohibition Against Payments of Bonus or Commission

The assistance provided under this Agreement shall not be used in the payment or bonus or commission for the purpose of obtaining H.U.D. approval of the application for such assistance or H.U.D. approval of applications for additional assistance, or any other approval or concurrence of H.U.D. required under this Agreement, Title I of the Housing and Community Development Act of 1974, or H.U.D. regulations with respect thereto; provided, however, that reasonable fees or bonafide technical, Consultant, managerial, or other such services, other than actual solicitation are not hereby prohibited if otherwise eligible as program costs.



## XII. Termination for Cause and for Convenience

The Town of Amherst has the right to terminate this agreement for cause if the Consultant fails to fulfill or comply with the terms and conditions of this agreement by giving written notice to the Consultant at least fifteen (15) days before the effective date of such termination. The Town of Amherst also has the right to terminate this agreement at any time by giving written notice to the Consultant and specifying the effective date of said termination. In the event of termination, copies of all finished and unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports and other material prepared by the Consultant will be provided to the Town of Amherst. In the event of termination, the Consultant will be reimbursed proportionately for the work accomplished.

## XIII. Interest of Consultant

The Consultant covenants that he/she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services for which the Consultant was engaged. The Consultant further covenants that no person having any such interests shall be employed in the performance of the services for which the Consultant was engaged.

## XIV. Equal Opportunity

The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, handicap, familial status, national origin or because he or she is a disabled veteran or veteran of the Vietnam era. The Consultant shall take affirmative steps to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, handicap, familial status, military status and national origin. Such actions will include, but not be limited to the following: employment, upgrading, demotion or transfers, recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training including apprenticeships; and participation in recreational and educational activities.

## XV. Confidentiality

Any reports, information, data, etc. given to or prepared or assembled by the Consultant in the performance of the services for which the Consultant has been engaged shall not be made available to any individual or organization without the prior written approval of the Town.

## **EXHIBIT "B"**

TOWN OF AMHERST  
PLANNING DEPARTMENT

5583 Main Street  
Williamsville, N.Y. 14221  
716-631-7082

### **PROCEDURE REGARDING CERTIFICATES OF INSURANCE**

- I.** INSURANCE shall be procured by the Successful Bidder before commencing work, no later than 14 days after notice of award, and maintained without interruption for the duration of the Contract, in the kinds and amounts specified below.
- II.** CERTIFICATES OF INSURANCE
- A. Shall be made to the Town of Amherst, Community Development Program, 5583 Main Street, Williamsville, N.Y. 14221
  - B. Coverage must comply with all specifications of the contract,
  - C. for "All Operations for the Town of Amherst",
  - D. Executed by an insurance company and/or agency or brokers, which are licensed by the Insurance Department of the State of New York. If executed by a broker, a notarized copy of authorization to bind or certify coverage must be attached.
- III.** MINIMUM SPECIFICATIONS, subject to modification for larger contracts:
- (a) \$500,000 "single limit" (property damage and bodily injury)

or

  - (b) \$500,000 per person/\$1,000,000 per occurrence, for injury to persons including death, and not less than \$100,000 for damage to property.
- IV.** ALL CERTIFICATES SHALL BE ENDORSED VERBATIM:
- A. "The named insured agrees to indemnify and hold harmless the Town of Amherst and its agents and employees against all claims resulting from work performed or material furnished under any contract or permit issued by the Town of Amherst to the Named Insured." (Applicable to General Liability Insurance).
  - B. "Prior to non-renewal, or cancellation of these policies, at least forty-five (45) days advance written notice shall be given to the Director of Planning, 5583 Main St. Williamsville, N.Y. 14221 and to the Agency requesting this Certificate."
- V.** If the above endorsements are separately attached, or endorsed on the reverse side of the Certificate, they shall bear the longhand signature of an authorized agent of the insuring company.

## **Addendum to Contract Major Exposure**

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.
2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.
3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.
4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.
  - (a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.
  - (b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than \$1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and \$2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least \$5,000,000.00.
  - (c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.
  - (d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

- (a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
- (b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
- (c) Affirmative action as required by the Labor Law.
- (d) Prevention of dust hazard required by Labor Law Section 222-a.
- (e) Preference in employment of persons required by Labor Law Section 222.
- (f) Eight-hour workday as required by Labor Law Section 220(2).
- (g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
- (h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on \_\_\_\_\_ . Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

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

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

\_\_\_\_\_  
Printed name

Date: \_\_\_\_\_

Agreed to and Accepted by:

Town of Amherst

By: \_\_\_\_\_  
Brian J. Kulpa, Supervisor

Date: \_\_\_\_\_