



MAY 08 2023

AGENDA PLACEMENT FORM

(Submission Deadline – Monday, 5:00 PM before Regular Court Meetings)

Date: 4-27-23

Meeting Date: 5-8-23

Submitted By: Ralph McBroom

Department/Office: Purchasing

Signature of Director/Official: _____

Agenda Title:
Court House Painting and Restoration

Approved
Motion: wait for historical commission approval before taking action -

Public Description (Description should be 2-4 sentences explaining to the Court and the public what action is recommended and why it is necessary):

Consideration and approval of award of RFQ Exterior Painting and Restoration of Window Frames and Doors at the Historical Court House in the amount of \$32,773.00 to Five Star Painting and approve Five Star Painting Contract Terms and Johnson County Terms Addendum-Five Star Painting.

(May attach additional sheets if necessary)

Person to Present: Ralph McBroom

(Presenter must be present for the item unless the item is on the Consent Agenda)

Supporting Documentation: (check one) PUBLIC CONFIDENTIAL

(PUBLIC documentation may be made available to the public prior to the Meeting)

Estimated Length of Presentation: 5 minutes

Session Requested: Consent (Action Item, Workshop, Consent, Executive)

Check All Departments That Have Been Notified:

County Attorney IT Purchasing Auditor

Personnel Public Works Facilities Management

Other Department/Official (list) _____

Please Inter-Office All Original Documents to County Judge’s Office Prior to Deadline & List All External Persons Who Need a Copy of Signed Documents In Your Submission Email

JOHNSON COUNTY CONTRACT TERMS ADDENDUM –FIVE STAR PAINTING

The Johnson County Commissioners Court Finds, and the Parties Agree, as Follows:

1.1

This Addendum is part of an Agreement between JOHNSON COUNTY, TEXAS, a political subdivision of the State of Texas, (hereinafter referred to as "COUNTY" and referred to as '*CUSTOMER*') in certain documents put forth by FIVE STAR PAINTING. The term "COMPANY" as used herein refers to FIVE STAR PAINTING. JOHNSON COUNTY and FIVE STAR PAINTING, may be collectively identified as the "Parties" or each individually as a "Party"). This Addendum is part of the Agreement with FIVE STAR PAINTING and is intended to modify (as set forth in this Addendum) all documents, including the CUSTOMER QUOTE and any acceptance of the CUSTOMER QUOTE put forth by FIVE STAR PAINTING. This Addendum modifies (as set forth in this Addendum) the CUSTOMER QUOTE, PROPOSAL, TERMS and any other document proffered to Johnson County by FIVE STAR PAINTING or their agents and other documents defining the Agreement between Johnson County, Texas and FIVE STAR PAINTING.

2.1

This Agreement will be governed by and construed according to the laws of the State of Texas. Venue for any action or claim arising out of the Agreement must be in the state district courts in Johnson County, Texas or the federal district courts in Dallas County, Texas. Any provision stating that County agrees to waive any right to trial by jury is hereby deleted.

2.2

Limitations for the right to bring an action, regardless of form, shall be governed by the laws of the State of Texas, Texas Civil Practice and Remedies Code §16.070, as amended, and any provision to the contrary is hereby deleted.

2.3

Under Texas law, a contract with a governmental entity that contains a claim against future revenues is void; therefore, any term which provides for such a claim is hereby deleted. Johnson County will, upon request of a party to the contract, certify the funds available to fulfill the terms of this Agreement.

3.1

The Parties agree that under the Constitution and laws of the State of Texas, Johnson County cannot enter into an agreement whereby Johnson County agrees to indemnify or hold harmless any other party; therefore, all references of any kind to Johnson County indemnifying and holding harmless any individuals or entities for any reason whatsoever are hereby deleted.

3.2

Article XI, Section 7(a) of the Texas constitution provides in relevant part:

... But no debt for any purpose shall ever be incurred in any manner by any city or county unless provision is made, at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least two per cent (2%) as a sinking fund, except as provided by Subsection (b) ...

This provision is interpreted with respect to contractual obligations of Texas county and city government entities to prohibit such government entities from entering into an indemnity agreement and to nullify such agreement provisions.

4.1

The Parties agree and understand that County is a political subdivision of the State of Texas, and therefore has certain governmental immunity, sovereign immunity and limitations on liability, and that County's general liability and vehicle insurance coverage is with the Texas Association of Counties Risk Pool and said "insurance coverage" is limited to the statutory maximum limits of the Texas Tort Claims Act; therefore, any provisions to the contrary are hereby deleted. The Parties agree and understand that County does not waive any of its common law, statutory or constitutional defenses to which it may be entitled.

4.2

The Parties agree and understand that County will not agree to waive any rights and remedies available to County under the Uniform Commercial Code ("UCC"); therefore, any provision to the contrary is hereby deleted.

4.3

The Parties agree and understand that County will not agree to be responsible for any sales tax, use tax, or any other taxes, fees, fines or penalties that may be imposed, levied or assessed by any federal, state or local government or agency which relates to the Agreement, the equipment or its use; therefore, any provision to the contrary is hereby deleted.

4.4

The Parties agree and understand that County will provide statutory workers compensation for its employees; however, County does not agree to include a waiver of subrogation, and therefore any provisions to the contrary are hereby deleted.

5.1

Pursuant to Texas Government Code Section 2251.021 and this Agreement, a payment by a governmental entity under a contract is overdue on the 31st day after the later of:

- a. the date the governmental entity receives the goods under the contract;
- b. the date the performance of the service under the contract is completed; or
- c. the date the governmental entity receives an invoice for the goods or service.

Pursuant to Texas Government Code Section 2251.021 and this Agreement, a payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of: (1) one percent; and (2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. Interest on an overdue payment stops accruing on the date the governmental entity or vendor mailed or electronically transmits the payment. Therefore, all provisions to the contrary are hereby deleted.

6.1

No officer, member or employee of County, and no member of its governing body and no other public officials of the governing body of the locality or localities in which the project is situated or being carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project shall participate in any decision relating to this Agreement which affects his/her personal interest, have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

6.2

To the extent, if any, that any provision in this Agreement is in conflict with Texas Government Code §552.001 *et seq.*, as amended (the "Public Information Act"), the same shall be of no force and effect. Furthermore, it is expressly understood and agreed that Johnson County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act. In the event of a request for documents or materials pursuant to the Texas Public Information Act (Texas Government Code Chapter 552) or similar law pertaining to documents or information County reasonably believes that COMPANY might lawfully seek to claim as confidential, then County will forward the request to COMPANY. It shall be the obligation of COMPANY to prepare and submit to the Texas Attorney General's Office any claim and supporting brief or materials necessary to assert a claim that the documents or materials may be withheld pursuant to Texas Government Code Chapter 552 or other applicable law. County will cooperate with COMPANY in making such submission to the Texas Attorney General's Office. COMPANY acknowledges and understands that contracts, agreements, payment and revenue of a political subdivision of the State of Texas are public information and are not confidential.

6.3

Services and products provided under the Agreement shall be provided in accordance with

all applicable state and federal laws.

6.4

Under the Constitution and laws of the State of Texas, public property is exempt from forced sales and liens may not attach thereto.

6.5

It is understood and agreed that Johnson County will not be subject to arbitration; therefore, any paragraph or provision requiring arbitration, is hereby deleted.

6.6

Johnson County shall be responsible for the acts or failure to act of its employees, agents or servants, provided; however, its responsibility shall be subject to the terms, provisions and limitations of the Constitution and laws of the State of Texas, particularly the Texas Tort Claims Act.

7.1

If the Agreement provides for the continuation of this Agreement from year to year, then continuation is subject to current funds available for the Agreement, the allocation of funds to meet the terms of this Agreement, and subject to the approval of the Johnson County Commissioners Court. However, this Agreement need not be specifically identified in the annual budget or budget process. Utilization of the equipment or services provided by COMPANY pursuant to the terms of this Agreement by County will constitute the County's action and intent to continue this Agreement barring a specific written notice to the contrary. Notwithstanding the foregoing, in no event shall this Agreement continue for a period exceeding 48 months from the date of execution of this Addendum without additional specific consideration and approval by the Commissioners Court of Johnson County, Texas.

7.2

At any time following the expiration of 180 DAYS from the execution of the contract, COUNTY may terminate the contract at its discretion, without charges for unutilized term, or penalty of any kind, by giving COMPANY 90 days written notice of such termination.

8.1

COMPANY certifies that pursuant to Section 231.006 of the Texas Family Code that the individual or business entity named in this contract is not ineligible to receive the specified payment(s) and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. COMPANY states that it is not ineligible to receive State or

Federal funds due to child support arrearages

8.2

COMPANY verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. The term "boycott Israel" is as defined by Texas Government Code Section 808.001, effective September 1, 2017. COMPANY further verifies that it is not engaged in business with Iran, Sudan, or any foreign terrorist organization. The term "foreign terrorist organization" means an organization designated as foreign terrorist organization by the United States Secretary of State as authorized by 8 U.S.C. Section 1189.

8.3

COMPANY verifies that it complies with Texas Government Code Chapter 2274 and further verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and, will not discriminate during the term of the contract against a firearm entity or firearm trade association.

8.4

COMPANY verifies that it complies with Texas Government Code Chapter 2274 and further verifies that it:

- (1) does not boycott energy companies; and
- (2) will not boycott energy companies during the term of the contract.

In this provision:

- (1) "Boycott energy company" has the meaning assigned by Section 809.001.
- (2) "Company" has the meaning assigned by Section 809.001, except that the term does not include a sole proprietorship.
- (3) "Governmental entity" has the meaning assigned by Section 2251.001.

9.1

Notwithstanding any other provisions contained in the contract documents, any amendment to the terms of the contract must be specifically approved by the Commissioners Court of Johnson County and signed by the Johnson County Judge.

9.2

Notwithstanding any other provision in this Addendum or the associated documents, to the

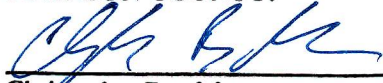
extent COMPANY is being contracted to provide information technology and services or to maintain and make available information for use by Johnson County and the public, including documents, data, content and records then said documents, data, content and records are and shall be the exclusive property of Johnson County, Texas or the State of Texas or a political subdivision thereof.

9.3

In the event of any conflict between the terms and provisions of this Addendum and the terms and provisions of those contractual provisions tendered to Johnson County in the Agreement, this Addendum shall control and amend the contractual provisions of the QUOTE, PROPOSAL, TERMS or AGREEMENT and any provision to the contrary is hereby deleted. **THE TERMS OF THIS ADDENDUM SHALL BE FULLY OPERATIVE AND HAVE PRIORITY OVER ALL OTHER DOCUMENTS AND TERMS AND ANY TERM TO THE CONTRARY IN OTHER DOCUMENTS PUT FORTH BY COMPANY IS HEREBY DELETED.**

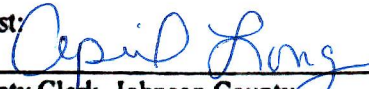
APPROVED AS TO FORM AND CONTENT:

JOHNSON COUNTY:

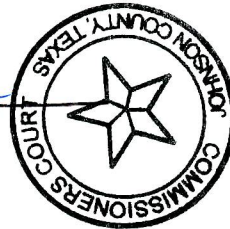


Christopher Boedecker
As Johnson County Judge

5-8-23
Date

Attest: 

County Clerk, Johnson County



5-8-23
Date

FIVE STAR PAINTING :



Authorized Representative of
FIVE STAR PAINTING

04/04/2023
Date

Printed Name: Daniel Wattleworth

Title: Owner + General Manager

Quote#: 10916 Title: Exterior Quote

Date: 04/03/2023



Estimator: Dan Wattleworth Cell Phone: (972) 375-2405 Office Phone: (682) 970-6173

Mailing Address:

Customer Quote

Locally Owned and Independently Operated

Donna White
dwhite@johnsoncountytexas.org
(817) 556-6382

Billing: 2 N Main St,
Cleburne, TX 76033

Service: 2 N Main St,
Cleburne, TX 76033

Customer Notes: Our goal is to earn your enthusiastic 5-Star review when the project is complete.

Rain, wind conditions, and temperatures can affect our ability to complete exterior work. We do our best to complete all work in a timely fashion and appreciate your willingness to work with us on any completion time changes that may occur as a result of these factors.

We accept cash, checks (made payable to Five Star Painting), Visa, MasterCard, Discover, and American Express.

Not Included: Work not specified in this estimate may be added if requested prior to the last day of the job and if our schedule permits. Additional work will be added through a change order request which will specify the price of the additional work.

Details

- Five Star team to clean up daily, and a thorough clean up at job completion.
- Five Star will conduct a thorough walk-around with the customer to ensure nothing is missed.

Approx. 133 windows. Sand peeling paint and spot prime as needed. Apply new topcoat to match current color. Includes use of lift and safety equipment to access windows up to 4th story.

paint : (0 Coat)
Labor: \$26,317.00

Approx. 15 metal grates over windows. Apply rust neutralizer. Apply primer. Apply new topcoat.

paint : (0 Coat)
Labor: \$2,773.00

Handrails, short sign posts, and parking lot posts around the courthouse - sand peeling paint, apply rust neutralizer. Apply primer. Apply new topcoat.

paint : (0 Coat)
Labor: \$2,433.00

Total	
Materials:	\$1,250.00
Labor:	\$31,523.00
Subtotal:	\$32,773.00
Total:	\$32,773.00
Payment:	\$0.00
Balance Due:	\$32,773.00

We propose hereby to furnish material and labor - complete in accordance with above specifications for the sum stated above. This proposal may be withdrawn if not accepted within 15 days.

Terms:

1. Special Offers and Promotional Pricing: All offers and promotions exclude commercial work. "Free Paint" offers include Behr Premium Plus, Sherwin-Williams SuperPaint, or similar. Other paints may be selected for an additional upgrade cost.

2. Workmanship: All work will be completed according to professional standard practices. During our walk-through evaluations, work is evaluated by observing the finished product from a normal viewing distance under normal lighting. Under these conditions, obvious flaws are addressed and corrected. If you desire to inspect the work at close range or under enhanced lighting, are easily bothered by minor flaws, or have been disappointed with the results of other professional painters, please notify us that you would like an enhanced professional finish level. Work performed to the enhanced professional finish level requires additional time and expense, so we ask that you notify us at least 3 days prior to the project start date so that we can make any necessary adjustments to the schedule and pricing.

3. Colors: We are happy to help customers view a range of color options and discuss sheen options in order to make a decision on which color(s) and sheen(s) to choose. Five Star Painting will not choose the color or sheen for the customer. The customer is responsible for final color and sheen choices. Some colors may need 1 extra coat. Stain may require multiple extra coats. If needed, extra coats may increase price. All colors and sheens must be finalized prior to the project start date. Changes after this date will likely result in additional paint purchases at customer's expense.

4. Texture matching and blending: All textures are done on a best-effort basis. We cannot guarantee that new textures will match or blend with your existing textures.

5. Ceiling Color Matches: Because of the difficulty of matching ceiling colors, we do not recommend touch-ups for ceilings. Instead, we recommend painting the entire ceiling in order to ensure consistent color coverage. If touch-ups are agreed to, we cannot guarantee the new paint will match the color of the existing ceiling.

6. Wallpaper Removal: Wallpaper removal is priced per layer with reduced pricing for layers after the 1st: 50% for 2nd, 25% per layer beyond 2nd. In most houses, wallpaper is 1 layer.

7. Touch-up Work: Five Star Painting performs "touch-up" work on surfaces that we have fully painted under this agreement. These touch-ups may be requested up to 72 hours after the final walk-through with Five Star Painting's Production Manager. The customer agrees to grant us access to the site from 8 a.m. - 5 p.m., Monday - Friday. After 72 hours, only major touch-ups and warranty items will be addressed by Five Star Painting.

8. Other "touch-up" requests: Due to many factors beyond our control, Five Star Painting's policy is that we do not perform "touch-up" work on any surfaces not fully painted under this agreement. For example, we do not "touch-up" a wall, ceiling, door, trim, exterior surfaces, etc. that were previously painted by someone else (even if the exact paint previously used is available). We paint full walls (corner to corner), full ceilings, entire doors, entire surfaces, etc. If, despite this policy, Five Star Painting agrees to perform such "touch-up" work for a customer, the customer agrees and acknowledges that we cannot guarantee their satisfaction with the final appearance which could result from an inexact color match, fading of the previous paint over time, clean/unclean surrounding surfaces, inexact sheen matches, flashing of the newly applied paint, lighting, imperfections of walls, textures, or other surfaces, roller lines, brush lines, or many other causes. Should the customer not be satisfied with the "touch-up", the remedy will be for Five Star Painting to paint the entire surface at the price normally charged for painting that surface. The cost will be added through a change order.

9. Limitation of liability: Five Star Painting's liability is limited to the amount customer has paid. We are not liable for issues related to moving objects over 50 lbs such as pianos, refrigerators, etc. and any items of art or sentimental value of any size. We are not liable for issues on

walking surfaces or issues which could reasonably be considered normal wear and tear. For exterior work, we are not liable if, for safety reasons, ladders or lifts require placement in areas which damage landscaping. If the customer has insurance, the customer's policy is primary and Five Star Painting's policy is secondary and compensates for losses not otherwise covered, and as permitted herein.

10. Partially completed projects: In the rare circumstance that the customer decides to postpone or terminate the project after it has begun (at any time and for any reason prior to its completion), the customer agrees to pay to Five Star Painting based on the percentage of the work performed to that point plus 15%. For example, if 20% of the work has been performed, the customer agrees to pay for 35% of the project agreement amount (20% plus 15%). The percentage of work performed will be determined by Five Star Painting based on a reasonable analysis and we will provide the customer with a detailed explanation of how we arrived at that percentage. All previous payments made by the customer will be credited toward the amount due under this clause. If those payments exceed the amount due under this clause, Five Star Painting will refund the customer for the difference.

11. Disputes: This document shall constitute the entire agreement and supersede any discussions, suggestions, assertions, etc., except for acceptance of change orders. Disputes other than liens, must first be submitted to non-binding mediation ~~or binding arbitration using the American Arbitration Association's construction industry rules. The choice of mediation or arbitration shall be at Five Star Painting's sole discretion.~~ If the dispute cannot be resolved by mediation/arbitration, it may, ~~at Five Star Painting's sole discretion,~~ proceed to a Court of Johnson County, TX. ~~Regardless of outcome, customer shall reimburse Five Star Painting for all fees related to collection, mediation, arbitration and litigation. In the event suit is brought, the prevailing party shall recover its attorney fees and costs. Finance charges of 1.5% per month will be applied on past-due accounts.~~ *D. J. Watson*

~~12. I hereby grant Five Star Painting permission to use my, and my property's, likeness in a photograph, video, or other digital media ("photo") in any and all of its publications, including web-based publications, without payment or other consideration. I understand and agree that all photos will become the property of Five Star Painting and will not be returned. I hereby hold harmless, release, and forever discharge the Five Star Painting from all claims, demands, and causes of action.~~ *D. J. Watson*

13. Acceptance of Agreement: The customer's agreement to the terms of this Agreement shall be established by the customer either scheduling the work to be started or making a deposit payment after the customer has been provided a copy of this Agreement, whether or not a signed copy of the agreement is returned to Five Star Painting.

I agree to the payment terms and contract stated above:

Authorization to begin work (Client): *[Signature]*
Work Completed to satisfaction (Client): _____
Contractor Signature: *D. J. Watson* Date: _____

Customer Focused, Quality Driven™
Visit FiveStarPainting.com/warranty for details on our 2-year warranty.



Dallas / Fort Worth 817-645-5700

Austin 512-271-5909

San Antonio 210-446-3982

Houston 713-391-8444

LOCATIONS

EXHIBIT A PROPOSAL

1. Project Information

Longhorn Job No.: **05693**

Proposal Date: January 12, 2023 - updated

Project: **CLEBURNE COURTHOUSE**

Building Location: 204 S. Buffalo Street
Cleburne, TX 76033

Contract Sum: \$ 41,673.00

Contractor: Longhorn Commercial Roofing, LLC
Corporate Office
PO Box 1208
Cleburne, Texas 76033-1208
817-645-5700 (Office)
renee@longhorncr.com

Owner: Johnson County
Josh Green
204 S. Buffalo Street
Cleburne, TX 76033
817-517-3311 (Direct)
jgreen@johnsoncountytexas.org

Estimator: Chad Edwards / chad@longhorncr.com

2. General.

This Proposal and the amounts contained herein shall be effective for a period of sixty (60) days from the Proposal Date. This is merely a proposal and shall not constitute an offer or a contract. Once the proposal is accepted, the Contractor will attach this proposal as Exhibit A to the Construction Contract to be integrated into the terms therein.

3. Scope of Work.**Exterior Window and Door Work****Scope of Work:**

1. Clean, scrape and prepare the exterior windows for painting.
2. Remove and replace the exterior rotted windowsill wood, as needed.
3. Replace caulking, as needed.
4. Paint the exterior window frames.
5. Re-stain the exterior doors.

4. Exclusions. The following items are expressly excluded from the roofing system Scope of Work as bid by the Contractor:

Electrical

Mechanical

HVAC

5. Warranty. 2-Year LCR Installers Warranty to issue upon completion of the project and payment in full.**6. Safety.** Workers will comply with industry-standard safety protocols and O.S.H.A.'s requirements. As required: the Work area in the parking lot will be roped off with safety warning lines/tape for pedestrian and automobile safety (entrances and exits to the property will not be affected) and fall protection warning lines will be installed around the roof.