Memo to File
GC140000005
Home Depot USA, Inc.
Lowe's Home Centers, LLC
Duel Expiration Dates in Contract

Summary: This contract has two vendors: Home Depot USA, Inc. & Lowe's Home Centers, LLC. Due to changes in the original co-op assignments of each vendor, the contract now contains two different contract expiration dates.

1. In January 2016, the following note was placed in AIMS:

> "ADMIN: Modified the Lowe's portion of the contract to the new TCPN Contract #R142104 that expires on 3/31/2017 with 3 additional options (through 2020). The U.S. Communities / Home Depot Contract #11019 is set to expire on 7/31/2017, the Expiration Date is being modified to match the US Communities / Home Depot Expiration Date. Increased the Threshold amount to $4,500,000 to complete the initial term."

2. The modification in the Lowe's contract matches that of the TCPN cooperative. The modification of the Home Depot contract was reflected as the new expiration date in AIMS to "07/31/2017". This created a situation whereby GC140000005 ran on Contract Management's monthly report in July rather than in March. This delay allowed the contract to expire, but with new cooperatives in place, the City of Austin could still purchase contract items with the cooperative discount.

3. To prevent another lapse, the following actions have been taken:

> a. The expiration date in AIMS will be reset to "03/31/2018". The day and month will match Lowe's cooperative expiration date and the City's hardcopy amendment. The date will allow the contract to appear on the monthly renewal report in March, thus avoiding a reporting lapse. The Lowe's renewal and expiration dates will appear on hardcopies as shown below:

Lowe's Home Centers, LLC

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 05/06/2014 – 03/31/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1 Updated Contract Cooperative 04/01/2014 – 03/31/2017	$0.00	$4,500,000.00
Amendment No. 2 – Option 1 04/01/2017 – 03/31/2018	$1,500,000.00	$6,000,000.00
Amendment No. 3 – Option 2 04/01/2018 – 03/31/2019	$1,500,000.00	$7,500,000.00
Amendment No. 4 – Option 3 04/01/2019 – 05/05/2020	$1,500,000.00	$9,000,000.00

b. The expiration date of the Home Depot contract (on hardcopy) will be reset to the initial 36-month period approved by City Council in RCA #23 (4/24/2017) making the expiration date "05/05". This overrides the "07/31/2017" date set in the note above. The Home Depot renewal and expiration dates will appear on hardcopies as shown below:

Home Depot USA, Inc.

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 05/06/2014 – 05/05/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1H – Option 1 05/06/2017 – 05/05/2018 Note: U.S. Communities Cooperative Transferred	$1,500,000.00	$6,000,000.00
Amendment No. 2H – Option 2 05/06/2018 – 05/05/2019	$1,500,000.00	$7,500,000.00
Amendment No. 3H – Option 3 05/06/2019 – 05/05/2020	$1,500,000.00	$9,000,000.00

c. The Home Depot contract will expire on "05/05/2020", however the Lowe's contract will expire on"03/31/2020", leaving a two-month gap in coverage. To ensure coverage until May for Lowe's, the expiration will be changed to match that of Home Depot. This depends on the renewal of TCPN 141104. This will need to be monitored by Contract Management Specialist and Buyer.

Mike Zambrano, Jr.
Contract Management Specialist III
City of Austin
512-974-3130

Amendment No. 4
to
Contract No. GC140000005
for
Purchase of Building Supplies and Equipment
between
Lowe's Home Centers, LLC
and the
City of Austin

1.0 The City hereby exercises this extension option for the subject contract. This extension option will be April 1, 2019 through March 31, 2020. No options will remain.

2.0 The total contract amount is increased by $1,500,000.00 by this extension period "each and combined". The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 05/06/2014 – 03/31/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1: Updated Contract Cooperative 01/05/2016	$0.00	$4,500,000.00
Amendment No. 2: Option 1 – Extension 04/01/2017 – 03/31/2018	$1,500,000.00	$6,000,000.00
Amendment No. 3: Option 2 – Extension 04/01/2018 – 03/31/2019	$1,500,000.00	$7,500,000.00
Amendment No. 4: Option 3 – Extension 04/01/2019 – 03/31/2020 Note: TCPN cooperative is now National IPA	$1,500,000.00	$9,000,000.00

3.0 MBE/WBE goals do not apply to this contract.

4.0 The City of Austin contract is associated with National IPA cooperative contract #R142104. The effective National IPA term is April 1st, 2015 through March 31, 2020.

5.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

6.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: 3-4-2019

Printed Name: Scott Matthews
Authorized Representative

Lowe's Home Centers, LLC
1605 Curtis Bridge Road
Wilkesboro, North Carolina 28697
(704) 758-4381
tracy.w.burke@lowes.com

Sign/Date: 9-7-19

Matthew Duree
Procurement Manager

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701

Amendment No. 4L
of
Contract No. GC140000005
for
Commodities, supplies and equipment
between
Lowe's Home Centers, LLC
and the
The City of Austin

1.0 The Contract is hereby amended as follows: Change name to **Lowe's Companies Inc. dba Lowe's Home Centers, LLC** as requested by the Contractor:

	From	To
Vendor Name	Lowe's Home Centers, LLC. dba Lowe's	**Lowe's Companies Inc. dba Lowe's Home Centers, LLC**
Vendor Code (for City use only)	LOW7101640	LOW8315045
Vendor Federal Tax ID (FEIN)	[redacted]	[redacted]

2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

BY THE SIGNATURE affixed below, this Amendment No. 4L is hereby incorporated into and made a part of the Contract.

Linell Goodin-Brown

Linell Goodin-Brown
Contract Management Supervisor II
City of Austin, Purchasing Office

10-3-18

Date

Memo to File
GC140000005
Home Depot USA, Inc.
Lowe's Home Centers, LLC
Duel Expiration Dates in Contract

Summary: This contract has two vendors: Home Depot USA, Inc. & Lowe's Home Centers, LLC. Due to changes in the original co-op assignments of each vendor, the contract now contains two different contract expiration dates.

1. In January 2016, the following note was placed in AIMS:

> "ADMIN: Modified the Lowe's portion of the contract to the new TCPN Contract #R142104 that expires on 3/31/2017 with 3 additional options (through 2020). The U.S. Communities / Home Depot Contract #11019 is set to expire on 7/31/2017, the Expiration Date is being modified to match the US Communities / Home Depot Expiration Date. Increased the Threshold amount to $4,500,000 to complete the initial term."

2. The modification in the Lowe's contract matches that of the TCPN cooperative. The modification of the Home Depot contract was reflected as the new expiration date in AIMS to "07/31/2017". This created a situation whereby GC140000005 ran on Contract Management's monthly report in July rather than in March. This delay allowed the contract to expire, but with new cooperatives in place, the City of Austin could still purchase contract items with the cooperative discount.

3. To prevent another lapse, the following actions have been taken:

> a. The expiration date in AIMS will be reset to "03/31/2018". The day and month will match Lowe's cooperative expiration date and the City's hardcopy amendment. The date will allow the contract to appear on the monthly renewal report in March, thus avoiding a reporting lapse. The Lowe's renewal and expiration dates will appear on hardcopies as shown below:

Lowe's Home Centers, LLC

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 05/06/2014 – 03/31/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1 Updated Contract Cooperative 04/01/2014 – 03/31/2017	$0.00	$4,500,000.00
Amendment No. 2 – Option 1 04/01/2017 – 03/31/2018	$1,500,000.00	$6,000,000.00
Amendment No. 3 – Option 2 04/01/2018 – 03/31/2019	$1,500,000.00	$7,500,000.00
Amendment No. 4 – Option 3 04/01/2019 – 05/05/2020	$1,500,000.00	$9,000,000.00

b. The expiration date of the Home Depot contract (on hardcopy) will be reset to the initial 36-month period approved by City Council in RCA #23 (4/24/2017) making the expiration date "05/05". This overrides the "07/31/2017" date set in the note above. The Home Depot renewal and expiration dates will appear on hardcopies as shown below:

Home Depot USA, Inc.

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 05/06/2014 – 05/05/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1H – Option 1 05/06/2017 – 05/05/2018 Note: U.S. Communities Cooperative Transferred	$1,500,000.00	$6,000,000.00
Amendment No. 2H – Option 2 05/06/2018 – 05/05/2019	$1,500,000.00	$7,500,000.00
Amendment No. 3H – Option 3 05/06/2019 – 05/05/2020	$1,500,000.00	$9,000,000.00

c. The Home Depot contract will expire on "05/05/2020", however the Lowe's contract will expire on"03/31/2020", leaving a two-month gap in coverage. To ensure coverage until May for Lowe's, the expiration will be changed to match that of Home Depot. This depends on the renewal of TCPN 141104. This will need to be monitored by Contract Management Specialist and Buyer.

Mike Zambrano, Jr.
Contract Management Specialist III
City of Austin
512-974-3130

Amendment No. 3L
to
Contract No. GC140000005
for
Purchase of Building Supplies and Equipment TCPN Contract R142104
between
Lowe's Home Centers, LLC
and the
City of Austin

1.0 The City hereby exercises this extension option for the subject contract. This extension option will be April 1, 2018 through March 31, 2019. One option will remain.

2.0 The total contract amount is increased by $1,500,000.00 by this extension period "each and combined". The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 05/06/2014 – 03/31/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1L: Updated Contract Cooperative 01/05/2016	$0.00	$4,500,000.00
Amendment No. 2L: Option 1 – Extension 04/01/2017 – 03/31/2018	$1,500,000.00	$6,000,000.00
Amendment No. 3L: Option 2 – Extension 04/01/2018 – 03/31/2019	$1,500,000.00	$7,500,000.00

3.0 MBE/WBE goals do not apply to this contract.

4.0 The City of Austin contract is associated with The Cooperative Purchasing Network (TCPN) contract TCPN #R142104. The effective TCPN term is April 1st, 2015 through March 31, 2020.

5.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

6.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: 4-3-2018

Printed Name: Darrin G. Clark VP Services
Authorized Representative

Lowe's Home Centers, LLC
1605 Curtis Bridge Road
Wilkesboro, North Carolina 28697
(704) 758-4381

Sign/Date: Cyrenthia Ellis

Cyrenthia Ellis
Procurement Manager
City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701

JL

Memo to File
GC140000005
Home Depot USA, Inc.
Lowe's Home Centers, LLC
Duel Expiration Dates in Contract

Summary: This contract has two vendors: Home Depot USA, Inc. & Lowe's Home Centers, LLC. Due to changes in the original co-op assignments of each vendor, the contract now contains two different contract expiration dates.

1. In January 2016, the following note was placed in AIMS:

> "ADMIN: Modified the Lowe's portion of the contract to the new TCPN Contract #R142104 that expires on 3/31/2017 with 3 additional options (through 2020). The U.S. Communities / Home Depot Contract #11019 is set to expire on 7/31/2017, the Expiration Date is being modified to match the US Communities / Home Depot Expiration Date. Increased the Threshold amount to $4,500,000 to complete the initial term."

2. The modification in the Lowe's contract matches that of the TCPN cooperative. The modification of the Home Depot contract was reflected as the new expiration date in AIMS to "07/31/2017". This created a situation whereby GC140000005 ran on Contract Management's monthly report in July rather than in March. This delay allowed the contract to expire, but with new cooperatives in place, the City of Austin could still purchase contract items with the cooperative discount.

3. To prevent another lapse, the following actions have been taken:

> a. The expiration date in AIMS will be reset to "03/31/2018". The day and month will match Lowe's cooperative expiration date and the City's hardcopy amendment. The date will allow the contract to appear on the monthly renewal report in March, thus avoiding a reporting lapse. The Lowe's renewal and expiration dates will appear on hardcopies as shown below:

Lowe's Home Centers, LLC

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 05/06/2014 – 03/31/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1 Updated Contract Cooperative 04/01/2014 – 03/31/2017	$0.00	$4,500,000.00
Amendment No. 2 – Option 1 04/01/2017 – 03/31/2018	$1,500,000.00	$6,000,000.00
Amendment No. 3 – Option 2 04/01/2018 – 03/31/2019	$1,500,000.00	$7,500,000.00
Amendment No. 4 – Option 3 04/01/2019 – 05/05/2020	$1,500,000.00	$9,000,000.00

b. The expiration date of the Home Depot contract (on hardcopy) will be reset to the initial 36-month period approved by City Council in RCA #23 (4/24/2017) making the expiration date "05/05". This overrides the "07/31/2017" date set in the note above. The Home Depot renewal and expiration dates will appear on hardcopies as shown below:

Home Depot USA, Inc.

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 05/06/2014 – 05/05/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1H – Option 1 05/06/2017 – 05/05/2018 Note: U.S. Communities Cooperative Transferred	$1,500,000.00	$6,000,000.00
Amendment No. 2H – Option 2 05/06/2018 – 05/05/2019	$1,500,000.00	$7,500,000.00
Amendment No. 3H – Option 3 05/06/2019 – 05/05/2020	$1,500,000.00	$9,000,000.00

c. The Home Depot contract will expire on "05/05/2020", however the Lowe's contract will expire on"03/31/2020", leaving a two-month gap in coverage. To ensure coverage until May for Lowe's, the expiration will be changed to match that of Home Depot. This depends on the renewal of TCPN 141104. This will need to be monitored by Contract Management Specialist and Buyer.

Mike Zambrano, Jr.
Contract Management Specialist III
City of Austin
512-974-3130

Amendment No. 2 L
to
Contract No. GC140000005
for
Purchase of Building Supplies and Equipment TCPN Contract R142104
between
Lowe's Home Centers, LLC
and the
City of Austin

1.0 The City hereby exercises this extension option for the subject contract. This extension option will be April 1, 2017 through March 31, 2018. Two options will remain.

2.0 The total contract amount is increased by $1,500,000.00 by this extension period "each and combined". The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 05/06/2014 – 03/31/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1: Updated Contract 04/01/2015 – 03/31/2017	$0.00	$4,500,000.00
Amendment No. 2: Option 1 – Extension 04/01/2017 – 03/31/2018	$1,500,000.00	$6,000,000.00

3.0 MBE/WBE goals do not apply to this contract.

4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: May 9, 2017

Printed Name: Darrin G. Clark
Authorized Representative

Lowe's Home Centers, LLC
1605 Curtis Bridge Road
Wilkesboro, North Carolina 28697
(336) 658-4000

Sign/Date: 5/24/17

Danielle Lord
Contract Compliance Manager

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701

jb

JLG

Amendment No. 1H
to
Contract No. GC140000005
for
Purchase of Building Supplies and Equipment
between
Home Depot USA, Inc.
and the
City of Austin

1. The City herely amends contract number GC140000005 by the following:

   1.1. Transfer U.S. Communities Contract 11019 to U.S. Communities Contract 16154 and all associated terms and conditions.

   1.2. Reserve the right to transfer this contract by amendment to future U.S. Communities contract(s) that supersede 16154 if the terms and conditions are favorable to the City.

2. The City hereby exercises this extension option for the subject contract. This extension option will be May 6, 2017 through May 5, 2018. Two options remain.

3. The total contract amount is increased by $1,500,000.00 by this extension period for all vendors under this master agreement. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 05/06/2014 – 05/05/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1H: Option 1 - Extension 05/06/2017 – 05/05/2018 Note: U.S. Communities cooperative Transferred	$1,500,000.00	$6,000,000.00

4. MBE/WBE goals do not apply to this contract.

5. By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

6. All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Richard Nyberg 5/24/17

Printed Name: Richard Nyberg
Authorized Representative

Home Depot USA, Inc.
2455 Paces Ferry Road, NW
Atlanta, Georgia 30339
(770) 384-3612

Sign/Date: Danielle Lord 5/24/17

Danielle Lord
Contract Compliance Manager

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701

jb

Amendment No. 1L
to
Contract No. GC140000005
for
Purchase of Building Supplies and Equipment TCPN Contract R4954
between
Lowe's Home Centers, LLC
and the
City of Austin

1.0 The City hereby amends contract number GC140000005 by the following:

1.1 Transfer TCPN Contract R4954 to TCPN Contract R142104 and all associated terms and conditions.

1.1.1 The Term for TCPN Contract R142104 is effective 4/1/2015 and will expire on 3/31/2017 and may be renewed annually for an additional three (3) years if mutually agree by Region 4 ESC/TCPN and Lowe's Home Center, LLC.

1.2 Allow for additional the extension of the TCPN Contract R142104 and available funding on City Contract No. GC140000005.

1.3 Reserve the right to transfer this contract by amendment to future TCPN contract(s) that supersede R142104 if the terms and conditions are favorable to the City.

2.0 The total Contract amount is unchanged. The total Contract authorization is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 5/6/2014 – 3/31/2015	$4,500,000.00	$4,500,000.00
Amendment No. 1: Updated Contract 4/1/2015 – 3/31/2017	$0.00	$4,500,000.00

3.0 MBE/WBE goals were not established for this contract.

4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above-referenced contract.

Signature & Date: January 5, 2016

Printed Name: Michael J. Horn
Authorized Representative

Lowe's Home Centers, LLC
1605 Curtis Bridge Road
Wilkesboro, NC 28697

Signature & Date: 1/5/16

Danielle Lord, Corporate Contract Compliance Manager
City of Austin
Purchasing Office

Amendment No. 3
To
Contract No. GC140000005
For
Purchase of Building Supplies and Equipment
Between
Home Depot USA, Inc.
and the
City of Austin

1. The City hereby exercises this extension option for the subject contract. This extension option will be May 6, 2019 through May 5, 2020. No options will remain.

2. The total contract amount is increased by $1,500,000.00 by this extension period "each and combined". The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 05/06/2014 – 05/05/2017	$4,500,000.00	$4,500,000.00
Amendment No. 1: Option 1 - Extension 05/06/2017 – 05/05/2018 Note: U.S. Communities cooperative Transferred	$1,500,000.00	$6,000,000.00
Amendment No. 2: Option 2 – Extension 05/06/2018 – 05/05/2019	$1,500,000.00	$7,500,000.00
Amendment No. 3: Option 3 – Extension 05/06/2019 – 05/05/2020	$1,500,000.00	$9,000,000.00

3. MBE/WBE goals do not apply to this contract.

4. The City of Austin contract is associated with U.S. Communities contract #16154. The effective U.S. Communities term is from February 1, 2017 through December 31, 2021.

5. By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

6. All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Richard Nyberg 3/4/19

Printed Name: Richard Nyberg
Authorized Representative

Home Depot USA, Inc.
2455 Paces Ferry Road, NW
Atlanta, Georgia 30339
(770) 384-3612
richard_nyberg@homedepot.com

Sign/Date: 3-8-19

Matthew Duree
Procurement Manager

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701

Financial and Administrative Service Department
Purchasing Office
PO Box 1088, Austin, Texas, 78767

May 6, 2014

The Austin City Council approved the execution of a contract with HOME DEPOT U.S.A. and LOWE'S HOME CENTERS, LLC for commodities, supplies and equipment.

Responsible Department:	Citywide Departments
Department Contact Person:	Steve Stenton
Department Contact Email:	Steve.Stenton@austintexas.gov
Department Contact Telephone:	512-974-2082
Project Name:	Commodities, supplies and equipment
Contractor Name:	Home Depot U.S.A. and Lowe's Home Centers, LLC
Contract Number:	GC140000005
Contract Period Amount:	$4,500,000.00, each and combined
Contract Period:	5/6/2014 – 5/5/2017
Extension Options:	3-12 month options, in an amount not to exceed $1,500,000.00 each and combined
Agenda Item Number:	23
Council Approval Date:	4/17/2014

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person referenced above.

Sincerely,

Lynn Rich
Buyer II
512-974-2076

cc: Steve Stenton

CONTRACT BETWEEN THE CITY OF AUSTIN ("City")
AND
The Home Depot U.S.A. ("Contractor")
for
Purchase of Building Supplies and Equipment
Contract Number GC140000005

The City accepts the Contractor's Offer (as referenced in Section 1.1.1 below) for the above requirement and enters into the following Contract.

This Contract is between The Home Depot U.S.A. having offices at 2455 Paces Ferry Road, Atlanta, GA 30339 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City ("Effective Date"). This Contract meets solicitation requirements by using Contractor's U.S. Communities Government Purchasing Alliance with County of Maricopa, Phoenix, Arizona contract Serial 11019-RFP.

1.1 **This Contract is composed of the following documents:**

1.1.1 U.S. Communities Government Purchasing Alliance with County of Maricopa, Phoenix, Arizona Serial 11019-RFP.

1.1.2 This Contract

1.1.3 Exhibit A, the Supplemental Purchasing Provisions, (0400).

1.2 **Order of Precedence.** Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order:

1.2.1 U.S. Communities Government Purchasing Alliance with County of Maricopa, Phoenix, Arizona Serial 11019-RFP as referenced in Section 1.1.1

1.2.2 This Contract

1.2.3 The Supplemental Purchasing Provisions , (0400) as referenced in Section 1.1.3

1.3 **Quantity of Work.** There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order.

1.4 **Term of Contract.** The Contract will be in effect for an initial term of thirty-six (36) months and may be extended thereafter for up to three (3) twelve (12) month extension option(s), subject to the approval of the Contractor and the City Purchasing Officer or his designee and subject to the extension of the cooperative contract, as referenced above. See the Term of Contract provision in Section 0400 for additional Contract requirements.

1.5 **Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of $4,500,000.00 each and combined for the initial Contract term and $1,500,000.00 each and combined for the extension options.. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order. It is the City's sole responsibility to manage the not-to-exceed limits, and Home Depot will have no financial impact if those amounts are exceeded by City purchasers.

1.6 **Scope of Work, Clarifications and Additional Agreements.** This is for retail purchases by all City Departments and includes all items in the Home Depot Stores; plus access to any services or Renovation Services available through Home Depot. A percentage rebate will be provided to City depending on the amount of sales completed by the City Departments and based upon the rebate thresholds in the U.S. Communities contract.

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

THE HOME DEPOT U.S.A.	**CITY OF AUSTIN**
Richard Nyberg	Yolanda Miller
Printed Name of Authorized Person	Printed Name of Authorized Person
Signature	Signature
Government Contracts Sr. Mgr	Deputy Purchasing Officer
Title:	Title:
4/30/14	5/6/14
Date:	Date:

EXHIBITS

Exhibit A, the Supplemental Purchasing Provisions, (0400)
Exhibit B, Non-Discrimination Certification, (0800)
Exhibit C, Non-Suspension or Debarment Certification, (0805)

EXHIBIT A

SUPPLEMENTAL PURCHASING PROVISIONS - 0400

SECTION 1. PAYMENT TERMS

1.1 Contract Manager.

The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

City of Austin

ATTN: Steve Stenton

124 West 8th Street, Austin, TX

78701 (512) 974-2082

1.2 Invoices.

1.2.1 For Home Depot Account purchases (only), The Contractor shall submit separate invoices in duplicate on each purchase order or delivery order after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

1.2.2 For Home Depot Account purchases (only), Invoices shall contain or have access to the following if provided by the purchaser at the time of each transaction: a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached or accessible through the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will require assistance from the Contractor to ensure payment is completed.

1.2.3 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount provided the City purchaser identified the Home Depot unique tax exemption number for the City at the time of each transaction. The City will furnish a tax exemption certificate upon request.

1.3 Payment.

1.3.1. All proper invoices for Home Depot Account transactions received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

1.3.2. If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate and in accordance with the Home Depot Account provisions; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

1.3.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

1.3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

1.3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

1.3.3.3 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

1.3.3.4 failure of the Contractor to submit proper invoices or attempt to support the City's provide all requested information with all required attachments and supporting documentation; or

1.3.3.5 failure of the Contractor to comply with any material provision of the Contract Documents.

1.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

1.2.5 A form of payment is required at the time of each transaction (i.e. check, credit card, or Home Depot Account). Payment on Home Depot Account transactions will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

1.4 Final Payment and Close-Out

1.4.1 If an MBEIWBE Program Compliance Plan is required, the Contractor concurs with the requirement, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBEIWBE Compliance Report to the project manager or contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.

1.4.2 The making and acceptance of final payment will constitute:

1.4.2.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

1.4.2.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

SECTION 2. TERMINATION

2.1 Right To Assurance. Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

2.2 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the Right to Assurance paragraph contained herein (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

2.3 **Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and any Offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

2.4 **Termination Without Cause:** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

2.5 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

SECTION 3. OTHER DELIVERABLE$

3.1 **Contractor To Package Deliverables.** For transactions that require delivery, the Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

3.2 **Shipment Under Re·servatlon Prohibited.** The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

3.3 **Title & Risk of Loss.** Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables (for delivered items only).

3.4 **Right Of Inspection And Rejection.** The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.

3.5 **No Replacement Of Defective Tender.** Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.

3.6 **Equal Opportunity.**

3.6.1 Equal Employment Opportunity: No Contractor or Contractor's agent shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification and has submitted a copy of the Contractor's employment non-discrimination policy. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

3.6.2 Americans With Disabilities Act (ADA) Compliance: No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

3.7 **Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

3.8 **Delays.**

3.8.1 The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the items under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract and/or individual purchase price and execute an amendment to the Contract and/or individual purchase documentation. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

3.8.2 Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

3.9 **Rights to Proposal and Contractual Material.** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

3.10 **Publications.** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

3.11 **Insurance.** Insurance is required for this contract.

A. General Requirements.

i. The Contractor shall provide a Certificate of Insurance or Memorandum of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award

ii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

iii. The Contractor must also forward a Certificate of Insurance or Memorandum of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

iv. The Certificate of Insurance or Memorandum of Insurance, and updates, shall contain the contract number and the Buyer's name (or have consistent provisions for this requirement) and shall be mailed to the following address:

City of Austin Purchasing Office
P. O. Box 1088
Austin, Texas 78767

B. Specific Coverage Requirements. The Contractor shall at a m1n1mum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

i. Worker's Compensation and Employers' liability Insurance. Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are $100,000 bodily injury each accident, $500,000 bodily injury by disease policy limit and $100,000 bodily injury by disease each employee.

(1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
(a) Waiver of Subrogation, Form WC 420304, or equivalent coverage
(b) Thi.rty (30) days Notice of Cancellation, Form WC 420601, or equivalent coverage

ii. Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are $500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries).

(1) The policy shall contain the following provisions:
(a) Blanket contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
(b) Independent Contractor's Coverage.
(c) Products/Completed Operations liability for the duration of the warranty period.
(d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and Underground Coverage (X,C,U).
(2) The policy shall also include these endorsements in favor of the City of Austin:
(a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
(b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
(c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage

iii. Business Automobile Liability Insurance. The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of $500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are $250,000 bodily injury per person, $500,000 bodily injury per occurrence and at least $100,000 property damage liability per accident.
(1) The policy shall include these endorsements in favor of the City of Austin:
(a) Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage
(b) Thirty (30) days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage
(c) The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage.

C. Endorsements. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

D. Certificate: The following statement (or consistent information) must be shown on the Certificate of Insurance or Memorandum of Insurance.

The City of Austin is an Additional Insured on the general liability and the auto liability policies. A Waiver of Subrogation is issued in favor of the City of Austin for general liability, auto liability and workers compensation policies.

SECTION 4. WARRANTIES

4.1 **Warranty – Title.** The Contractor warrants that it has good and indefeasible title to all deliverables furnished under the Contract, and that the deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the deliverables.

4.1.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.

4.1.2 If during the warranty period, the warranty is breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

4.1.3 If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.

4.1.4 If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

4.2 **No Warranty By City Against Infringements.** The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any

claim that the City's exercise anywhere in the world of the rights associated with the City's' ownership, and if applicable, license rights, and its use of the deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf.

SECTION 5. MISCELLANEOUS

5.1 <u>Right To Audit.</u>

5.1.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, or examine any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

5.1.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract

5.2 SUBCONTRACTORS.

5.2.1 If the Contractor identified Subcontractors in an M8EIW8E Program Compliance Plan or a No Goals Utilization Plan, the Contractor shall comply with the provisions of Chapters 2-9A, 2-98, 2-9C, and 2-90, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-98, 2-9C and 2-90, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of
the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract,Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

5.2.2 Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

5.2.2.1 require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract.

5.2.2.2 The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

5.2.2.3 require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

5.2.3 The Contractor shall be fully responsible to the City for all negligent acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own negligent acts and omissions. Nothing in the Contract shall create for the benefit of any such

Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

5.2.4 The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor in accordance with the payment provisions of the agreement between the Contractor and the Subcontractor.

5.3 **Claims**. If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas
7876
7.

5.4 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:	To the Contractor:
City of Austin, Purchasing Office	The Home Depot
ATTN: Matt Samaripa, Contract Compliance Specialist Senior	Richard Nyberg
P **O** Box 1088	2455 Paces Ferry Road
Austin, TX 78767	Atlanta, GA 30339

5.5 **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable

time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

5.6 **Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

5.7 **No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

5.8 **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

5.9 **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

5.10 **Modifications.** The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract in the event they conflict with the terms herein.

5.11 **Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

5.12 **Dispute Resolution.**

5.12.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written.request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent

meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

5.12.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fee equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in mediation.

5.13 Minority And Women Owned Business Enterprise (MBE/WBEl Procurement Program.

5.13.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-98, 2-9C and 2-90 of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

5.13.2 The City of Austin has determined that no goals are appropriate for this Contract. Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBEIWBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified and the Contractor does not already have an agreement with existing subcontractors for the requested services.

5.13.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or existing subcontractors who are product/service providers or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory or is uniquely in accessible products, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms in these specific situations. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

5.14 **Non-Solicitation.**

5.14.1 During the term of the contract, and for a period of six (6) months following termination of the contract, the Contractor, its affiliate, or its agent shall not hire, employ, or solicit for employment or consulting services, a City employee specifically associated with the development of this Contract employed in a technical job classification in a City department that engages or uses the services of a Contractor employee.

5.15 **Jurisdiction And Venue**. The Contract is made under and shall be governed by the laws of

the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

5.16 **Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

5.17 **Holidays.** The following holidays are observed by the City:

Holiday	Date Observed
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

5.18 Survivability of Obligations. All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

5.19 Non-suspension or Debarment Certification. The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

CONTRACT PURSUANT TO RFP

SERIAL 11019-RFP

This Contract is entered into this sixth (6th) day of July, 2011 by and between Maricopa County ("County"), a political subdivision of the State of Arizona, and Home Depot U.S.A. Inc, a Delaware corporation ("Contractor") for the purchase of Retail Maintenance, Repair and Operating (MRO) commodities and related services.

1.0 CONTRACT TERM:

1.1 This Contract is for a term of three (3) years, beginning on the first (1st) day of August, 2011 and ending the thirty-first (31st) day of July, 2014.

1.2 The County may, at its option and with the agreement of the Contractor, renew the term of this Contract for additional terms up to a maximum of three (3) years, (or at the County's sole discretion, extend the contract on a month-to-month bases for a maximum of six (6) months after expiration). The County shall notify the Contractor in writing of its intent to extend the Contract term at least thirty (30) calendar days prior to the expiration of the original contract term, or any additional term thereafter.

2.0 FEE ADJUSTMENTS:

Retail prices or discounts off marked prices at point-of-sale (POS) are permitted to be adjusted once per calendar year after the initial award, in conjunction with the Contractor's annual catalog publication date.

Any requests for other reasonable pricing adjustments shall be submitted sixty (60) days prior to the catalog publication date. If County agrees to the adjusted discounts, County shall issue written approval of the changes.

3.0 PAYMENTS:

3.1 As consideration for performance of the duties described herein, County shall pay Contractor the sums stated in Exhibit "A."

3.2 For non-procurement card transactions, payment shall be made upon the County's receipt of a properly completed invoice.

3.3 INVOICES (NON-PROCUREMENT CARD TRANSACTIONS):

3.3.1 The Contractor shall submit detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract serial number
- County purchase order number

- Invoice number and date
- Payment terms
- Date of service or delivery
- Quantity
- Description of service provided
- Pricing per unit of service
- Freight (if applicable)
- Extended price
- Total Amount Due

3.3.2 Problems regarding billing or invoicing shall be directed to the County as listed on the Purchase Order.

3.3.3 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After Contract Award the Contractor shall complete the Vendor Registration Form located on the County Department of Finance Vendor Registration Web Site (www.maricopa.gov/finance/vendors).

3.3.4 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

4.0 AVAILABILITY OF FUNDS:

4.1 The provisions of this Contract relating to payment for services shall become effective when funds assigned for the purpose of compensating the Contractor as herein provided are actually available to County for disbursement. The County shall be the sole judge and authority in determining the availability of funds under this Contract. County shall keep the Contractor fully informed as to the availability of funds.

4.2 If any action is taken by any state agency, Federal department or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in connection with, this Contract, County may amend, suspend, decrease, or terminate its obligations under, or in connection with, this Contract. In the event of termination, County shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services are performed in accordance with the provisions of this Contract. County shall give written notice of the effective date of any suspension, amendment, or termination under this Section, at least ten (10) days in advance.

5.0 DUTIES:

5.1 The Contractor shall perform all duties stated in Exhibit “B”, or as otherwise directed in writing by the Procurement Officer.

6.0 TERMS and CONDITIONS:

6.1 INDEMNIFICATION:

6.1.1 To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions, mistakes or malfeasance relating to the performance of this Contract. Contractor’s duty to defend, indemnify and hold harmless County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is caused by any negligent acts, errors, omissions

or mistakes in the performance of this Contract by the Contractor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Contractor may be legally liable.

6.1.2 The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

6.1.3 The scope of this indemnification does not extend to the sole negligence of County.

6.2 INSURANCE REQUIREMENTS:

6.2.1 Contractor, at Contactor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of A-, VII or higher. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.

6.2.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.

6.2.3 Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.

6.2.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.

6.2.5 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contactor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

6.2.6 County reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance certificates. County shall not be obligated to review policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.

6.2.7 Notwithstanding anything to the contrary contained herein, **CONTRACTOR** shall have the right to self-insure part or all of any of the insurance it is required to maintain hereunder in its sole discretion so long as **CONTRACTOR** maintains a net worth of not less than One Hundred Million ($100,000,000) Dollars. Such net worth shall be documented to **COUNTY** and **COUNTY** shall be advised in writing in the event such net worth requirement is not met. In the event that **CONTRACTOR** elects to self-insure all or any part of any risk that would be insured under the policies and limits described herein, and an event occurs where insurance proceeds would have been available but for the election to self-insure, **CONTRACTOR** shall make funds available to the same extent that they would have been available had such insurance policy been carried, unless specifically provided to the contrary herein.

6.2.8 The policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.

6.2.9 Commercial General Liability.

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than $1,000,000 for each occurrence, $2,000,000 Products/Completed Operations Aggregate, and $2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

6.2.10 Automobile Liability.

Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than $1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this Contract.

6.2.11 Workers' Compensation.

6.2.11.1 Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than $100,000 for each accident, $100,000 disease for each employee, and $500,000 disease policy limit.

6.2.11.2 Contractor waives all rights against County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract.

6.2.12 Certificates of Insurance.

6.2.11.1 Prior to commencing work or services under this Contract, Contractor shall furnish the County with certificates of insurance, or formal endorsements as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

6.2.11.1.1 In the event any insurance policy (ies) required by this Contract is (are) written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

6.2.11.1.2 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

6.2.13 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

6.3 WARRANTY OF SERVICES:

6.3.1 The Contractor warrants that all services provided hereunder will conform to the requirements of the Contract, including all descriptions, specifications and attachments made a part of this Contract. County's acceptance of services or goods provided by the Contractor shall not relieve the Contractor from its obligations under this warranty.

6.3.2 In addition to its other remedies, County may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all the provisions of this Contract in the manner and to the same extent as services originally furnished hereunder.

6.4 INSPECTION OF SERVICES:

6.4.1 The Contractor shall provide and maintain an inspection system acceptable to County covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to County during contract performance and for as long afterwards as the Contract requires.

6.4.2 County has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. County shall perform inspections and tests in a manner that will not unduly delay the work.

6.4.3 If any of the services do not conform with Contract requirements, County may require the Contractor to perform the services again in conformity with Contract requirements, at on increase in Contract amount. When the defects in services cannot be corrected by re-performance, County may:

6.4.3.1 Require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements; and

6.4.3.2 Reduce the Contract price to reflect the reduced value of the services performed.

6.4.4 If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, County may:

6.4.4.1 By Contract or otherwise, perform the services and charge to the Contractor any cost incurred by County that is directly related to the performance of such service; or

6.4.4.2 Terminate the Contract for default.

6.5 PROCUREMENT CARD ORDERING CAPABILITY:

The County may determine to use a MasterCard Procurement Card, to place and make payment for orders under the Contract.

6.6 INTERNET ORDERING CAPABILITY:

The County intends, at its option, to use the Internet to communicate and to place orders under this Contract.

6.7 NOTICES:

All notices given pursuant to the terms of this Contract shall be addressed to:

For County:

Maricopa County
Department of Materials Management
Attn: Director of Purchasing
320 West Lincoln Street
Phoenix, Arizona 85003-2494

For Contractor:

Government and National Accounts
Contract Manager
2455 Paces Ferry Road
Atlanta, GA 30339

6.8 REQUIREMENTS CONTRACT:

6.8.1 Contractor signifies its understanding and agreement by signing this document that this Contract is a requirements contract. This Contract does not guarantee any purchases will be made (minimum or maximum). Orders will only be placed when County identifies a need and issues a purchase order or a written notice to proceed.

6.8.2 County reserves the right to cancel purchase orders or notice to proceed within a reasonable period of time after issuance. Should a purchase order or notice to proceed be canceled, the County agrees to reimburse the Contractor for actual and documented costs incurred by the Contractor. The County will not reimburse the Contractor for any avoidable costs incurred after receipt of cancellation, or for lost profits, or shipment of product or performance of services prior to issuance of a purchase order or notice to proceed.

6.8.3 Purchase orders will be cancelled in writing.

6.9 TERMINATION FOR CONVENIENCE:

The County reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the County without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the County. . The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

6.10 TERMINATION FOR DEFAULT:

6.10.1 In addition to the rights reserved in the Contract, the County may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

6.10.2 The County may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract.

6.10.3 The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

6.11 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. §38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S §38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

6.12 OFFSET FOR DAMAGES;

In addition to all other remedies at law or equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance under this contract.

6.13 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete products and/or services provided under this Contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If additional services and/or products are required from this Contract, prices for such additions will be negotiated between the Contractor and the County.

6.14 RELATIONSHIPS:

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the District and the Contractor.

6.15 SUBCONTRACTING:

The Contractor may not assign this Contract or subcontract to another party for performance of the terms and conditions hereof without the written consent of the County, which shall not be unreasonably withheld. All correspondence authorizing subcontracting must reference the Proposal Serial Number and identify the job project.

6.16 AMENDMENTS:

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Materials Management shall be responsible for approving all amendments for Maricopa County.

6.17 RETENTION OF RECORDS:

6.17.1 The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is longer. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

6.17.2 If the Contractor's books, records and other documents relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor

shall reimburse Maricopa County for the services not so adequately supported and documented.

6.18 AUDIT DISALLOWANCES:

6.18.1 If at any time, County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance. County shall also state the means of correction, which may be but shall not be limited to adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

6.19 ALTERNATIVE DISPUTE RESOLUTION:

6.19.1 After the exhaustion of the administrative remedies provided in the Maricopa County Procurement Code, any contract dispute in this matter is subject to compulsory arbitration. Provided the parties participate in the arbitration in good faith, such arbitration is not binding and the parties are entitled to pursue the matter in state or federal court sitting in Maricopa County for a de novo determination on the law and facts. If the parties cannot agree on an arbitrator, each party will designate an arbitrator and those two arbitrators will agree on a third arbitrator. The three arbitrators will then serve as a panel to consider the arbitration. The parties will be equally responsible for the compensation for the arbitrator(s). The hearing, evidence, and procedure will be in accordance with Rule 74 of the Arizona Rules of Civil Procedure. Within ten (10) days of the completion of the hearing the arbitrator(s) shall:

6.19.1.1 Render a decision;

6.19.1.2 Notify the parties that the exhibits are available for retrieval; and

6.19.1.3 Notify the parties of the decision in writing (a letter to the parties or their counsel shall suffice).

6.19.2 Within ten (10) days of the notice of decision, either party may submit to the arbitrator(s) a proposed form of award or other final disposition, including any form of award for attorneys' fees and costs. Within five (5) days of receipt of the foregoing, the opposing party may file objections. Within ten (10) days of receipt of any objections, the arbitrator(s) shall pass upon the objections and prepare a signed award or other final disposition and mail copies to all parties or their counsel.

6.19.3 Any party which has appeared and participated in good faith in the arbitration proceedings may appeal from the award or other final disposition by filing an action in the state or federal court sitting in Maricopa County within twenty (20) days after date of the award or other final disposition. Unless such action is dismissed for failure to prosecute, such action will make the award or other final disposition of the arbitrator(s) a nullity.

6.20 SEVERABILITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

6.21 RIGHTS IN DATA:

The County shall own have the use of all data and reports resulting from this Contract without additional cost or other restriction except as provided by law. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

6.22 INTEGRATION:

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

6.23 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:

6.23.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.

6.23.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 3.18.1 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

6.23.3 This section is applicable to services provided in the state of Arizona only. The Contractor shall comply with similar statutes that may have been enacted in other states.

6.24 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §§35-391.06 AND 35-393.06 BUSINESS RELATIONS WITH SUDAN AND IRAN:

6.24.1 By entering into the Contract, the Contractor certifies it does not have scrutinized business operations in Sudan or Iran. The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract.

6.24.2 The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

6.25 CONTRACTOR LICENSE REQUIREMENT:

6.25.1 The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both Materials Management and the using agency of any and all changes concerning permits, insurance or licenses.

6.25.2 Respondents furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Respondent is not relieved of its obligation to posses the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1525 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

6.26 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

6.26.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

6.26.1.1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

6.26.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

6.26.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

6.26.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.

6.26.2 Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contact.

6.26.3 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

6.27 PRICES:

Contractor warrants that prices extended to County under this Contract are no higher than those paid by any other non-federal government customer for these or similar services.

6.28 GOVERNING LAW:

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona

6.29 ORDER OF PRECEDENCE:

In the event of a conflict in the provisions of this Contract and Contractor's license agreement, if applicable, the terms of this Contract shall prevail.

6.30 STRATEGIC ALLIANCE for VOLUME EXPENDITURES ($AVE)

The County is a member of the $AVE cooperative purchasing group. $AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the $AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of $AVE may access a contract resulting from a solicitation issued by the County. If you **do not** want to grant such access to a member of $AVE, **please so state** in your proposal. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this Request for Proposal.

6.31 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's)

County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor, to purchase their requirements under the terms and conditions of the County Contract. Please indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract.

6.32 INCORPORATION OF DOCUMENTS:

The following are to be attached to and made part of this Contract:

6.32.1 Exhibit A, Pricing;

6.32.2 Exhibit B, Scope of Work;

IN WITNESS WHEREOF, this Contract is executed on the date set forth above.

CONTRACTOR

AUTHORIZED SIGNATURE

J.T. Rieves, Vice President Pro Business
PRINTED NAME AND TITLE

2455 Paces Ferry Road Atlanta, GA 30339
ADDRESS

7-8-11
DATE

MARICOPA COUNTY

CHAIRMAN, BOARD OF SUPERVISORS

JUL 19 2011
DATE

ATTESTED:

CLERK OF THE BOARD 070611

JUL 19 2011
DATE

APPROVED AS TO FORM:

LEGAL COUNSEL

July 15 2011
DATE

EXHIBIT A

PRICING

SERIAL 11019-RFP
NIGP CODE: 45041

RESPONDENT'S NAME:	Home Depot U.S.A., Inc.
COUNTY VENDOR NUMBER :	2011000855 0
ADDRESS:	2455 Paces Ferry Road
	Atlanta, GA 30339
P.O. ADDRESS:	Each local The Home Depot stores
TELEPHONE NUMBER:	866-589-0690
FACSIMILE NUMBER:	866-589-0691
WEB SITE:	www.homedepot.com
CONTACT (REPRESENTATIVE):	Richard Nyberg
REPRESENTATIVE'S E-MAIL ADDRESS:	richard_nyberg@homedepot.com

	YES	NO	REBATE
WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT	[X]	[ ]	
WILL ACCEPT PROCUREMENT CARD FOR PAYMENT:	[X]	[ ]	

PAYMENT TERMS: NET 30 DAYS (See Note)

Note: Net 30 is for Home Depot Account transactions only. Payment is required at the time of each transaction, for all transactions

1.0 PRICING:

1.1 Discount off marked price at POS N/A %

1.2 Annual Issue Date of Catalog N/A

1.3 Do you offer a Rebate in lieu of a discount? Yes (Y/N)

- At least $10,000 to $25,000 Annual Net Sales (Pretax) = 1% Rebate
- At least $25,000 to $100,000 Annual Net Sales (Pretax) = 2% Rebate
- Over $100,000 Annual Net Sales (Pretax) = 3% Rebate

EXHIBIT B

SCOPE OF WORK

Maricopa County (herein "Lead Public Agency" on behalf of itself and all states, local governments, school districts, and higher education institutions in the United States of America, and other government agencies and nonprofit organizations (herein "Participating Public Agencies") has entered into a Master Agreement for a complete line of "Maintenance, Repair and Operating(MRO) Supplies and Industrial Supplies in a Retail and Wholesale (internet) environment; and Related Products and Services (installation, repair and renovation) (herein "Products and Services")

Foreword

Home Depot U.S.A., Inc. ("Home Depot") understands Maricopa County's ("Lead Public Agency") continued need to reduce its overall costs and intent to enter into a new Master Agreement for a complete line of "Maintenance, Repair and Operating (MRO) Supplies and Industrial Supplies in a Retail and Wholesale environment; and Related Products and Services (installation, repair and renovation). Home Depot, through our strong national presence providing access to a vast array of supplies and equipment necessary for maintenance and repair in residential, commercial and industrial environments for use by various government agencies nationwide, is proposing through this submittal support for the retail environment aspect of the solicitation; consistent with the six years of successful performance under the prior MRO retail agreement between the parties.

Executive Summary

Home Depot, building on successes associated with the cost savings to Participating Public Agencies under our previous MRO agreement with the Lead Public Agency and our nationwide retail presence, is pleased to propose a plan herein to supply maintenance, repair, and operations (MRO) supplies to all Participating Public Agencies. Our plan, consistent with the previously awarded MRO Agreement 05091 provides all Participating Public Agencies access to an un-paralleled inventory of MRO, building materials and hardware items – including associated installation, repair and renovation services. Professional building and maintenance people will be able to conveniently meet their needs for building hardware from a local Home Depot retail store, and plan procurements from the www.homedepot.com web site which displays and distributes many of the products found in our stores. In addition, our nationwide outside sales team can help facilitate supporting the needs of the Professional building and maintenance people by working as a team to provide solutions to those product needs and any services needed by those agencies.

If our proposal is accepted, we will continue to promote this contract as the primary instrument under which Home Depot does business with any potential Participating Public Agencies. In conjunction, our sales force is continually updated regarding the mechanics of a US Communities based partnership with agencies and directed to identify with its terms at all opportunities.

Consistent with our previous six years of implementation of the US Communities MRO contract 05091, Home Depot emphasizes our everyday low price guarantee: the price charged any public agency will be the lowest available in that market at that time for the identical item or we will match the price and refund 10% of the difference in accordance with standard Home Depot return policies. In addition, our offer provides for enhanced rebate incentives back to the Participating Public Agency based upon purchase volume.

Executive Summary (continued)

Home Depot offers a robust selection of products in all MRO, hardware, and building product categories - and associated services - at each of our locations. Some of the categories are notable strengths of ours, and almost define our business (e.g., building materials and paint).

It is important to note that not all categories of merchandise are equally well represented in each of our store locations. This difference reflects practical issues regarding material handling and the distribution of certain classes of

products. If a category is better represented in one location than another, it is driven by historical needs of the local population.

In summary, our proposal offering is based upon the following business elements that have proven successful in support public agency procurement needs:

- Immediate same-day access to over 30,000 products at each store location
- Enhanced access to hundreds of thousands more products through special orders
- Bulk ordering incentives through our Volume Pricing Program
- Rebate incentives to Participating Public Agencies based upon spend volume
- Dedicated Government Sales team and Outside Sales Representatives across the nation

About the Home Depot

Home Depot and its family of subsidiaries are among the most well-known and widely-respected corporations in America. We have been a public company since 1981, and our common stock trades on the New York Stock Exchange under the ticker symbol "HD". The company is included in the Dow Jones Industrial Average of thirty stocks, and in the Standard & Poor's index of 500 industrial stocks.

Home Depot is the world's largest home improvement specialty retailer with stores in all 50 states, the District of Columbia, Puerto Rico, U.S. Virgin Islands, 10 Canadian provinces, Mexico and China.

We are one of the nation's largest advertisers, and we utilize a broad range of mass media and targeted media. We also incorporate major sponsorships into our marketing plan, such as NASCAR®, the U.S. Olympic® team, The Home Depot Center, ESPN Game Day®, CBS® College Football and a number of home and garden television shows.

Home Depot Information: *Home Depot's offer is based upon the traditional walk-in/walk-out transactional activity for Retail MRO products with orders processed through our individual stores; consistent with existing US Communities MRO agreement and our other government agreements. This provides the customers immediate access to a complete and comprehensive offering of appliances, building materials, hardware, HVAC, irrigation equipment and supplies, janitorial, landscaping equipment and supplies, motors, pumps, paints and coatings, plumbing, pool chemicals and supplies, hand-held general purpose tools, power tools, window coverings, and any other miscellaneous MRO supplies.*

Each store stocks typically 30,000 to 40,000 products, including both national brand name and proprietary items. If an item is out of stock our sales associates can provide information to the government buyer regarding estimated fill time. Typically, our stores are serviced by the distribution centers multiple times during any week; so out of stock issues are minimized.

In addition, as the largest building supplies retailer/distributor in the country, Home Depot maintains billions in inventory with the majority on the shelves of our retail stores ready for immediate purchase.

Home Depot and its subsidiaries hold for resale more than $10 billion in inventory. Approximately ninety percent is on the shelves of our retail stores ready for immediate purchase; the rest are "in the pipeline", housed in the distribution centers ready to replenish the merchandise sold at our stores.

Home Depot operates primarily as a cash and carry retailer, and therefore relies on our hundreds of thousands of sales associates who staff our many retail stores to meet customers face-to-face and address their needs. We also have an Outside Sales team of approximately 200 associates, consisting of Government Sales Managers and Pro Account Representatives, who are the primary interfaces for Participating Public Agencies regarding US Communities contract inquiries.

We buy our store merchandise from suppliers located throughout the world. We are not dependent on any single supplier. Most of our merchandise is purchased directly from manufacturers, which eliminates "middleman" costs. Competitive sources of supply are readily available for substantially all of the products we sell in Home Depot stores.

We are committed to being the supplier of choice to a variety of professional customers, including government customers, building maintenance professionals, carpenters, plumbers, painters, electricians, remodelers, and designers. We continue to expand our "Pro" initiative, which adds programs to our stores that are designed to

increase sales to professional customers and government customers. Stores participating in the program have added associates at a sales desk dedicated to providing more personalized service to professional customers, including managing accounts and taking and filling orders for pick-up or delivery. Additionally, during the hours when professionals typically shop, these stores have assigned sales associates in certain departments to better assist these customers. We have also increased the available quantities of products typically purchased by professionals in bulk, and we offer certain items in each department packaged in bulk to provide additional savings. This initiative continues to be introduced to the stores that have a significant volume of professional customers.
Home Depot offers a variety of installation services and renovations services. Our Installation Services and Renovations Services programs use only qualified independent contractors nationwide. The Installation Services programs include the installation of products that are sold in our stores, such as carpeting, flooring, cabinets, water heaters and countertops, as well as other products such as generators and furnace and central air systems. The Renovations Services Program is a nationwide repair service offering a full line of renovation products and services designed to return property to a livable condition and increase marketability. These Services capabilities are further addressed in the information associated with Section 2.4 herein.
As part of our efforts to satisfy a broad range of the needs of our professional customers, we offer a tool rental center in many stores. Home Depot rents approximately 300+ commercial-quality tools and equipment, including saws, floor sanders, generators, gas powered lawn equipment and plumbing tools. Customers can rent the tools on an hourly, daily, weekly or monthly basis. Our associates who work in the tool rental center receive special training in the use and maintenance of tools. We have tool rental centers in over 1000 stores.

Home Depot Information: *As part of our proposal value proposition, we work only with installers and home service professionals who meet the highest standards for experience, know-how and customer service. At The Home Depot, we screen and perform background checks on all of our installers before we send them out on any job, to ensure they have all applicable licenses and insurance. When you hire us for your project, you'll know we will get the job done right.*
Home Depot offers superior warranties on our installation service labor and products, to give you peace of mind on the quality of your installation project. All of our installation services are backed by our one-year warranty on labor as well as manufacturer warranties on all of our products.
When you work with The Home Depot, you won't have to go to the trouble of finding multiple installers and home service professionals for different parts of your project. From your initial consultation all the way through to the installation and cleanup, we'll make sure the project is done right.
Our nationwide Installation Services programs include the installation of products that are sold in our stores, such as carpeting, flooring, cabinets, water heaters and countertops, as well as other products such as generators and furnace and central air systems.
The Home Depot Renovations Services Program is a nationwide repair service offering a full line of renovation products and services designed to return property to a livable condition and increase marketability

- *Dedicated Home Depot Renovations Services team acts as the single point of contact for all properties*
- *Simplifies business by offering the same process and procedure across the nation*
- *Davis- Bacon wage requirements compliance*
- *Capacity to handle multiple projects in several markets simultaneously*
- *Full scope of renovation services**
- *Nationwide network of contractors that are Licensed, background checked and badged consisting of (at a minimum):*
    - *National Employee Database*
    - *SSN Verification*
    - *National Criminal Database Check*
    - *Two County Search*
    - *Sex Offender Search*
    - *Annual Review (National Criminal Database)*
    - *Two (2) Year Complete Re-Screen and Renewal*
    - *Financial Background*
- *Service Provider's are issued picture identification badges to wear at all times while on site*
- *One-year warranty on workmanship backed by Home Depot*
- *Locally Sourced Renovations Service Providers – we retain local service providers nationwide*
- *Fast repair turnaround – typical job completion within 10-15 days*

This program facilitates rehabilitation and/or improvements that are non-structural in nature, such as:

- *Repair/Replacement/Upgrade of:*
  - *Roofs, gutters and downspouts*
  - *Existing HVAC systems*
  - *Plumbing/Septic & electrical systems*
  - *Floor Coverings*
  - *Exterior decks, patios, porches*
  - *Windows, doors, exterior wall siding*
- *Minor remodeling, such as kitchens (nonstructural repairs)*
- *Painting, both exterior and interior*
- *Weatherization, including storm windows/doors, insulation, weather stripping*
- *Purchase and installation of appliances, including free-standing ranges, refrigerators, washers/dryers, dishwashers, and microwaves*
- *Accessibility improvements for persons with disabilities*
- *Basement finishing, waterproofing & remodeling (non-structural repairs)*
- *ADA renovations*

Home Depot Information: *In addition, Home Depot has the capability to provide customers R.S. Means Bare Cost Data pertaining to all written quotations upon request by that Participating Public Agency.*

**The Home Renovations Service program does not include:*

- *New construction*
- *Major structural work*
- *Evictions*
- *Routine maintenance services (lawn cutting)*
- *Mold, asbestos, or lead paint (MALP) remediation (in most cases)*

Our Retail value proposition for products and services does not include the following industrial environment efforts

- *Hose Fabrication*
- *Hydraulic Repairs*
- *Gearbox Repairs*
- *Conveyor System Repairs*
- *Vulcanizing*
- *Rubber Fabrication*

Home Depot maintains for all services customers a single point contact for each Participating Public agency regarding each individual effort. Our services capacity is managed through a highly qualified & compliant contractor network (with controls for every step of the process) and on-the-ground support for each services effort. The Home Depot's Quality Control program consists of dedicated personnel monitoring:

- *Internal Q&A process*
- *Scope of work review per job*
- *Job-site walk by license contractors to create punch list items (if applicable)*
- *Customer acceptance and sign off upon completion of the work*
- *Random job site audits*
- *Compliance tracking of Service Provider (Sub-contractor) licenses, insurance, etc.*
- *Permits as required*

Home Depot Information: *Home Depot's offer is based upon the expeditious purchasing capabilities through our local The Home Depot stores. Each store stocks typically 30,000 to 40,000 products across all the product categories identified above. The Home Depot stores are organized by the following departments:*

- *Building Materials*
- *Lumber*
- *Flooring/Organization*
- *Paint*
- *Hardware*
- *Plumbing*

- *Electrical/Lighting*
- *Seasonal/Garden*
- *Kitchen/Bath*
- *Millwork*
- *Décor*
- *Appliances*

This list does not include additional access to Special Order products, which provide customers access to thousands of additional products. As identified in previous sections we also have installation services that are available across all these product categories.

PRODUCT ORDERING:

Home Depot Information: *Home Depot's offer is based upon the expeditious purchasing capabilities through our local The Home Depot stores and the extended capability to procure products 24/7 at www.homedepot.com.*
The typical The Home Depot stores is open from 7 am to 10pm weekly we also have continued to expand our focused support to professional and government customers by ensuring additional associates are available during those times these customers shop.
Transactions, typically completed at the point-of-sale, are also supported by will calls through the local Home Depot store.
Throughwww.homedepot.com we offer thousands of products that are suitable for on-line sales--- they can easily be delivered by an overnight delivery service. In addition to products, the site offers information about our products and projects, calculators to estimate the amount and kinds of materials needed to complete a project, as well as information about our company (including store locations and hours of operation) and links to our other on-line businesses. As with our stores, the focus of our web site is on providing information and customer service.
The Home Depot maintains a robust customer service support capability through our Customer Care specialists available 24 hours a day through 1-800-466-3337.
In addition for emergency procurements we have government sales personnel who can help with organizing purchases at the times our stores are not open.
We also are focused on supporting our customers during the times of natural disasters. Home Depot is often considered a first responder supporting those government entities that need products to stabilize the affected communities. We maintain a command center during these emergencies.

PRODUCT PRICING:
REBATE ON SALES:

Home Depot Information: *Our retail locations will be the primary locations for purchases by Participating Public Agency customers with our everyday low retail prices, and the price-matching promise available to all purchasers.*
Our pricing is based upon our everyday low retail price and the vendor relationships we maintain across the country.
The Pro Sales desk is the preferred location for the Participating Public Agency customers to process transactions, due to the highly trained staff available for government procurements.

Regarding the Volume Pricing Program*, for large individual planned purchases, Home Depot has the ability to provide more aggressive savings to purchasers through our Volume Pricing Discounts. For any planned order over $2,500, call in the request for quote to the ProDesk of your local The Home Depot store and ask for it to be submitted for volume pricing consideration. This is a volume discount program that can give various discounts depending on dollar value, quantity and type of material. When the quote is submitted, Home Depot will send to our corporate office and then an analysis will be completed regarding any potential additional savings. The desk will then will be able to inform you of the savings. This process in the majority of cases can be completed within a few minutes. The quote must be paid for at one time and the desk will coordinate as to when the material will be ready for either delivery or pick up. Currently, the average savings exceeds 10% nationwide (depending on dollar value, quantity and type of material)*
It is expected that the majority of the transactions will be processed as credit card sales; as they currently are under our existing US Communities MRO contract 05091. Home Depot can accept Purchase Orders (POs) provided that at

the time of transaction a payment vehicle is provided – such as a Home Depot (Net 30) Account or credit card number. These transactions will be processed as a credit card sale.
Participating Public Agency customers will be required to provide tax exemption information, from their tax exempt registration under www.homedepot.com, at the time of transaction to ensure no tax is incurred on the sale.

In addition, to ensure the procurement is tracked as a US Communities contract sale it is important that the buyers register their credit cards and/or Home Depot Accounts on the secure and restricted web site.

***Additionally, Home Depot's offer is based upon tiered annual rebates to Participating Public Agencies provided within sixty (60) days of the end of the calendar year**. These tiered rebates, enhanced over the current US Communities contract 05091 offering, are as follows:*

- *At least $10,000 to $25,000 Annual Net Sales (Pretax) = 1% Rebate*
- *At least $25,000 to $100,000 Annual Net Sales (Pretax) = 2% Rebate*
- *Over $100,000 Annual Net Sales (Pretax) = 3% Rebate*

Eligibility for rebate incentives to Participating Public Agencies requires completion of the web-based enrollment requirements through https://cpr.homedepot.com. Eligible sales will commence upon completion of the enrollment based upon sales that occurred on those accounts from that date through the calendar year. The web enrollment process accommodates the secure inclusion of credit card accounts, and the capability to add/remove accounts during the performance of the contract. Tracking of cards will begin once the cards are successfully enrolled via the website.
An operating premise for retail outlets is that most customers will take their purchases with them; delivery from retail outlets, while offered, should be viewed as a convenience above and beyond usually expectations. This premise is consistent with all our similar agreements. Delivery ARO will depend on a number of reasonable variables, and should be discussed with an in-store associate at the time of purchase.
The almost 200 Home Depot Government Sales Managers and Pro Account Representatives are the local conduit for supporting Participating Public Agencies registration efforts and associated inquiries.

SALES REPORTING:

Home Depot Information: *Home Depot has consistently provided quarterly sales reporting under our existing US Communities MRO cooperative contract 05091for over five years. Our sales report is provided in the required contractual format consistent with the Exhibit B format included in the solicitation. The success of the process has always depended on the accurate registration of the procuring entities credit cards, Home Depot Accounts, or checks through enrollment form tool identified on our homepage at www.homedepot.com >>uscommunities which provides for access to our PCI compliant registration tool https://cpr.homedepot.com, to track those sales. By requiring Participating Public agencies to complete this registration on a secure and restricted web site, we can assure the customers, US Communities, and ourselves that when we extract data from our sales journals we will find all the activity of bona fide users of the contract.*
This result in reporting on a customer basis on the required summary level and access to the product level for each individual transaction including:

A summary of the net sales for the quarter
Purchasing Agency Name
Purchasing Agency Address
Individual Transaction Totals

Periodically, when requested, additional information can be provided on a sample basis regarding the specific products purchased during each transaction. Most reports can be transmitted via email to the requesting agency. Other information, such as NIGP codes, manner of payment, delivery on-time or backordered, is also some of the data recorded and archived about every transaction, and is available, on special request
The sales reporting is, and will continue to be, completed for the customer through the Store Support Center
Where we currently have potential participating agencies not procuring under our US Communities agreement we will continue to provide the value of participating under the US Communities contract as our primary offering to those eligible agencies.

BRAND NAMES:

Home Depot Information: *Participating Public Agencies has immediate access to thousands of products available through our Home Depot stores prior to completing a transaction, to help aid in the purchasing decision.*

A typical Home Depot store stocks 30,000 to 40,000 products during the year, including both national brand name and proprietary items. We buy our store merchandise from suppliers located throughout the world. We are not dependent on any single supplier. Most of our merchandise is purchased directly from manufacturers, which eliminates "middleman" costs. We believe that competitive sources of supply are readily available for substantially all of the products we sell in Home Depot stores.

In addition, through in-store Special Orders and products available exclusively on www.homedepot.com our customers have access to hundreds of thousand s additional products
To complement and enhance our product selection, we continued to form strategic alliances and exclusive relationships with selected suppliers to market products under a variety of well-recognized brand names. During fiscal 2010, we offered a number of proprietary and exclusive brands across a wide range of departments including, but not limited to, Behr Premium Plus® paint, Hampton Bay® lighting, Vigoro® lawn care products, Husky® hand tools, RIDGID® and Ryobi® power tools and Glacier Bay® bath fixtures. We also continued our partnership with Martha Stewart Living Omnimedia to offer an exclusive Martha Stewart Living brand of home improvement products in select categories including outdoor living, paint, cabinetry, flooring, and shelving and storage. We may consider additional strategic alliances and relationships with other suppliers and will continue to assess opportunities to expand the range of products available under brand names that are exclusive to The Home Depot.
From our Store Support Center, we maintain a global sourcing merchandise program to source high-quality products directly from manufacturers around the world. Our merchant team identifies and purchases market leading innovative products directly for our stores. These initiatives enable us to improve product features and quality, to import products not currently available to our customers and to offer products at a lower price than would otherwise be available if purchased from third-party importers.

WARRANTY:

Home Depot Information: *All repair and renovation services performed by Home Depot carries a one (1) year workmanship warranty and all manufacturers' product warranties shall be passed on to the end customer.*
Home Depot also offers a robust return policy on product purchases, whereas (most) returns within 90 days of purchase are accommodated with a valid sales receipt for exchange, refund, credited to an associated Home Depot Account, or refunded via The Home Depot store credit.

INVOICES AND PAYMENTS (PURCHASE ORDER):

Home Depot Information: *Consistent with the success of our current US Communities cooperative purchasing contract 050091, it is expected that the majority of the transactions will be processed as credit card sales. Home Depot does accept Purchase Orders (POs) provided that at the time of transaction a payment vehicle is provided – such as a Home Depot (Net 30) Account or credit card number. These transactions will be processed as a credit card sale.*
Electronic Fund Transfers (EFT) can be completed to remit payment on a Home Depot Account upon receipt of an invoice.
Home Depot has also, on occasion, accepted wire transfer payments at the time of transaction.

TAX:

Home Depot Information: *For tax exempt procurements through our local stores, Participating Public Agencies will be required (if not already completed) to register with Home Depot for tax exemption under www.homedepot.com. This is a one-time registration that provides for a unique Home Depot tax exempt number that needs to be identified , at the time of transaction to ensure no tax is incurred on the sale. In addition, our installation and Renovations Services quotes can accommodate tax –free procurements by authorized government agencies.*
Internet ordering through www.homedepot.com is available to Participating Public Agency purchasers but tax exemption is a credit back after the transaction.

DELIVERY, FREIGHT REQUIREMENTS:

Home Depot Information: *An operating premise for retail outlets is that most customers will take their purchases with them; delivery from retail outlets, while offered, should be viewed as a convenience above and beyond usually expectations. This premise is consistent with all our similar agreements. Delivery ARO will depend on a number of reasonable variables, and should be discussed with an in-store associate at the time of purchase. Our delivery documentation does provide for standard commercial packing list information as requested in the solicitation.*

2.1 STRATEGIC ALLIANCE for VOLUME EXPENDITURES ($AVE):

Home Depot Information: *We currently support $AVE Cooperative Purchasing Agreement participant sunder our existing US Communities cooperative purchasing contract 05091 and will continue that support if awarded this contract.*

Home Depot Information: *Home Depot is the world's largest home improvement retailer, operating almost 2,000 stores across the nation and employing more than 300,000 skilled associates. We rely on our hundreds of thousands of in-store sales associates to meet customers face-to-face and address their needs.*
In addition, we have a nationwide outside sales team of over 200 associates who support the needs of the Professional building and maintenance people and government customers by working as a team to provide solutions to those product needs and any services needed by those agencies
We have successfully relied on the outside sales team, consisting of Government Sales Managers, Regional Professional Sales Managers, Pro Account Representatives, and associated teams to support government customers under our existing US Communities contract; and will continue that support.
Our associates live in the communities where they work, as the typical store employees 100 to 150 associates who generally live within 5-10 miles of that store location.

Home Depot Information: *Home Depot operates almost 2,000 stores across the nation – See Attachment E for the complete list.*

Home Depot Information: *Home Depot maintains our main Store Support Center in Atlanta, Georgia. Regionally we maintain 19 additional store support centers throughout the country based upon our geographical alignment that bests support the customers in those areas.*

Distribution

Home Depot Information: *Home Depot's offer is based upon the traditional walk-in/walk-out transactional activity for Retail MRO products with orders processed through our almost 2000 individual stores; consistent with existing US Communities MRO agreement and our other government agreements. This provides the customers immediate access to a complete and comprehensive offering of appliances, building materials, hardware, HVAC, irrigation equipment and supplies, janitorial, landscaping equipment and supplies, motors, pumps, paints and coatings, plumbing, pool chemicals and supplies, hand-held general purpose tools, power tools, window coverings, and any other miscellaneous MRO supplies.*
Each store stocks typically 30,000 to 40,000 products, including both national brand name and proprietary items. If an item is out of stock our sales associates can provide information to the government buyer regarding estimated fill time. Typically, our stores are serviced by the distribution centers multiple times during any week; so out of stock issues are minimized.
In addition, as the largest building supplies retailer/distributor in the country, Home Depot maintains billions in inventory with the majority on the shelves of our retail stores ready for immediate purchase.
Home Depot and its subsidiaries hold for resale more than $10 billion in inventory. Approximately ninety percent is on the shelves of our retail stores ready for immediate purchase; the rest are "in the pipeline", housed in the distribution centers ready to replenish the merchandise sold at our stores.
Home Depot offers a variety of installation services and renovations services. Our Installation Services and Renovations Services programs use only qualified independent contractors nationwide. The Installation Services programs include the installation of products that are sold in our stores, such as carpeting, flooring, cabinets, water heaters and countertops, as well as other products such as generators and furnace and central air systems. The Renovations Services Program is a nationwide repair service offering a full line of renovation products and services

designed to return property to a livable condition and increase marketability. These Services capabilities are further addressed in the information associated with Section 2.4 herein.
As part of our efforts to satisfy a broad range of the needs of our professional customers, we offer a tool rental center in many stores. Home Depot rents approximately 300+ commercial-quality tools and equipment, including saws, floor sanders, generators, gas powered lawn equipment and plumbing tools. Customers can rent the tools on an hourly, daily, weekly or monthly basis. Our associates who work in the tool rental center receive special training in the use and maintenance of tools. We had tool rental centers in over 1000 stores.

Home Depot Information: *We buy our store merchandise from suppliers located throughout the world. We are not dependent on any single supplier. Most of our merchandise is purchased directly from manufacturers, which eliminates "middleman" costs. Competitive sources of supply are readily available for substantially all of the products we sell in Home Depot stores.*

This supply logistics model focuses on removing cost in the system and provides for the best possible prices to our customers.

Home Depot Information: *The almost 2000 The Home Depot stores are included in Tab 10 – Attachment E herein. Our stores range in size from approximately 50,000 square feet to over 160,000 square feet based upon the area's population and needs; as well as other factors.*
Home Depot also maintains 19 Rapid Deployment Centers (RDCs) that are on average over 600,000 square feet, and are strategically placed throughout the country. RDCs allow for aggregation of store product needs to a single purchase order, and then rapid allocation and deployment of inventory to individual stores upon arrival at the center. This process allows improved transportation, simplified order processing at suppliers and last minute reallocation from the time that product needs at stores are determined to actual replenishment. At the end of fiscal 2010, we operated 30 bulk distribution centers and 34 conventional distribution centers

Home Depot Information: *Home Depot's offer is based upon the traditional walk-in/walk-out transactional procurements at our local stores. Delivery is available on a request basis, for which those deliveries are sent through third party carriers we have a business relationship (i.e. UPS, private carriers, etc...). Therefore, the cost of delivery is not "built into" our product selling prices keeping our prices at their everyday low retail price for our customers.*

The Home Depot business model is predicated on the assumption that most customers will take their purchases with them. Delivery, if requested, is treated as an extra service, and may have delivery charges apply. Therefore, the cost of delivery is not "built into" our product selling prices. The Home Depot typically provides for delivery (for a fee) for those customers who request it on a case by case basis

Home Depot also offers a robust return policy on product purchases, whereas (most) returns within 90 days of purchase are accommodated with a valid sales receipt for exchange, refund, credited to an associated Home Depot Account, or refunded via The Home Depot store credit.
For on-line purchases at homedepot.com, there are a variety of ways to return your products:

- *Return the item(s) to a The Home Depot Store location nearest you*
- *Return the item(s) via the shipment method of your choice*
- *Return the item(s) using the returns label that came with your order (charges will be billed to your credit card)*

Home Depot offers a robust return policy on product purchases, whereas (most) returns within 90 days of purchase are accommodated. Some exceptions are:

- *Gasoline-powered equipment may be returned within 30 days of purchase with a valid sales receipt. After 30 days, item may be sent out for repair at the customer's expense, unless covered under warranty*
- *Special order returns are subject to 15% restocking fee. Cancellations may be subject to 15% restocking fee*
- *Returns Not Available on the Following Products: Custom made products and custom tinted paint, utility trailers, Gift Cards, Gift Certificates and Store Credits*

US COMM STORE SUMMARY BY STATE

Home Depot U.S.A. Inc.
Proposal in Response to
Serial 11019 – RFP Maintenance, Repair, Operating Supplies
Industrial Supplies, and Related Services
Tab 10- Attachment E (Retail Stores Locations)

Vendor Name: Home Depot U.S.A., Inc.

		QUANTITY OF RETAIL STORES IN THIS STATE	QUANTITY OF WHOLESALE WAREHOUSE(S) IN THIS STATE	WAREHOUSE LOCATIONS (CITY)
ALABAMA		28	N/A	
ALASKA		7	N/A	
ARIZONA		14	N/A	
ARKANSAS		56	N/A	
CALIFORNIA		231	N/A	
COLORADO		46	N/A	
CONNECTICUT		28	N/A	
DELAWARE		9	N/A	
FLORIDA		153	N/A	
GEORGIA		90	N/A	
HAWAII		7	N/A	
IDAHO		11	N/A	
ILLINOIS		76	N/A	
INDIANA		24	N/A	
IOWA		10	N/A	
KANSAS		16	N/A	
KENTUCKY		14	N/A	
LOUISIANA		28	N/A	
MAINE		11	N/A	
MARYLAND		41	N/A	
MASSACHUSETTS		45	N/A	
MICHIGAN		71	N/A	
MINNESOTA		33	N/A	
MISSISSIPPI		14	N/A	
MISSOURI		34	N/A	
MONTANA		6	N/A	

		QUANTITY OF RETAIL STORES IN THIS STATE	QUANTITY OF WHOLESALE WAREHOUSE(S) IN THIS STATE	WAREHOUSE LOCATIONS (CITY)
NEBRASKA		8	N/A	
NEVADA		21	N/A	
NEW HAMPSHIRE		20	N/A	
NEW JERSEY		67	N/A	
NEW MEXICO		13	N/A	
NEW YORK		100	N/A	
NORTH CAROLINA		42	N/A	
NORTH DAKOTA		1	N/A	
OHIO		70	N/A	
OKLAHOMA		16	N/A	
OREGON		26	N/A	
PENNSYLVANIA		70	N/A	
RHODE ISLAND		8	N/A	
SOUTH CAROLINA		25	N/A	
SOUTH DAKOTA		1	N/A	
TENNESSEE		39	N/A	
TEXAS		178	N/A	
UTAH		22	N/A	
VERMONT		3	N/A	
VIRGINIA		49	N/A	
WASHINGTON		45	N/A	
WEST VIRGINIA		6	N/A	
WISCONSIN		27	N/A	
WYOMING		5	N/A	

Maricopa County
Office of Procurement Services

www.maricopa.gov

Chief Procurement Officer
320 W. Lincoln St.
Phoenix, AZ 85003
Phone: (602) 506-3967
Fax: (602) 258-1573

December 19, 2013

Home Depot U.S.A., INC
2455 Paces Ferry Rd, Floor C-11
Atlanta, GA 30339

We are pleased to notify you that Maricopa County has renewed your contract to supply **MRO SUPPLIES AND RELATED SERVICES** as indicated on the attached award sheet with an effective date of **August 01, 2014.**

In accordance with the bid specifications, purchasing documents will be forwarded to you covering the specific items of this award, which will include deliveries and terms.

If you have any questions regarding Serial **11019-RFP** please contact **Derron Wasp** at **(602) 506-3823.**

Sincerely,

Derron Wasp, Procurement Officer
Office of Procurement Services

DW/ua
Attach.

cc: Office of Procurement Services
re: Serial 11019-RFP

PLEASE SUBSTITUTE ATTACHED REVISED
PAGES TO SUBJECT CONTRACT.

DEC 1 9 2013

SERIAL 11019-RFP MRO SUPPLIES AND RELATED SERVICES
Contract - Home Depot U.S.A., INC

DATE OF LAST REVISION: December 19, 2013 CONTRACT END DATE: July 31, 2017

CONTRACT PERIOD THROUGH JULY 31, ~~2014~~ 2017

TO: All Departments

FROM: Office of Procurement Services

SUBJECT: Contract for **MRO SUPPLIES AND RELATED SERVICES**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **July 06, 2011 (Eff. 08/01/11).**

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Chief Procurement Officer
Office of Procurement Services

DW/ua
Attach

Copy to: Office of Procurement Services
Don Jeffery, Facilities Management
Valerie Chavez, MCDOT

(Please remove Serial 05091-RFP from your contract notebooks)

CONTRACT PURSUANT TO RFP

SERIAL 11019-RFP

This Contract is entered into this sixth (6th) day of July, 2011 by and between Maricopa County ("County"), a political subdivision of the State of Arizona, and Home Depot U.S.A. Inc, a Delaware corporation ("Contractor") for the purchase of Retail Maintenance, Repair and Operating (MRO) commodities and related services.

1.0 CONTRACT TERM:

1.1 This Contract is for a term of three (3) years, beginning on the first (1st) day of August, 2011 and ending the thirty-first (31st) day of July, ~~2014~~ **2017**.

1.2 The County may, at its option and with the agreement of the Contractor, renew the term of this Contract for additional terms up to a maximum of three (3) years, (or at the County's sole discretion, extend the contract on a month-to-month bases for a maximum of six (6) months after expiration). The County shall notify the Contractor in writing of its intent to extend the Contract term at least thirty (30) calendar days prior to the expiration of the original contract term, or any additional term thereafter.

2.0 FEE ADJUSTMENTS:

Retail prices or discounts off marked prices at point-of-sale (POS) are permitted to be adjusted once per calendar year after the initial award, in conjunction with the Contractor's annual catalog publication date.

Any requests for other reasonable pricing adjustments shall be submitted sixty (60) days prior to the catalog publication date. If County agrees to the adjusted discounts, County shall issue written approval of the changes.

3.0 PAYMENTS:

3.1 As consideration for performance of the duties described herein, County shall pay Contractor the sums stated in Exhibit "A."

3.2 For non-procurement card transactions, payment shall be made upon the County's receipt of a properly completed invoice.

3.3 INVOICES (NON-PROCUREMENT CARD TRANSACTIONS):

3.3.1 The Contractor shall submit two (2) legible copies of their detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract serial number
- County purchase order number
- Invoice number and date

or entity for whose acts, errors, omissions, mistakes or malfeasance Contractor may be legally liable.

6.1.2 The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

6.1.3 The scope of this indemnification does not extend to the sole negligence of County.

6.2 **INSURANCE REQUIREMENTS:**

6.2.1 **Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of B++. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.**

6.2.2 **All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.**

6.2.3 **Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.**

6.2.4 **Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.**

6.2.5 **The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.**

6.2.6 **County reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance certificates. County shall not be obligated to review policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.**

6.2.7 **The insurance policies required by this Contract, except Workers' Compensation, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.**

6.2.8 **The policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.**

6.2.9 **Commercial General Liability:**

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than $2,000,000 for each occurrence, $2,000,000 Products/Completed Operations Aggregate, and $4,000,000 General Aggregate

Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

6.2.10 **Automobile Liability:**

Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than $2,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this Contract.

6.2.11 **Workers' Compensation:**

6.2.11.1 **Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than $1,000,000 for each accident, $1,000,000 disease for each employee, and $1,000,000 disease policy limit.**

6.2.11.2 **Contractor waives all rights against County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract.**

6.2.12 Certificates of Insurance.

6.2.12.1 Prior to commencing work or services under this Contract, Contractor shall furnish the County with certificates of insurance, or formal endorsements as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

6.2.12.1.1 In the event any insurance policy (ies) required by this Contract is (are) written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

6.2.12.1.2 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

6.2.13 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

6.3 WARRANTY OF SERVICES:

6.3.1 The Contractor warrants that all services provided hereunder will conform to the requirements of the Contract, including all descriptions, specifications and attachments made a part of this Contract. County's acceptance of services or goods provided by the Contractor shall not relieve the Contractor from its obligations under this warranty.

For Contractor:

Home Depot U.S.A., INC
Contract Manager
2455 Paces Ferry Road C-11
Atlanta, GA 30339

6.8 **LANGUAGE FOR REQUIREMENTS CONTRACTS:**

Contractors signify their understanding and agreement by signing a bid submittal, that the Contract resulting from the bid will be a requirements contract. However, the Contract does not guarantee any purchases will be made. It only indicates that if purchases are made for the materials contained in the Contract, they will be purchased from the Contractor awarded that item. Orders will only be placed when the County identifies a need and proper authorization and documentation have been approved.

County reserves the right to cancel Purchase Orders within a reasonable period of time after issuance. Should a Purchase Order be canceled, the County agrees to reimburse the Contractor but only for actual and documentable costs incurred by the Contractor due to and after issuance of the Purchase Order. The County will not reimburse the Contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, shipment of product prior to issuance of Purchase Order, etc.

Contractors agree to accept verbal notification of cancellation from the County Procurement Officer with written notification to follow. By submitting a bid in response to this Invitation for Bids, the Contractor specifically acknowledges to be bound by this cancellation policy.

6.9 TERMINATION FOR CONVENIENCE:

The County reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the County without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the County. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

6.10 TERMINATION FOR DEFAULT:

6.10.1 In addition to the rights reserved in the Contract, the County may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

6.10.2 The County may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract.

6.10.3 The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

6.11 **TERMINATION BY THE COUNTY:**

If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate the Contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to provide enough properly skilled workers or proper materials, or persistently disregard laws and ordinances, or not proceed with work or otherwise be guilty of a substantial violation of any

provision of this Contract, then the County may terminate the Contract. Prior to termination of the Contract, the County shall give the Contractor fifteen- (15) calendar day's written notice. Upon receipt of such termination notice, the Contractor shall be allowed fifteen (15) calendar days to cure such deficiencies.

6.12 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. §38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S §38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

6.13 OFFSET FOR DAMAGES;

In addition to all other remedies at law or equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance under this contract.

6.14 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete products and/or services provided under this Contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If additional services and/or products are required from this Contract, prices for such additions will be negotiated between the Contractor and the County.

6.15 RELATIONSHIPS:

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the District and the Contractor.

6.16 SUBCONTRACTING:

The Contractor may not assign this Contract or subcontract to another party for performance of the terms and conditions hereof without the written consent of the County, which shall not be unreasonably withheld. All correspondence authorizing subcontracting must reference the Proposal Serial Number and identify the job project.

6.17 AMENDMENTS:

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County **Office of Procurement Services** shall be responsible for approving all amendments for Maricopa County.

6.18 **ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW:**

In accordance with section MCI 367 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest. The County, Federal or State auditors and any other persons duly

authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

If the Contractor's books, records , accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future claim submitted by the Contractor by the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the Contractor by issuing a check payable to Maricopa County.

6.19 AUDIT DISALLOWANCES:

6.19.1 If at any time, County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance. County shall also state the means of correction, which may be but shall not be limited to adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

6.20 ALTERNATIVE DISPUTE RESOLUTION:

6.20.1 After the exhaustion of the administrative remedies provided in the Maricopa County Procurement Code, any contract dispute in this matter is subject to compulsory arbitration. Provided the parties participate in the arbitration in good faith, such arbitration is not binding and the parties are entitled to pursue the matter in state or federal court sitting in Maricopa County for a de novo determination on the law and facts. If the parties cannot agree on an arbitrator, each party will designate an arbitrator and those two arbitrators will agree on a third arbitrator. The three arbitrators will then serve as a panel to consider the arbitration. The parties will be equally responsible for the compensation for the arbitrator(s). The hearing, evidence, and procedure will be in accordance with Rule 74 of the Arizona Rules of Civil Procedure. Within ten (10) days of the completion of the hearing the arbitrator(s) shall:

6.19.1.1 Render a decision;
6.19.1.2 Notify the parties that the exhibits are available for retrieval; and
6.19.1.3 Notify the parties of the decision in writing (a letter to the parties or their counsel shall suffice).

6.20.2 Within ten (10) days of the notice of decision, either party may submit to the arbitrator(s) a proposed form of award or other final disposition, including any form of award for attorneys' fees and costs. Within five (5) days of receipt of the foregoing, the opposing party may file objections. Within ten (10) days of receipt of any objections, the arbitrator(s) shall pass upon the objections and prepare a signed award or other final disposition and mail copies to all parties or their counsel.

6.20.3 Any party which has appeared and participated in good faith in the arbitration proceedings may appeal from the award or other final disposition by filing an action in the state or federal court sitting in Maricopa County within twenty (20) days after date of the award or other final disposition. Unless such action is dismissed for failure to prosecute, such action will make the award or other final disposition of the arbitrator(s) a nullity.

6.21 SEVERABILITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

6.22 RIGHTS IN DATA:

The County shall own have the use of all data and reports resulting from this Contract without additional cost or other restriction except as provided by law. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

6.23 INTEGRATION:

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

6.24 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:

6.24.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.

6.24.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 6.23.1 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

6.24.3 This section is applicable to services provided in the state of Arizona only. The Contractor shall comply with similar statutes that may have been enacted in other states.

~~6.25 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §§35-391.06 AND 35-393.06 BUSINESS RELATIONS WITH SUDAN AND IRAN:~~

~~6.25.1 By entering into the Contract, the Contractor certifies it does not have scrutinized business operations in Sudan or Iran. The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract.~~

~~6.25.2 The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County may pursue any and all~~

~~remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.~~

6.26 CONTRACTOR LICENSE REQUIREMENT:

6.26.1 The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both the **Office of Procurement Services** and the using agency of any and all changes concerning permits, insurance or licenses.

6.26.2 Respondents furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Respondent is not relieved of its obligation to posses the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1525 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

6.27 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

6.27.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

6.26.1.1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

6.26.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

6.26.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

6.26.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.

6.27.2 Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contact.

6.27.3 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

6.28 PRICES:

Contractor warrants that prices extended to County under this Contract are no higher than those paid by any other non-federal government customer for these or similar services.

6.29 GOVERNING LAW:

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona

6.30 ORDER OF PRECEDENCE:

In the event of a conflict in the provisions of this Contract and Contractor's license agreement, if applicable, the terms of this Contract shall prevail.

6.31 STRATEGIC ALLIANCE for VOLUME EXPENDITURES ($AVE)

The County is a member of the $AVE cooperative purchasing group. $AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the $AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of $AVE may access a contract resulting from a solicitation issued by the County. If you **do not** want to grant such access to a member of $AVE, **please so state** in your proposal. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this Request for Proposal.

6.32 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's)

County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor, to purchase their requirements under the terms and conditions of the County Contract. Please indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract.

6.33 INCORPORATION OF DOCUMENTS:

The following are to be attached to and made part of this Contract:

6.33.1 Exhibit A, Pricing;
6.33.2 Exhibit B, Scope of Work;

6.34 **INFLUENCE**

As prescribed in MC1-1202 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct, may be grounds for Disbarment or Suspension under MC1-902.
An attempt to influence includes, but is not limited to:

6.34.1 **A Person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type valuable contribution or subsidy,**

6.34.2 **That is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.**

If a Person attempts to influence any employee or agent of Maricopa County, the Chief Procurement Officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.

CONTRACT BETWEEN THE CITY OF AUSTIN ("City")
AND
The Home Depot U.S.A. ("Contractor")
for
Purchase of Building Supplies and Equipment
Contract Number GC140000005

The City accepts the Contractor's Offer (as referenced in Section 1.1.1 below) for the above requirement and enters into the following Contract.

This Contract is between The Home Depot U.S.A. having offices at 2455 Paces Ferry Road, Atlanta, GA 30339 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City ("Effective Date"). This Contract meets solicitation requirements by using Contractor's U.S. Communities Government Purchasing Alliance with County of Maricopa, Phoenix, Arizona contract Serial 11019-RFP.

1.1 **This Contract is composed of the following documents:**

1.1.1 U.S. Communities Government Purchasing Alliance with County of Maricopa, Phoenix, Arizona Serial 11019-RFP.

1.1.2 This Contract

1.1.3 Exhibit A, the Supplemental Purchasing Provisions, (0400).

1.2 **Order of Precedence.** Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order:

1.2.1 U.S. Communities Government Purchasing Alliance with County of Maricopa, Phoenix, Arizona Serial 11019-RFP as referenced in Section 1.1.1

1.2.2 This Contract

1.2.3 The Supplemental Purchasing Provisions , (0400) as referenced in Section 1.1.3

1.3 **Quantity of Work.** There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order.

1.4 **Term of Contract.** The Contract will be in effect for an initial term of thirty-six (36) months and may be extended thereafter for up to three (3) twelve (12) month extension option(s), subject to the approval of the Contractor and the City Purchasing Officer or his designee and subject to the extension of the cooperative contract, as referenced above. See the Term of Contract provision in Section 0400 for additional Contract requirements.

1.5 **Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of $4,500,000.00 each and combined for the initial Contract term and $1,500,000.00 each and combined for the extension options.. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order. It is the City's sole responsibility to manage the not-to-exceed limits, and Home Depot will have no financial impact if those amounts are exceeded by City purchasers.

1.6 **Scope of Work, Clarifications and Additional Agreements.** This is for retail purchases by all City Departments and includes all items in the Home Depot Stores; plus access to any services or Renovation Services available through Home Depot. A percentage rebate will be provided to City depending on the amount of sales completed by the City Departments and based upon the rebate thresholds in the U.S. Communities contract.

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

THE HOME DEPOT U.S.A.	**CITY OF AUSTIN**
Richard Nyberg	
Printed Name of Authorized Person	Printed Name of Authorized Person
Signature	Signature
Government Contracts Sr. Mgr	
Title:	Title:
4/30/14	
Date:	Date:

EXHIBITS

Exhibit A, the Supplemental Purchasing Provisions, (0400)
Exhibit B, Non-Discrimination Certification, (0800)
Exhibit C, Non-Suspension or Debarment Certification, (0805)

City of Austin, Texas
NON-SUSPENSION OR DEBARMENT CERTIFICATION
SOLICITATION NO.

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of $25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of $25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name: Home Depot U.S.A., Inc.

Signature of Officer or Authorized Representative: Richard Nyberg Date: 4/24/14

Printed Name: Richard Nyberg

Title Contracts and Compliance Sr Mgr

City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NON-DISCRIMINATION CERTIFICATION
SOLICITATION NO.

City of Austin, Texas
Human Rights Commission

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

Sec. 4-2 Discriminatory Employment Practices Prohibited. As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

(B) (1) Not to engage in any discriminatory employment practice defined in this chapter.

(2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.

(3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.

(4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.

(5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.

(6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.

(7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of $2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

City of Austin
Minimum Standard Non-Discrimination in Employment Policy:

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:
Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

Term:
The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 24TH day of APRIL, 2014

CONTRACTOR Home Depot U.S.A., Inc.

Authorized Signature

Title Contracts and Compliance Sr Mgr

Financial and Administrative Service Department
Purchasing Office
PO Box 1088, Austin, Texas, 78767

May 6, 2014

The Austin City Council approved the execution of a contract with HOME DEPOT U.S.A. and LOWE'S HOME CENTERS, LLC for commodities, supplies and equipment.

Responsible Department:	Citywide Departments
Department Contact Person:	Steve Stenton
Department Contact Email:	Steve.Stenton@austintexas.gov
Department Contact Telephone:	512-974-2082
Project Name:	Commodities, supplies and equipment
Contractor Name:	Home Depot U.S.A. and Lowe's Home Centers, LLC
Contract Number:	GC140000005
Contract Period Amount:	$4,500,000.00, each and combined
Contract Period:	5/6/2014 – 5/5/2017
Extension Options:	3-12 month options, in an amount not to exceed $1,500,000.00 each and combined
Agenda Item Number:	23
Council Approval Date:	4/17/2014

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person referenced above.

Sincerely,

Lynn Rich
Buyer II
512-974-2076

cc: Steve Stenton

CONTRACT BETWEEN THE CITY OF AUSTIN ("City")
AND
Lowe's Home Centers, LLC ("Contractor")
for
Purchase of Building Supplies and Equipment
Contract Number GC140000005

The City accepts the Contractor's Offer (as referenced in Section 1.1.1 below) for the above requirement and enters into the following Contract.

This Contract is between Lowe's Home Centers, LLC. having offices at 1605 Curtis Bridge Road, Wilkesboro, NC 28697 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City ("Effective Date"). This Contract meets solicitation requirements by using Contractor's The Cooperative Purchasing Network (TCPN) Contract #R4954.

1.1 **This Contract is composed of the following documents:**

1.1.1 The Cooperative Purchasing Network (TCPN) Contract #R4954

1.1.2 This Contract

1.1.3 Exhibit A, the Supplemental Purchasing Provisions, (0400)

1.2 **Order of Precedence.** Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order:

1.2.1 The Cooperative Purchasing Network TCPN) Contract #R4954 as referenced in Section 1.1.1

1.2.2 This Contract

1.2.3 The Supplemental Purchasing Provisions, (0400) as referenced in Section 1.1.3

1.3 **Quantity of Work.** There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order.

1.4 **Term of Contract.** The Contract will be in effect for an initial term of thirty-six (36) months and may be extended thereafter for up to three (3) twelve (12) month extension option(s), subject to the approval of the Contractor and the City Purchasing Officer or his designee and subject to the extension of the cooperative contract, as referenced above. See the Term of Contract provision in Section 0400 for additional Contract requirements.

1.5 **Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of $4,500,000.00 each and combined for the initial Contract term and $1,500,000.00 each and combined for the extension options. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order. It is the City's sole responsibility to manage the not-to-exceed limits, and Lowe's Home Centers, LLC will have no financial impact if those amounts are exceeded by City purchasers.

Approved per legal form - KF

1.6 **Scope of Work, Clarifications and Additional Agreements.** This is for retail purchases by all City Departments and includes all items in the Lowe's Home Centers, LLC stores. A percentage discount will be provided to the City at the time of purchase, based upon the terms specified in The Cooperative Purchasing Network (TCPN) contract.

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

LOWE'S HOME CENTERS, LLC.	**CITY OF AUSTIN**
Michael J. Horn	Yolanda Miller
Printed Name of Authorized Person	Printed Name of Authorized Person
Signature	Signature
VP ProServices	Deputy Purchasing Officer
Title:	Title:
5/6/2014	5/7/14
Date:	Date:

EXHIBITS

Exhibit A, the Supplemental Purchasing Provisions, (0400)
Exhibit B, Non-Discrimination Certification, (0800)
Exhibit C, Non-Suspension or Debarment Certification, (0805)

Approved per legal form - KF

City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NON-DISCRIMINATION CERTIFICATION

SOLICITATION NO [ ]

City of Austin, Texas
Human Rights Commission

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

Sec. 4-2 Discriminatory Employment Practices Prohibited. As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

(B) (1) Not to engage in any discriminatory employment practice defined in this chapter.

(2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.

(3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.

(4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.

(5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.

(6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.

(7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of $2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

City of Austin
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Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Approved per legal form - KF

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, **OR THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.**

Sanctions:
Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

Term:
The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 9th day of April, 20 14.

CONTRACTOR Lowe's Home Centers, LLC

Authorized Signature

Title VP ProServices

Approved per legal form - KF

City of Austin, Texas
NON-SUSPENSION OR DEBARMENT CERTIFICATION

SOLICITATION NO.

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of $25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of $25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name:	Lowe's Home Centers, LLC		
Signature of Officer or Authorized Representative:	Michael J. Horn	Date:	Apr 9, 2014
Printed Name:	Michael J. Horn		
Title:	VP ProServices		

Approved per legal form - KF

EXHIBIT A

SUPPLEMENTAL PURCHASING PROVISIONS - 0400

SECTION 1. PAYMENT TERMS

1.1 Contract Manager.

The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

City of Austin

ATTN: Steve Stenton

124 West 8th Street, Austin, TX

78701 (512) 974-2082

1.2 Invoices.

1.2.1 For Lowe's Account purchases (only), The Contractor shall submit separate invoices in duplicate on each purchase order or delivery order after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

1.2.2 For Lowe's Account purchases (only), Invoices shall contain or have access to the following if provided by the purchaser at the time of each transaction: a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached or accessible through the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will require assistance from the Contractor to ensure payment is completed.

1.2.3 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount provided the City purchaser identified the Lowe's unique tax exemption number for the City at the time of each transaction. The City will furnish a tax exemption certificate upon request.

1.3 Payment.

1.3.1. All proper invoices for Lowe's Account transactions received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

1.3.2. If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate and in accordance with the Lowe's Account provisions; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

Approved per legal form - KF

1.3.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

1.3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

1.3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

1.3.3.3 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

1.3.3.4 failure of the Contractor to submit proper invoices or attempt to support the City's provide all requested information with all required attachments and supporting documentation; or

1.3.3.5 failure of the Contractor to comply with any material provision of the Contract Documents.

1.2.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

1.2.5 A form of payment is required at the time of each transaction (i.e. check, credit card, or Lowe's Account). Payment on Lowe's Account transactions will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

1.4 Final Payment and Close-Out

1.4.1 If an MBE/WBE Program Compliance Plan is required, the Contractor concurs with the requirement, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the project manager or contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.

1.4.2 The making and acceptance of final payment will constitute:

1.4.2.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

1.4.2.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

SECTION 2. TERMINATION

2.1 Right To Assurance. Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

2.2 **Default**. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the Right to Assurance paragraph contained herein (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

2.3 **Termination For Cause**. In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and any Offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

2.4 **Termination Without Cause**: The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

2.5 **Fraud**. Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

SECTION 3. OTHER DELIVERABLE$

3.1 **Contractor To Package Deliverables**. For transactions that require delivery, the Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

3.2 **Shipment Under Reservation Prohibited.** The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

3.3 **Title & Risk of Loss**. Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables (for delivered items only).

3.4 **Right Of Inspection And Rejection.** The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.

3.5 **No Replacement Of Defective Tender.** Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.

3.6 **Equal Opportunity.**

3.6.1 Equal Employment Opportunity: No Contractor or Contractor's agent shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification and has submitted a copy of the Contractor's employment non-discrimination policy. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

3.6.2 Americans With Disabilities Act (ADA) Compliance: No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

3.7 **Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

3.8 **Delays.**

3.8.1 The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the items under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract and/or individual purchase price and execute an amendment to the Contract and/or individual purchase documentation. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

Approved per legal form - KF

3.8.2 Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

3.9 **Rights to Proposal and Contractual Material**. All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

3.10 **Publications**. All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

3.11 **Insurance**. Insurance is required for this contract.

A. General Requirements.

i. The Contractor shall provide a Certificate of Insurance or Memorandum of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award

ii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

iii. The Contractor must also forward a Certificate of Insurance or Memorandum of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

iv. The Certificate of Insurance or Memorandum of Insurance, and updates, shall contain the contract number and the Buyer's name (or have consistent provisions for this requirement) and shall be mailed to the following address:

City of Austin Purchasing Office
P. O. Box 1088
Austin, Texas 78767

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B. Specific Coverage Requirements. The Contractor shall at a m1n1mum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

i. Worker's Compensation and Employers' liability Insurance. Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are $100,000 bodily injury each accident, $500,000 bodily injury by disease policy limit and $100,000 bodily injury by disease each employee.

(1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
(a) Waiver of Subrogation, Form WC 420304, or equivalent coverage
(b) Thi.rty (30) days Notice of Cancellation, Form WC 420601, or equivalent coverage

ii. Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are $500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries).

(1) The policy shall contain the following provisions:
(a) Blanket contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
(b) Independent Contractor's Coverage.
(c) Products/Completed Operations liability for the duration of the warranty period.
(d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and Underground Coverage (X,C,U).

(2) The policy shall also include these endorsements in favor of the City of Austin:
(a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
(b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
(c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage

iii. Business Automobile Liability Insurance. The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of $500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are $250,000 bodily injury per person, $500,000 bodily injury per occurrence and at least $100,000 property damage liability per accident.

(1) The policy shall include these endorsements in favor of the City of Austin:
(a) Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage
(b) Thirty (30) days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage
(c) The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage.

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C. Endorsements. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

D. Certificate: The following statement (or consistent information) must be shown on the Certificate of Insurance or Memorandum of Insurance.

The City of Austin is an Additional Insured on the general liability and the auto liability policies. A Waiver of Subrogation is issued in favor of the City of Austin for general liability, auto liability and workers compensation policies.

SECTION 4. WARRANTIES

4.1 **Warranty – Title.** The Contractor warrants that it has good and indefeasible title to all deliverables furnished under the Contract, and that the deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the deliverables.

4.1.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.

4.1.2 If during the warranty period, the warranty is breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

4.1.3 If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.

4.1.4 If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

4.2 **No Warranty By City Against Infringements.** The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any

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claim that the City's exercise anywhere in the world of the rights associated with the City's' ownership, and if applicable, license rights, and its use of the deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf.

SECTION 5. MISCELLANEOUS

5.1 Right To Audit.

5.1.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, or examine any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

5.1.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract

5.2 SUBCONTRACTORS.

5.2.1 If the Contractor identified Subcontractors in an M8EIW8E Program Compliance Plan or a No Goals Utilization Plan, the Contractor shall comply with the provisions of Chapters 2-9A, 2-98, 2-9C, and 2-90, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-98, 2-9C and 2-90, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of
the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

5.2.2 Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

5.2.2.1 require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract.

5.2.2.2 The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

5.2.2.3 require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

5.2.3 The Contractor shall be fully responsible to the City for all negligent acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own negligent acts and omissions. Nothing in the Contract shall create for the benefit of any such

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Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

5.2.4 The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor in accordance with the payment provisions of the agreement between the Contractor and the Subcontractor.

5.3 **Claims**. If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas
7876
7.

5.4 **Notices**. Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:	To the Contractor:
City of Austin, Purchasing Office	Lowe's Home Centers, LLC
ATTN: Matt Samaripa, Contract Compliance Specialist Senior	Michelle Halverson
P O Box 1088	1605 Curtis Bridge Road
Austin, TX 78767	Wilkesboro, NC 28697

5.5 **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable

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time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

5.6 **Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

5.7 **No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

5.8 **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

5.9 **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

5.10 **Modifications.** The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract in the event they conflict with the terms herein.

5.11 **Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

5.12 **Dispute Resolution.**

5.12.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written.request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent

meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

5.12.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fee equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in mediation.

5.13 Minority And Women Owned Business Enterprise (MBE/WBE) Procurement Program.

5.13.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-98, 2-9C and 2-90 of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

5.13.2 The City of Austin has determined that no goals are appropriate for this Contract. Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBEIWBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified and the Contractor does not already have an agreement with existing subcontractors for the requested services.

5.13.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or existing subcontractors who are product/service providers or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory or is uniquely in accessible products, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms in these specific situations. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

5.14 **Non-Solicitation.**

5.14.1 During the term of the contract, and for a period of six (6) months following termination of the contract, the Contractor, its affiliate, or its agent shall not hire, employ, or solicit for employment or consulting services, a City employee specifically associated with the development of this Contract employed in a technical job classification in a City department that engages or uses the services of a Contractor employee.

5.15 **Jurisdiction And Venue**. The Contract is made under and shall be governed by the laws of

the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

5.16 **Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

5.17 **Holidays.** The following holidays are observed by the City:

Holiday	Date Observed
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

5.18 Survivability of Obligations. All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

5.19 Non-suspension or Debarment Certification. The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

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TCPN®

The Cooperative Purchasing Network

October 31, 2013

Mr. Bill Edwards
SVP Store Operations
Lowe's Home Centers, Inc.
1605 Curtis Bridge Road
Wilkesboro, North Carolina 28697

Re: Renewal Award of TCPN Annual Contract # R4954

Dear Mr. Edwards:

Per official action taken by the Board of Directors of Education Service Center, Region 4 on October 15, 2013, The Cooperative Purchasing Network (TCPN) is pleased to announce that Lowe's Home Centers, Inc. has been awarded an annual contract renewal for the following, based on the sealed proposal submitted to Region 4 on March 23, 2010, and subsequent performance thereafter:

Contract

MRO Equipment, Supplies and Related Items & Services

The contract will expire on March 31, 2015, completing the fifth year of a five-year term of contract. **If your company is not in agreement, please contact TCPN immediately.**

The partnership between Lowe's Home Centers, Inc. and Region 4 can be of great help to participating agencies. Please provide copies of this letter to your sales representative(s) to assist in their work.

If you have any questions or concerns, please feel free to contact Deborah Bushnell at 713.554.0460.

Sincerely,

Tray Moses
Director of Operations/Business Development

11280 West Road · Houston, Texas 77065
888.884.7695 · Fax 800.458.0099 · www.TCPN.org

4. **Renewal of Contract**

Unless otherwise stated, all contracts are for a period of one (1) year with an option to renew annually for an additional four (4) years if agreed to by TCPN and the vendor. TCPN shall review the contract prior to the renewal date and notify the current awarded vendor each year of the contract renewal. Awarded vendor shall honor the administrative fee for any sales occurred beyond 30 days on any sales made based on a TCPN contract whether awarded a renewal or not.

5. **Funding Out Clause.**

Any/all contracts exceeding one (1) year shall include a standard "funding out" clause. A contract for the acquisition, including lease, of real or personal property is a commitment of the entity's current revenue only, provided the contract contains either or both of the following provisions:

Retains to the entity the continuing right to terminate the contract at the expiration of each budget period during the term of the contract and is conditioned on a best efforts attempt by the entity to obtain appropriate funds for payment of the contract.

6. **Ordering Procedures**

Purchase orders are issued by participating entities to the awarded vendor stating *"Per TCPN Contract"*.

7. **Shipments (if applicable)**

The awarded vendor shall ship ordered products within seven (7) working days for goods available and within four (4) to six (6) weeks for specialty items after the receipt of the order unless modified. If a product cannot be shipped within that time, the awarded vendor shall notify the entity placing the order as to why the product has not shipped and shall provide an estimated shipping date. At this point the participating entity may cancel the order if estimated shipping time is not acceptable.

8. **Invoices**

The awarded vendor shall submit invoices to the participating entity clearly stating *"Per TCPN Contract"*. The shipment tracking number or pertinent information for verification shall be made available upon request.

9. **Tax Exempt Status**

Since this is a national contract, knowing the tax laws in each state is the sole responsibility of the vendor.

10. **Reporting**

The awarded vendor shall electronically provide TCPN with a detailed monthly or quarterly report showing the dollar volume of all sales under the contract for the previous month or quarter. Reports shall be sent via e-mail to TCPN offices at reporting@tcpn.org. Reports are due on the **fifteenth (15th)** day after the close of the previous month or quarter. It is the responsibility of the awarded vendor to collect and compile all sales under the contract from participating members and submit one (1) report. Contracts are reviewed monthly; failure to report as

stipulated may result in suspension of contract. The report shall include at least the following information as listed in the example below:

Vendor Name
TCPN Report
Month or Quarter

Entity Name	Zip Code	State	PO or Job#	Sale Amount

Total _____

11. Payments

The entity using the contract will make payments directly to the awarded vendor.

12. Pricing

The awarded vendor agrees to provide pricing to TCPN and its participating entities that are the lowest pricing available and the pricing shall remain so throughout the duration of the contract. The awarded vendor agrees to promptly lower the cost of any product purchased through TCPN following a reduction in the manufacturer or publisher's direct cost. Price increases must be approved by TCPN. However, the awarded vendor must honor previous prices for thirty (30) days after approval and written notification from TCPN if requested.

All pricing submitted to TCPN shall include the two percent (2%) administrative fee to be remitted to TCPN by the awarded vendor. It is the awarded vendor's responsibility to keep all pricing up to date and on file with TCPN. All price changes shall be presented to TCPN for acceptance, using the same format as was accepted in the original contract.

All deliveries shall be freight prepaid, F.O.B. destination and shall be included in all pricing offered unless otherwise clearly stated in writing.

13. Warranty conditions

All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing.

14. Indemnity

The awarded vendor shall protect, indemnify, and hold harmless TCPN and its participants, administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the vendor, vendor employees or vendor subcontractors in the preparation of the solicitation and the later execution of the contract. Any litigation involving TCPN, its administrators and employees and agents will be in Harris County, Texas. Any litigation involving TCPN's members shall be in the jurisdiction of the participating agency.

15. Franchise Tax

The respondent hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes.

16. Marketing

Awarded vendor agrees to allow TCPN to use their name and logo within website, marketing materials and advertisement. Any use of TCPN name and logo by awarded vendor must be approved.

17. Supplemental Agreements

The entity participating in the TCPN contract and awarded vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this contract i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement developed as a result of this contract is exclusively between the participating entity and awarded vendor. TCPN, its agents, members and employees shall not be made party to any claim for breach of such agreement.

18. Certificates of Insurance

Certificates of insurance shall be delivered to the TCPN participant prior to commencement of work. The insurance company shall be licensed in the applicable state in which work is being conducted. The awarded vendor shall give the participating entity a minimum of ten (10) days notice prior to any modifications or cancellation of policies. The awarded vendor shall require all subcontractors performing any work to maintain coverage as specified.

19. Miscellaneous

Either party may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other party receives the notice of cancellation. After the 30th business day all work will cease following completion of final purchase order.

TCPN reserves the right to request additional items not already on contract at any time.

SIGNATURE FORM

The undersigned hereby proposes and agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing. The undersigned further certifies that he/she is an officer of the company and has authority to negotiate and bind the company named below.

Prices are guaranteed: 120 days

Company name	Lowe's Home Centers, Inc.
Address	1605 Curtis Bridge Road
City/State/Zip	Wilkesboro, NC 28697
Telephone No.	(704) 757-4141 Option 1
Fax No.	(336) 651-3300
Email address	GovMilAccounts@lowes.com
Printed name	Bill Edwards
Position with company	SVP Store Operations
Authorized signature	Bill Edwards

Accepted by The Cooperative Purchasing Network:

Term of contract 4·13·10 **to** 3·31·11

Unless otherwise stated, all contracts are for a period of one (1) year with an option to renew annually for an additional four (4) years if agreed to by TCPN and the awarded vendor. Awarded vendor shall honor all administrative fees for any sales made based on a TCPN contract whether renewed or not.

Jason Wickel — 4/15/10
Director of TCPN — Date

JASON WICKEL
Print Name

Robert A. Pechacek — 4/15/10
Authorized Signature — Date

ROBERT A. PECHACEK
Print Name

TCPN Contract Number R4954

Approved by Legal Dept
VP Approval

TAB 2 – QUESTIONNAIRE

Please provide responses to the following questions that address your company's operations, organization, structure and processes for providing products and services.

1. **States Covered**
   Bidder must indicate any and all states where products and services can be offered. **Please indicate the price co-efficient for each state if it varies.**

   ☒ **All States** (Selecting this box is equal to checking all boxes below)

☐ Alabama	☐ Montana
☐ Alaska	☐ Nebraska
☐ Arizona	☐ Nevada
☐ Arkansas	☐ New Hampshire
☐ California	☐ New Jersey
☐ Colorado	☐ New Mexico
☐ Connecticut	☐ New York
☐ Delaware	☐ North Carolina
☐ Florida	☐ North Dakota
☐ Georgia	☐ Ohio
☐ Hawaii	☐ Oklahoma
☐ Idaho	☐ Oregon
☐ Illinois	☐ Pennsylvania
☐ Indiana	☐ Rhode Island
☐ Iowa	☐ South Carolina
☐ Kansas	☐ South Dakota
☐ Kentucky	☐ Tennessee
☐ Louisiana	☐ Texas
☐ Maine	☐ Utah
☐ Maryland	☐ Vermont
☐ Massachusetts	☐ Virginia
☐ Michigan	☐ Washington
☐ Minnesota	☐ West Virginia
☐ Mississippi	☐ Wisconsin
☐ Missouri	☐ Wyoming

2. **Minority and Women Business Enterprise (MWBE) and (HUB) Participation**

   It is the policy of some entities participating in TCPN to involve minority and women business enterprises and historically utilized businesses (HUB) in the purchase of goods and services. Respondents shall indicate below whether or not they are an M/WBE or HUB certified.

   a. **Minority/Women Business Enterprise**
   Respondent certifies that this firm is an M/WBE ☐ Yes ☒ No

   b. **Historically Underutilized Businesses**
   Respondent certifies that this firm is a HUB ☐ Yes ☒ No

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3. **Residency**

Responding Company's principal place of business is in the city of Wilkesboro State of NC.

4. **Felony Conviction Notice**

Please check applicable box:

- [X] A publicly held corporation; therefore, this reporting requirement is not applicable.
- [ ] Is not owned or operated by anyone who has been convicted of a felony.
- [ ] Is owned or operated by the following individual(s) who has/have been convicted of a felony.

  - If the 3rd box is checked, a detailed explanation of the names and convictions must be attached.

5. **Processing Information**

Company contact for:

Billing

Contact Person: Account Manager at GE
Title: Account Manager
Company: Lowe's/GE
Address: P.O. Box 530954
City: Atlanta State: GA Zip: 30353-0954
Phone: (866) 232-7443 Fax: NA
Email: NA

Purchase Orders

Contact Person: Gary Cook
Title: Government Sales Manager
Company: Lowe's Companies
Address: 1000 Lowes Blvd
City: Mooresville State: NC Zip: 28117
Phone: (704) 757-4141 Option 1 Fax: (336) 651-3300
Email: GovMilAccounts@lowes.com

Sales and Marketing

Contact Person: Stephanie Russell

Title: Government Sales Manager

Company: Lowe's Companies

Address: 1000 Lowes Blvd

City: Mooresville State: NC Zip: 28117

Phone: (704) 757-4141 Option 1 Fax: (336) 651-3300

Email: GovMilAccounts@lowes.com

6. **Distribution Channel:** Which best describes your company's position in the distribution channel:

- ☐ Manufacturer direct
- ☐ Certified education/government reseller
- ☐ Authorized distributor
- ☐ Manufacturer marketing through reseller
- ☐ Value-added reseller
- ☒ Other Retailer

7. **Pricing Information**

- In addition to the current typical unit pricing furnished herein, the Vendor agrees to offer all future product introductions at prices that are proportionate to Contract Pricing. ☒ Yes ☐ No

If answer is no, attach a statement detailing how pricing for TCPN participants would be calculated.

- Pricing submitted includes the required TCPN administrative fee. ☐ Yes ☐ No
- Vendor agrees to remit to TCPN the required administrative fee. ☐ Yes ☐ No
- Additional discounts for purchase of a guaranteed quantity? ☐ Yes ☐ No

8. **Cooperatives**

List any other cooperative or state contracts currently held or in the process of securing

Cooperative/State Agency	Discount Offered	Expires	Annual Sales Volume
University of Minnesota	Proprietary Information	Proprietary Information	Proprietary Information
Tualatin River National Wildlife Refuge	Proprietary Information	Proprietary Information	Proprietary Information
Jacksonville State University	Proprietary Information	Proprietary Information	Proprietary Information
Illinois Dept of Natural Resources	Proprietary Information	Proprietary Information	Proprietary Information
Jacksonville Housing Authority	Proprietary Information	Proprietary Information	Proprietary Information
Chambersburg Area School District	Proprietary Information	Proprietary Information	Proprietary Information

TAB 3 – COMPANY PROFILE

Information About Your Company

Please provide the following:

1. Company's official registered name.

2. Brief history of your company, including the year it was established.

3. Company's Dun & Bradstreet (D&B) number.

4. Company's organizational chart of those individuals that would be involved in the contract.

5. Corporate office location.

   a. List the number of sales and service offices for states being bid in solicitation.

   b. List the names of key contacts at each with title, address, phone and e-mail address.

6. Define your standard terms of payment.

7. Who is your competition in the marketplace?

8. What is your market share?

9. Are you gaining market share, losing market share, or maintaining market share?

10. What is your strategy to increase market share?

11. What differentiates your company from competitors?

12. Describe how your company will market this contract if awarded.

13. Describe how you intend on introducing TCPN to your company.

14. Describe your firm's capabilities and functionality of your on-line catalog/ordering website.

15. Describe your company's Customer Service Department (hours of operation, number of service centers, etc.)

Green Initiatives

- We're committed to helping to build a cleaner future!

  According to the U.S. Census Bureau, the world population is expanding at a mind-boggling rate. The world reached 1 billion people in 1800; 2 billion by 1922; and over 6 billion by 2000. It is estimated that the population will swell to over 9 billion by 2050. That means that if the world's natural resources were evenly distributed, people in 2050 will only have 25% of the resources per capita that people in 1950 had.

  The world has a fixed amount of natural resources - some of which are already depleted. So as population growth greatly strains our finite resources, there are fewer resources available. If we intend to leave our children and grandchildren with the same standard of living we have enjoyed, we must preserve the foundation of that standard of living. We save for college educations, orthodontia, and weddings, but what about saving clean air, water, fuel sources and soil for future generations?

  As our business grows, we want to make sure we minimize our impact on the Earth's climate. So we're taking every step we can to implement innovative and responsible environmental practices throughout TCPN to reduce our carbon footprint, reduce waste, energy conservation, ensure efficient computing and much more. To that effort, we ask respondents to provide their companies environmental policy and/or green initiative.

Vendor Certifications (if applicable)

- Provide a copy of all current licenses, registrations and certifications issued by federal, state and local agencies, and any other licenses, registrations or certifications from any other governmental entity with jurisdiction, allowing respondent to perform the covered services including, but not limited to licenses, registrations or certifications. Certifications can include applicable M/WBE, HUB, and manufacturer certifications for sales and service.

KW

TAB 3 – COMPANY PROFILE
Questions 1 – 15 / Green Initiatives / Vendor Certifications

1. **Company's official registered name:**
   Lowe's Companies Inc.

2. **Brief history of your company, including the year it was established:**
   Founded in 1946, Lowe's has grown from a small hardware store in North Carolina to the second largest home improvement retailer worldwide and the 7th largest retailer in the U.S.

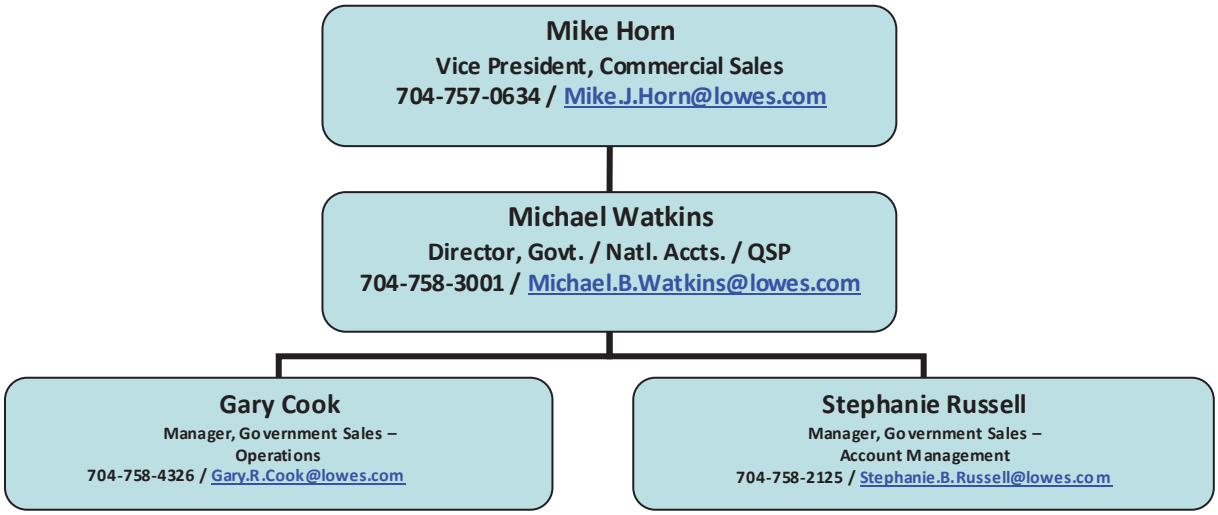
   The company went public in 1961, and began trading on the New York Stock Exchange in 1979 (NYSE: LOW). The modern Lowe's began in 1994, when our new store expansion consisted of only large stores, which we define as stores with greater than 85,000 square feet of selling space. Expansion continues as Lowe's opens a new store on average every week with our 117,000-square-foot (117K) stores in the nation's larger metro markets and our newer 94,000-square-foot (94K) stores in the nation's small to mid-sized markets. Lowe's opened its first stores in Canada in December 2007 and opened its first stores in Mexico in February 2010.

   Lowe's stores stock 40,000 products and have hundreds of thousands more available by special order-- offering practically everything customers need to build, beautify, maintain, and enjoy their homes and businesses.

   Although times have changed since Lowe's first opened its doors in 1946, Lowe's values have not – the company remains committed to offering quality products for homeowners and businesses at the lowest prices, while delivering superior customer service.

3. **Company's Dun & Bradstreet (D&B) number:**
   018810275

4. **Company's organizational chart of those individuals that would be involved in the contract:**
   An explanation of how our groups would work together to support TCPN is provided in the answers to Questions 12 and 13 on page 17.



5. **Corporate Office Location:**

Lowe's Companies Inc.
1000 Lowe's Blvd.
Mooresville NC 28117

Lowe's has ~125 District Commercial Account Specialists (DCAS) to serve TCPN members at the local level – they are listed below:

Jimmie McCarter - South Central Field Director Office: (704) 758-3148

District	DCAS	Market	Mobile	Email
850	Michael Anderson	Dallas D850, TX	(817) 301-6290	Michael.T.Anderson@lowes.com
1219	Joe Perry	Ft Worth D1219, TX	(972) 670-0253	Joe.J.Perry@lowes.com
854	Judy "Dixie" Still	Dallas D854, TX	(214) 605-9708	Judy.D.Still@lowes.com
1231	Bryan Jenkins	Okalahoma City D1231, OK	(405) 205-7931	Bryan.Jenkins@lowes.com
861	Jeff Thomas	Tulsa D861, OK	(918) 803-2536	Jeffery.Thomas@lowes.com
860	Elizabeth Linville	Nashville- Columbia D860, TN	(615) 829-4488	Beth.A.Linville@lowes.com
862	Mike Breen	Nashville D862, TN	(615) 693-1029	Mike.D.Breen@lowes.com
1248	David Culpepper	Memphis D1248, TN	(901) 302-8691	David.A.Culpepper@lowes.com
886	Stephanie LaVallee	St. Louis D886, MO	(636) 221-0442	Stephanie.M.LaVallee@lowes.com
888	Phil Pucket	Kansas City D888, MO-KS	(913) 209-3584	Phil.R.Puckett@lowes.com
1244	Mike Clark	St. Louis D1244, MO	(573) 212-0133	Mike.S.Clark@lowes.com
857	Jennifer Simon	Houston D857, TX	(832) 317-0795	Jennifer.D.Gomez@lowes.com
1220	Klair Nagy	Houston D1220, TX	(281) 381-9224	Klairann.M.Nagy-1@lowes.com
852	Jon Crosby	Houston D852, TX	(281) 520-2064	Jon.A.Crosby@lowes.com
856	Ian LaRocque	Austin D856, TX	(512) 365-4222	Ian.J.LaRocque@lowes.com
1227	Steve Echavarria	San Antonia D1227, TX	(210) 870-8819	Steve.Echavarria@lowes.com
1257	Charles Van Cleave	Austin - Round Rock D1257, TX	(254) 652-4409	Charles.T.Vancleave@lowes.com
876	Robert Benenate	New Orleans D876, LA	(504) 717-5973	Robert.J.Benenate@lowes.com
864	Jim Miller	Pensacola D864, FL	(850)232-7609	Jim.E.Miller@lowes.com
1302	Jody Coker	Mobile D1302, AL	(251) 348-2401	Jody.A.Coker@lowes.com
1306	Todd Sibley	Baton Rouge D1306, LA	(225) 726-5507	Todd.L.Sibley@lowes.com

Lowe's has ~125 District Commercial Account Specialists (DCAS) to serve TCPN members at the local level – they are listed below (continued):

Allan Rhew - Northeast Field Director Office: (704) 758-3408

District	DCAS	Market	Mobile	Email
811	Thomas Spinner	Virginia Beach D811, VA	(757) 848-8350	Thomas.M.Spinner@lowes.com
813	Marty Utz	Baltimore-Catonsville D813, MD	(410) 591-6993	Marty.R.Utz-1@lowes.com
899	Rick Hixon	Richmond D899, VA	(434) 390-3034	Richard.R.Hixon@lowes.com
1212	Craig Everett	Manassas D1212, VA	(540) 331-1571	Craig.A.Everett@lowes.com
1242	Brandon Rice	St. Charles D1242, MD	(301) 789-8929	Brandon.A.Rice@lowes.com
1255	Roger Borden	Fredericksburg-Dale City D1255, VA	(540) 308-1384	Roger.C.Borden@lowes.com
1351	Pam Lucas	E. Richmond D1351, VA	(804) 516-9549	Pam.L.Lucas@lowes.com
815	Demetrae DeShields	Dover D815, DE	(302) 387-9381	Demetrae.L.Deshields@lowes.com
875	Mike Taylor	Reading-Morgantown D875, PA	(484) 388-0267	Mike.Taylor@lowes.com
1271	Chris Adomat	Philadelphia D1271, PA	(610)633-0387	Christopher.E.Adomat@lowes.com
1229	Scott Scheyer	Turnersville D1229, NJ	(856) 340-5292	Scott.L.Scheyer@lowes.com
1230	Anthony Ruiz	New York City D1230, NY	(516) 491-0338	Anthony.Ruiz@lowes.com
1217	Mohendra Puran	New York D1217, NY	(201) 401-7441	Mohendra.Puran@lowes.com
1243	Corey Lombardo	New York D1243, NY	(732) 691-9710	Corey.A.Lombardo@lowes.com
1281	Ben Mueller	New York D1281, NY	(973) 362-6091	Ben.W.Mueller@lowes.com
1305	Guy Sacco	Trenton D1305, NJ	(609) 306-7469	Guy.Sacco@lowes.com
1346	Phillip Dacheux	Plymouth Meeting D1346, PA	(215) 872-3305	phillip.dacheux@lowes.com
1215	Justin Greenia	Boston D1215, MA	(413) 207-1815	Justin.Greenia@lowes.com
871	Guy Paradise	Hartford D871, CT	(203) 605-6518	guy.j.paradise-1@lowes.com
1228	Mark Valla	Boston D1228, MA	(774) 222-3416	mark.valla@lowes.com
1287	Steve Radzikowski	Boston D1287, MA	(781) 315-3020	Steve.Radzikowski@lowes.com
1291	Rich O'Donnelle	Boston D1291, MA	(603) 521-5993	Richard.Odonnell@lowes.com
1272	Kevin "KC" Thomson	Providence D1272, RI	(860) 377-6774	Kevin.Thomson@lowes.com
872	John Helmick	Easton D872, PA	(717) 585-5658	John.D.Helmick@lowes.com
873	Ben Barnhart	Hanover D873, PA	(717) 360-9255	Benjamin.Barnhart@lowes.com
874	Rick Bell	Morgantown D874, WV	(724) 321-2335	Richard.T.Bell@lowes.com
1234	Brian Zoelle	Pittsburgh D1234, PA	(724) 355-0014	Brian.R.Zoelle@lowes.com
1251	Kyle Kruescher	Newburgh D1251, NY	(845) 418-1963	Kyle.Kreuscher@lowes.com
870	Mark Cassada	Syracuse D870, NY	(315)723-8870	Mark.E.Cassada@lowes.com

Lowe's has ~125 District Commercial Account Specialists (DCAS) to serve TCPN members at the local level – they are listed below (continued):

Tom Morrow - Southeast Field Director Office: (704) 758-2627

District	DCAS	Market	Mobile	Email
823	Larry Routh	Greensboro - Highpoint D823, NC	(336) 698-5046	Larry.M.Routh@lowes.com
824	Scott Stewart	Charlotte D824, NC	(704) 682-9022	Scott.S.Stewart@lowes.com
825	Greg Wilson	Hickory - Morganton D825, NC	(828) 514-5446	Gregory.M.Wilson-1@lowes.com
826	Luke Tatum	Asheville D826, NC	(828) 702-4434	Luke.J.Tatum@lowes.com
828	Steven Murdock	Charlotte D828, NC	(704) 506-7710	Steve.B.Murdock@lowes.com
833	Tabatha Sudduth	Greenville D833, SC	(864) 398-3056	Tabatha.C.Sudduth@lowes.com
834	Steve Lethco	Columbia D834, SC	(803) 457-0824	Stephen.M.Lethco@lowes.com
1241	Jeff Harrell	Winston Salem-Concord D1241, NC	(704) 456-8466	TBD
1247	Brian Aguirre	Atlanta D1247, GA	(770) 639-4581	Brian.Aguirre@lowes.com
830	Randal Webb	Hoover D830, AL	(205) 641-2123	Randal.E.Webb@lowes.com
831	Chad Nails	Altanta D831, GA	(770) 286-4409	Chad.R.Nails@lowes.com
832	Stacy Tolbert	Atlanta D832, GA	(770) 238-9838	Stacy.S.Tolbert@lowes.com
836	Floyd Coffman	Birmingham - Hoover D836, AL	(256) 497-7288	Floyd.M.Coffman@lowes.com
892	Dana Farmer	Atlanta D892, GA	(404) 617-0502	Dana.Farmer@lowes.com
1296	Tom Bentley	Augusta, GA - Augusta D1296, SC	(706) 945-9314	Thomas.W.Bentley@lowes.com
858	Jack Lait	Orlando D858, FL	(407) 312-5302	Jack.M.Lait@lowes.com
869	Michael Kiper	Melbourne - Palm Bay D869, FL	(772) 380-2823	Michael.J.Kiper@lowes.com
1221	Mike Saparito	Miami D1221, FL	(786) 447-7554	Michael.J.Saparito@lowes.com
1249	Zach Kelley	Jacksonville D1249, FL	(904) 271-0578	Zachery.A.kelley@lowes.com
1278	Matt Fratus	Port Orange D1278, FL	(386) 847-2630	Matt.Fratus@lowes.com
1348	Bill Webb	Orlando D1348, FL	(407) 312-7135	William.H.Webb@lowes.com
1350	Jeffery Baker	Miami D1350, FL	(561) 284-9169	Jeff.F.Baker@lowes.com
820	Allan Smith	Jacksonville - Greenville D820, NC	(252) 702-2051	Allen.A.Smith@lowes.com
822	Dwight Jones	Raleigh D822, NC	(919) 406-4454	Bobby.D.Jones@lowes.com
827	Robert Jones	Raleigh D827, NC	(919) 200-3121	Robert.L.Jones@lowes.com
1240	Lori Plesser	Fayetteville D1240, NC	(910) 709-5226	Lori.R.Plesser@lowes.com
837	Mike McLain	Savannah, GA	(843) 518-3696	Mike.N.mclain@lowes.com
865	Sandy Parlett	Tampa D865, FL	(813) 373-8188	Sandy.K.Parlett@lowes.com
868	Dave Chaffman	Gainesville D868, FL	(352) 672-4744	Dave.M.Chaffman@lowes.com
1270	Raul Cordova	Tampa D1270, FL	(813) 712-9243	Raul.Cordova@lowes.com
1297	Thomas Reinhard	Lakeland D1297, FL	(863) 272-8087	Thomas.A.Reinhard@lowes.com
1355	Bob Solgot	Tampa D1355, FL	(941) 465-0517	Robert.Solgot@lowes.com

Lowe's has ~125 District Commercial Account Specialists (DCAS) to serve TCPN members at the local level – they are listed below (continued):

Jeff Armstrong - West Field Director Office: (704) 758-4159

District	DCAS	Market	Mobile	Email
880	Amanda Dickey	Burbank D880, CA	(562) 237-6388	Mandy.A.Dickey@lowes.com
882	Paul Finch	Los Angeles D882, CA	(714) 421-3209	Paul.J.Finch@lowes.com
1102	Sophia McDonnell	Fontana D1102, CA	(909) 278-2549	Sophia.M.Mcdonnell@lowes.com
1236	Reuben Pacheco	Los Angeles D1236, CA	(213) 435-9176	Reuben.b.Pacheco@lowes.com
1253	Jason Blacklock	Vista - Oaceanside D1253, CA	(760) 814-0524	Jason.T.Blacklock@lowes.com
1262	Taush Petralia	Los Angeles D1262, CA	(951) 203-8970	Taush.A.Petralia@lowes.com
1263	Vanita Jones	Los Angeles D1263, CA	(213) 435-7388	Vanita.M.Jones@lowes.com
893	Greg Birchman	Seattle D893, WA	(425) 238-5686	Greg.J.Birchman@lowes.com
894	Chuck Orr	Seattle D894, WA	(360) 485-3342	Charles.J.Orr@lowes.com
898	Frank Wellman	Seattle D898, WA	(206) 402-7105	Frank.D.Wellman@lowes.com
1100	Sarah Hill	Portland D1100, OR	(503) 307-4384	Sarah.E.Hill@lowes.com
1264	Alton Culverhouse	Anchorage D1264, AK	TBD	alton.l.culverhouse-1@lowes.com
896	Mike Carter	Denver D896, CO	(303) 868-2587	Mike.Carter@lowes.com
1101	Bryan Houser	Phoenix 1101, AZ	(623) 414-0920	Bryan.Houser@lowes.com
1223	Jean Dowling	Albuquerque D1223, NM	(505) 967-8862	Jean.M.Dowling@lowes.com
1238	Mark Hafley	Westminster D1238, CO	(720) 545-6604	Mark.E.Hafley@lowes.com
1284	James Dohnalek	Denver D1284, CO	(720) 670-9548	James.C.Dohnalek@lowes.com
1313	Nicholas Miller	Phoenix - Chandler D1313, AZ	(602) 828-9580	Nicholas.J.Miller@lowes.com
885	Ed Marshall	Las Vegas D885, NV	(702) 236-8608	Edward.J.Marshall@lowes.com
897	Steve Thurgood	Salt Lake City D897, UT	(801) 602-1096	Steve.K.Thurgood@lowes.com
1103	Todd Borchardt	Sacramento D1103, CA	(916) 201-4546	Todd.M.Borchardt@lowes.com
1104	Angela Bennish	San Jose D1104, CA	(408) 497-2001	Angela.C.Bennish@lowes.com
1357	Chris Ganne	Fresno D1357, CA	(559) 967-0683	Chris.M.Ganne@lowes.com
1267	Chris Nygren	Antioch - San Francisco D1267, CA	(925) 784-6141	Chris.E.Nygren@lowes.com
1314	Sean Doonan	Salt Lake City D1314, UT	(801) 597-7233	Sean.P.Doonan@lowes.com

Tom Yeatts - North Central Field Director Office: (704) 758-3439

District	DCAS	Market	Mobile	Email
1293	Michael Ostrander	Flint D1293, MI	(248) 881-7023	Michael.J.Ostrander@lowes.com
1250	Ralph Page	Detroit D1250, MI	(734) 478-5346	Ralph.H.Page@lowes.com
842	Ryan Savage	Clinton Township D842, MI	(586) 907-7768	Ryan.A.Savage@lowes.com
843	Tim Bresnahan	Indianapolis D843, IN	(317) 471-7790	Tim.C.Bresnahan@lowes.com
1276	Harland Schroder	Indianapolis D1276, IN	(317) 376-2245	Harland.Schroeder@lowes.com
819	Derk Walker	Toledo D819, OH	(419) 386-9461	Derk.C.walker@lowes.com
839	Chuck Kilkenny	Columbus D839, OH	(614) 827-5199	Chuck.A.Kilkenny@lowes.com
840	Troy Smith	Columbus D840, OH	(614) 301-0461	Troy.E.Smith @lowes.com
848	Jeff Luczywo	Canton D848, OH	(330) 696-2295	Jeff.A.Luczywo@lowes.com
829	Ed Thornhill	Dayton D829, OH	(937) 416-2967	Edward.L.Thornhill@lowes.com
1356	Scott Coverdale	Fremont D1356, OH	(440) 865-4590	Scott.W.Coverdale@lowes.com
838	Mike Klieber	Cincinnati D838, OH	(937) 481-1990	Michael.L.Klieber@lowes.com
1311	Brandon Hosler	Cincinnati D1311, OH	(513) 255-0471	Brandon.T.Hosler@lowes.com
1303	Debbie Mossburg	Chicago D1303, IL	(630) 995-5395	Debbie.L.Mossburg@lowes.com
1233	Renee Patrick	Chicago D1233, IL	(773) 318-9606	Renee.C.Patrick@lowes.com
1245	Michael Surina	Rockford-Elgin D1245, IL	(224) 523-6213	Michael.R.Surina@lowes.com
1286	TBD	Milwaukee D1286, WI	(414) 331-8049	TBD

6. **Define your standard terms of payment:**
Lowe's is committed to offering TCPN members the easiest, most convenient business credit program anywhere. Our business credit offers easy-to read itemized billing, secure online account management, customized account setup and employee spending control.

Lowe's offers 3 types of business credit programs for our commercial customers: Lowe's Accounts Receivable (LAR), Lowe's Business Accounts (LBA), and Lowe's Business Rewards Card by American Express. These programs are private label credit programs for Lowe's. The terms and conditions are pre-established and will be between the TCPN member who chooses to open an account and either GE Money or American Express.

Below are key features and benefits of each of the three business account options outlined above:

Lowe's Account Receivable (LAR):

- Easy to understand itemized statements with product level detail at invoice / agency level
  - Billing can be broken out by departments within the agency (ground maintenance, building / facilities maintenance, etc.)
- Purchasing control with a list of authorized buyers and optional identification cards
- No annual fee
- Ability to pay by invoice
- Pay in full each month
- Online account management at LowesForPros.com
  - Allows for additional flexibility such as downloading invoice details into an Excel spreadsheet, allowing for more timely and greater reporting capabilities.
- Additional security with special purchasing instructions
  - Ability to limit dollar amount of a single purchase
  - Can also limit what employees can purchase.
    Example: Do not allow tool purchases
- Choose the account structure that is right for the customers need
  - Regular – purchases are billed on one account number
  - Primary/Secondary – if your member has multiple locations that need to be linked to a centralized primary account, or has job accounting requirements, this is the right account for them. Billing may be centralized or mailed to various job accounts.

Define your standard terms of payment (continued):

- **Lowe's Business Account (LBA):**
  - Easy to understand itemized statements with product level detail
  - Purchasing control with the ability to issue multiple cards
  - No annual fee
  - Flexibility to make minimum monthly payment or pay in full each month
  - Online account management at LowesForPros.com
- **Lowe's Business Rewards card by American Express:**
  - No annual fee
  - Revolving account – Pay in full, or over time with a revolving credit line
  - Employee spending limits and tracking – Track and assign a spending limit for each additional cardholder
  - OPEN Savings – Card members receive a 3% - 25% discount on Rental Cars, Hotels, Overnight Shipping, and other common business expenses. Savings appear automatically on statements
  - Purchase Protections Guarantee – Purchases are protected from theft and accidental damage for up to 90 days from date of purchase (terms and conditions apply)
  - Online Account management – set up account alerts, monitor and analyze spending and set electronic bill payment.
  - Reward Benefits / Reward Points earned:
    - 3 points per $1 spent at restaurants, office supply retailers, and for wireless phone bills
    - 2 points per $1 spent at Lowe's
    - 1 point per $1 spent everywhere else

Questions 7, 8, 9 and 10 with regard to market share and competition:

Information is proprietary to Lowe's.

11. What differentiates your company from competitors?

Dedicated, Service-Driven Commercial Sales Specialists

In addition to a dedicated Commercial Sales Team at Lowe's corporate headquarters, there are approximately 125 outside, market-based District Commercial Account Specialists throughout the country dedicated to assisting TCPN members in acquiring the products and services they need at Lowe's while adhering to TCPN contract guidelines. In addition, we have over 5000 dedicated, in-store Commercial Sales Specialists dedicated to delivering great customer service to TCPN members.

LowesForPros.com

TCPN members can visit LowesForPros.com and login as a TCPN member to obtain special offers (e.g., 15% off paint, $10 off next $50 order, etc.) as well as gain access to industry articles, construction calculators, business credit account management, and much more. They can also access Lowe's Property Management System and Lowe's Quotation Center for additional business tools and services.

Maintenance Supply Rack Program:

Lowe's Maintenance Supply Rack Program is a great program to help keep TCPN members in stock with their most common consumable items needed to maintain and beautify their business. Think of it as Lowe's helping to manage a TCPN member's inventory needs saving them both time and money. With an initial supply purchase of just $100 or more, we will provide a 5 shelf metal rack to stock a TCPN's products for only a penny! We will also provide labels for TCPN members to place on their racking to track inventory and make reordering simple and hassle-free. Our Team will even contact TCPN members who choose to take advantage of the Maintenance Supply Rack Program on a regular basis to inquire about their replenishment needs. This program will save TCPN members significant time and money by keeping TCPN member personnel on-the-job to focus on their most important business needs while minimizing any business risk associated with having personnel go off-site.

Special Values for TCPN Members

We will send direct mailers periodically to TCPN members with great values and special promotions to help TCPN members take advantage of additional values Lowe's has to offer.

Delivery

Lowe's has one of the largest fleets of supply and construction delivery vehicles in the business to provide TCPN members with what they need when they need it. And just like our extended business hours, our delivery fleet runs 7 days per week to ensure we meet the needs of our valuable business customers.

For TCPN members, a significantly reduced fee of $20 for deliveries will also be made available. This is a significant savings compared to normal $65 – $90 delivery fees depending on local market conditions.

Volume Pricing with Quote Support Program (QSP):

Lowe's Quote Support Program is designed to ensure all TCPN member orders are priced according to the pricing schedule in Tab 6 of this proposal. Please allow a minimum of 24 hours to process each order. More lead time may be required depending on the materials being requested and size of the order.

Additional Every Day Savings with Contractor Pack Pricing

Lowe's offers additional savings on over 800 in-stock "buy in bulk" store products. Look for the yellow "Contractor Pack" label to save, or stop by the Commercial Sales Desk to review a complete list of Contractor Pack items. Savings can range from 10% to 40%!

Easy Ordering

Lowe's is committed to making ordering easy and painless for TCPN members. TCPN members will have the following order options:

- Faxing order to closest or preferred Lowe's store. For fax orders, we will develop a customized *"Worksheet/Cover Page"* for each TCPN member that will have their closest Lowe's stores information pre-populated to making fax ordering easier.
- Calling in an order to the Commercial Sales Desk at their local Lowe's store – Lowe's stores can be easily located by using Lowes.com or calling 1-800-44-LOWES.
- Placing an order online via www.Lowesforpros.com
- Submitting an order electronically to TCPN@Lowes.com – a dedicated TCPN accounts person will receive the email and ensure the appropriate Lowe's store executes the order and has the products pulled for fast and easy pick-up or delivery based on the TCPN member's preference.
- Placing a phone order by calling a dedicated TCPN accounts person assigned to the TCPN contract using a dedicated 800# for TCPN members. This person will facilitate all the order details and ensure the appropriate Lowe's store executes the order and has the products pulled for fast and easy pick-up or delivery based on the TCPN member's preference.

Environmentally Responsible, Energy Efficient "Green" Products

Lowe's is proud of our past performance in promoting products offering the highest standards in energy efficiency. EPA & U.S. Department of Energy ENERGY STAR® Award has been given to Lowe's seven consecutive years for promoting products that meet the highest energy and water efficiency standards. Most recently, the U.S. Environmental Protection Agency named Lowe`s Companies, Inc. the first winner of the ENERGY STAR Sustained Excellence Award in Retail. The award recognizes Lowe`s long-standing leadership as a retailer of energy-efficient products.

12. Describe how your company will market this contract if awarded.

Lowe's team of ~125 District Commercial Account Specialists (as listed in the answer to Question 5) will be the local points of contact marketing to all TCPN members – both current and prospective. The District Commercial Account Specialists are responsible for meeting with Government agencies such as colleges & universities, school boards, housing authorities, hospitals, etc.

In addition, Lowe's is over 1,717 stores strong in the U.S. alone with dedicated Commercial Sales Specialists who are also responsible for marketing to and working with Government agencies in their local markets. With the list of members provided by TCPN upon award, Lowe's will provide that information to our in-store Commercial Sales Specialists so they can contact members in their area and offer up our enthusiasm and commitment to service their needs by providing excellent customer service and quality building material and maintenance products.

Corporately, Lowe's will send a letter of introduction to all TCPN members informing them of our contract. It will also include a quick reference guide outlining Lowe's programs and services under the TCPN contract. We will also include an easy reference aid listing out Lowe's stores, points of contact for assistance / help, and other helpful tips designed to make it easy to do business with Lowe's.

13. Describe how you intend on introducing TCPN to your company.

A Lowe's/TCPN Contract would be managed by the Commercial / Government Sales Division of Lowe's Companies Inc. All contract compliance, negotiation, order processing, reporting and administrative payments will be handled by corporate personnel (as described in the answer to Question 5) out of the Mooresville, NC location.

Our Corporate team, responsible for commercial and government sales as well as comprehensive customer and store support, is closely linked to our team in the Field to manage the sales process. Upon award, a corporate communication through multiple channels would be distributed to all Regional Sales Directors, District Managers, Field Directors, District Commercial Account Specialists, and in-store Commercial Sales Specialists that would include:

- Contract terms and conditions
- Procedure to process incoming orders and execute pre-negotiated pricing for TCPN Members
- A list of all current TCPN Members to support proactive marketing of the contract throughout all local markets across the country.

In addition, Lowe's personnel will be advised to offer the TCPN contract to eligible state and local government agencies that are not currently members of TCPN but that may benefit from this type of acquisition vehicle. It is understood that TCPN personnel will be available to Lowe's representatives to help explain the membership process to prospective members.

14. Describe your firm's capabilities and functionality of your on-line catalog / ordering website

Lowes.com (www.lowes.com) is our primary public website and on-line product resource. It can be used by Government agencies, businesses and retail customers as a valuable resource for researching products, services, and how-to projects. For businesses such as government agencies that are members of TCPN, it can assist with purchasing decisions for products and services Lowe's offers.

14. Describe your firm's capabilities and functionality of your on-line catalog / ordering website (cont.):

LowesForPros.com is an affiliated website and an additional resource for businesses and business professionals that can be accessed directly at www.lowesforpros.com or from www.lowes.com.

a. Access to Lowe's Quotation Center for TCPN members to submit electronic requests for quotes

b. Exclusive special product offers for TCPN members – examples may include 15% off paint, $10 off next $50 purchase, etc.

c. Convenient and easy access to Lowe's business credit center for online account management

d. Online dimensional lumber and plywood pricing

e. Convenient and easy access to Material Safety and Data Sheets (MSDS) for Paint & Cleaning Products

f. Informative business tips and articles

g. Construction calculators for estimating materials and labor-hours for jobs

Online Ordering

1) Lowe's online ordering is accessible to TCPN members via www.LowesForPros.com.

   Steps to ordering from Lowe's Online are as follows:

   a) TCPN members login to Lowe's Quotation Center

   b) Place a quote request or order online

   c) TCPN members can route their quote request or order to their preferred Lowe's store or select an option to route it to a dedicated TCPN accounts person assigned to the TCPN contract at Lowe's corporate headquarters

   d) A Lowe's Commercial Sales Specialist will deliver a quote & pull your order for pickup or delivery

   e) Track and view detailed information on your previous orders & quotes

   Our Commercial Sales Specialists will work directly with members to provide a quote quickly and confirm your order so that the materials are ready when you need them. Our Commercial Sales Specialists are available 7 days a week to help you identify and order the materials you need to get the job done right, and right on time.

All orders placed before 3 p.m. can be picked up in 2 hours. All orders placed by 6 p.m. will be ready for 7 a.m. pickup the next day.

14. Describe your firm's capabilities and functionality of your on-line catalog / ordering website (cont.):

2) Order related problems can be resolved by directly contacting one of our local District Commercial Account Specialists (DCASs), the local store, or by email TCPN@Lowes.com. Corporate points of contact as described in Question 5 will also serve as an additional layer of account management and serve as central points of contact to deliver on our commitment of excellent customer service to both TCPN and TCPN members.
3) Lowe's has the capability to offer EDI, online ordering, acceptance of P-cards and purchase orders, as well as shipment tracking.
4) Lowe's does not require customers to re-submit orders in backorder status. They will be kept in our "Due" files and once the order is received the member will be notified of delivery or pick-up by the nearest Lowe's store.
5) TCPN members can track shipment of online orders via their own account on www.LowesForPros.com.
6) The steps to place an order on-line are as follows:
   a) Place a quote request or order online using the Lowe's Quotation Center on www.LowesForPros.com
   b) A Lowe's Commercial Sales Specialist will pull your order for pickup or delivery
   c) Track and view detailed information on your previous orders & quotes

- Our Commercial Sales Specialists work with you to provide a quote quickly and confirm your order so the materials are ready when you need them. Our Commercial Sales Specialists are readily available a week to help TCPN members identify and order the materials they need to get the job done right, and right on time.
- All orders placed before 3 p.m. can be picked up in 2 hours. All orders placed by 6 p.m. will be ready for 7 a.m. pickup the next day
- A 'Call-Ahead Worksheet' can be accessed by using the following link: http://www.lowesforpros.com/EasyOrderFulfillment

15. Describe your company's Customer Service Department (hours of operation, number of service centers, etc.)

Lowe's will serve TCPN members via our vast store network. We are open seven days a week with extended business hours. At Lowe's, we understand that members may have needs outside of normal business hours, which is why we are open extended hours during the week and open on the weekend to meet your member's needs.

Typical store hours are as follows:

Sunday: 8am – 6pm
Monday – Thursday: 7am – 9pm
Friday & Saturday: 7am – 10pm

Local stores may vary. Please call ahead to avoid any inconvenience.

Customer Service Department: (800) 725-6714
Customer Care Line for the closest Lowe's Store: (800) 44-LOWES – (800-445-6937)
Dedicated Email Support: TCPN@Lowes.com
Dedicated TCPN Support 800# Staffed 7AM – 6PM EST Monday - Friday

Green Initiatives

Lowe's continues to build on a history of environmental leadership by helping consumers reduce their energy and water use while saving money through a growing number of product solutions.

- Lowe's has more natural/organic gardening items than any national retailer. We carry Hot Shot® Natural insect killers (uses lemongrass oil extracts, which is a natural insecticide). We carry Bayer Advanced™: Bayer Advanced Natria™ as another step in our continuing effort to help consumers by providing choices for their home or business, lawn and garden pest, weed and disease management needs.
- We offer a wide selection of environmentally responsible and energy-efficient products for the home, from ENERGY STAR appliances to low VOC paint.
- We reached a multi-year agreement to make insulation manufacturer Johns Manville an exclusive supplier to Lowe's. As a result, our customers gain increased access to the most advanced insulation technology for energy efficiency and improved indoor air quality from the only company to offer a full line of Formaldehyde-free™ fiber glass building insulation.
- Lowe's helps customers handle the challenge of rising energy costs by introducing innovative energy-saving products by launching the Lowe's Energy Center. Piloted in 21 California stores, with plans to expand to other locations across the U.S. in 2010, the Energy Center is retail's first comprehensive, easy-to-shop destination for products that help customers measure, reduce and generate energy. The Center makes simple and affordable solar technology more accessible. For the first time, homeowners can purchase grid-connected solar panels off the shelves of a major retailer.
- Providing customers products that make their lives better while saving them money and reducing their environmental footprint has resulted in industry-leading recognition for Lowe's.
- The U.S. Environmental Protection Agency awarded Lowe's the 2010 ENERGY STAR® Sustained Excellence Award in Retail. The award recognizes Lowe's long-standing leadership as a retailer of energy-efficient products.
- Lowe's was honored for outstanding achievements year after year in customer outreach, employee training and product selection, and for reducing greenhouse gas emissions through its industry-leading commitment to energy efficiency.
- Lowe's has won eight consecutive ENERGY STAR awards (2003-2010), including four ENERGY STAR Partner of the Year awards for educating consumers about the benefits of energy efficiency.
- In 2009, Lowe's sold enough ENERGY STAR products to save consumers more than $265 million off their energy bills compared with non-ENERGY STAR products
- Lowe's achievements in delivering energy-efficiency savings to customers also include: Increasing the quantity and variety of ENERGY STAR products available in stores, including raising the number of ENERGY STAR dishwashers in stock to 90 percent of all dishwashers. Lowe's carries retail's largest in-stock selection of ENERGY STAR-qualified major appliances. Promoting ENERGY STAR as a way to save energy and money to an estimated 15 million customers per week through in-store efforts that included increased employee training and enhanced signage.
- Lowe's is also the 2009 WaterSense® Partner of the Year, offering retail's largest in-stock selection of WaterSense products.

Green Initiatives (continued):

- The WaterSense award honored our efforts to increase awareness of the WaterSense label and to educate consumers about water-efficient practices. Explaining the benefits of water conservation in stores and online through the "Build Your Savings" program, Lowe's i s helping to protect the future of our water supply and helping families reduce utility bills at a time when every dollar counts.
- The number of WaterSense-labeled toilets and bathroom faucets Lowe's sold in 2009 can save enough water in a year to: fill more than 3,600 Olympic-sized swimming pools (or save more than 2.4 billion gallons of water annually) and save consumers $13 million each year on water bills.
- Most recently, the U.S. Environmental Protection Agency named Lowe`s Companies, Inc. the first winner of the ENERGY STAR Sustained Excellence Award in Retail. The award recognizes Lowe`s long-standing leadership as a retailer of energy-efficient products.

Vendor Certifications: Not applicable

TAB 4 – PRODUCT / SERVICES

TCPN is soliciting proposals from qualified respondents for MRO Equipment, Supplies and Related Items and Services for its member agencies. The Services shall include, but not be limited to:

1. Pricing will be per a Distributor / Reseller Catalog less discount basis.
2. A full line offering of MRO equipment, supplies and related items and services.
3. Items shall be either delivered to the customer's jobsite or available for pickup as locally available.
4. The successful bidder shall have a fully operational website that enables on-line ordering by the individual member agencies.
5. The successful bidder shall have Government Sales, sales staff representatives in the TCPN member agency states.
6. Hourly services schedules, as applicable shall be included in the proposal.

Product Categories - Included but not limited to:

1. Appliances
2. Building Materials
3. Electrical Supplies
4. Fasteners
5. General Maintenance Supplies
6. HVAC Supplies
7. Irrigation Equipment & Supplies
8. Janitorial Supplies
9. Landscaping Supplies
10. Motors, Pumps
11. Paint Supplies
12. Plumbing Supplies
13. Swimming Pool
14. Tools (general purpose & machine)
15. Window Treatments
16. Services (installation, glass cutting, rental, etc)

Products & Services Summary Matrix – Provide a matrix that will allow TCPN to readily appraise your company's products and service offering versus other respondents.

Value Add Services Description – Please include any value add services information you think TCPN should have when making their decision to select your company.

TAB 4 – PRODUCT / SERVICES

Lowe's Services for Commercial Customers

Get What You Need. When You Need It. At Lowe's we've learned a lot about commercial business customers since we began in 1946. You're no do-it-yourselfer. You're a professional. Working longer hours, on bigger jobs, so you need professional-grade brands you can trust. Our services are made to help save TCPN members time, money and make your agency run smoother. And get you out of the store and back on the job faster. Everything you need to make Lowe's Commercial Services work harder for you is right here.

Lowe's Business Credit

The Lowe's business credit program gives you the flexibility, convenience and financial power to get the job done. See Tab 3 for more details.

Easy Order / Fulfillment

Lowe's offers you three ways to get what you want, when you need it. We make contractor ordering easy, no matter what size job. See Tab 3 for more details.

Blueprint Estimates

Every successful project begins with a Blueprint Estimate from Lowe's. Bring in your blueprints to Lowe's today and get the industry's most comprehensive list of materials available. Your Commercial Sales Specialist has all the information you need to get started.

Supply Rack

Earn a Supply rack just by buying the things you already buy. See Tab 3 for more details.

Contractor Packs

Contractor Packs allow you and your company to gain a bulk discount on certain items.

Gift Cards

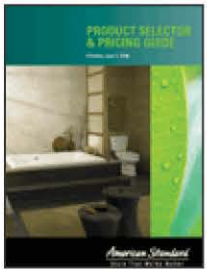
A Lowe's Gift Card is great for thanking employees for a job well done, for service awards and safety incentives, and for showing appreciation to customers. We offer competitive volume discounts and free shipping within 48 hours.

Delivery

Lowe's appreciates you as a valued customer. As a result, delivery is available to you seven days a week. And for Major Appliance purchases, you have the option to choose next-day delivery! (Fees may apply.)

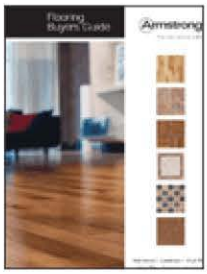
Sample of Commercial Products Offered by Lowe's:

AdvanTech® Flooring



American Standard Bath Solutions

American Standard Water Efficient Bath Solutions

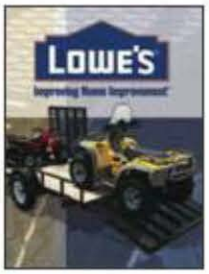


Armstrong

Benchmark Doors by Therma-Tru

Bosch

BR 111

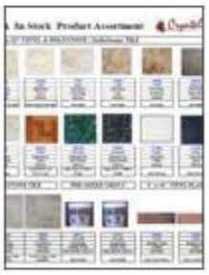


Carry-On Cargo and Equipment Trailers

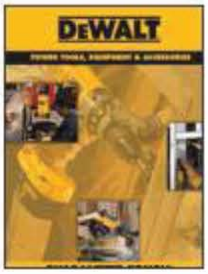
CarveWright Educational Program

CarveWright Woodworking System

Closet Maid



Cryntel



Dewalt

DEWALT: New Power Tools

Door Jamb

DREMEL MULTI-MAX

View Demo

Dremel Multi-Max demo

Sample of Commercial Products Offered by Lowe's:

FLOR

Fluidmaster

Gametime: Outdoor Play Equipment

Generators At Lowe's

GreenFiber Natural Insulation

Greenlee

Harvia Saunas

Henkel

Hitachi

Irwin

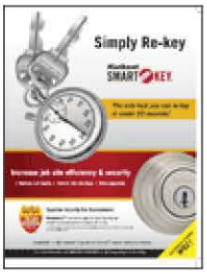
IRWIN MARATHON

Kobalt

Sample of Commercial Products Offered by Lowe's:

KOBALT SpeedFit Catalog

Korky



Kwikset

Leadco Lighting

Levolor

Levolor Blinds

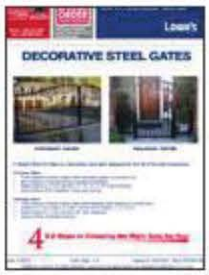
Liquid Nails

Lowes Laminate English

Sample of Commercial Products Offered by Lowe's:

Lowes Laminate Español

Mighty Mule Automatic Gate Openers



Mighty Mule DIY Driveway Gates

Oldcastle

Ondura

Ondura

Oreck

Oreck

Pella

Phillips II

PL Adhesives

PORTER CABLE

Sample of Commercial Products Offered by Lowe's:

RMax Insulation

Rotozip

Sakrete

Shop Vac - Air Mover

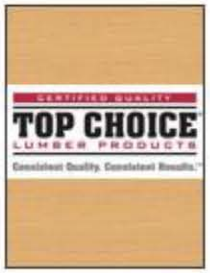
SHUR-LINE Painting Tools

SKIL Wormdrive Saws

Tappan

Tavy Tiling Tools

Therma-Tru Door Systems



Top Choice

Tuftex Panels

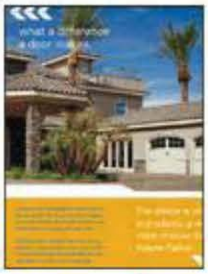
Ultra Play: Park & Site Amenities

Sample of Commercial Products Offered by Lowe's:

USG

Valspar

Valspar



Wayne-Dalton

Werner Ladders

Whirlpool

Delivery Schedule

1. Lowe's offers delivery 7 days a week from our Retail locations.
2. Monday - Sunday. TCPN members must give a minimum of 24 hrs notice of all deliveries.

Manage the award discount schedule

1. The Store will submit each order to our Quote Support Program (QSP) to pull the % discount for each product.
2. The DCASs in each market will be on point for coordination of the sales efforts.
3. Training will be coordinated by the Lowe's corporate office utilizing our advanced customer relationship management system to communicate the TCPN program to the stores.
4. Upon request, each DCAS will coordinate getting new members set up on a Lowe's LAR account when Lowe's is given notice of new members.

Online Ordering

1) Lowe's online ordering is accessible to TCPN members via www.LowesForPros.com.

   Steps to ordering from Lowe's Online are as follows:

   a) Place a quote request or order online at the Lowe's Quotation Center

   b) A Lowe's Commercial Sales Specialist will deliver a quote & pull your order for pickup or delivery

   c) Track and view detailed information on your previous orders & quotes

Our Commercial Sales Specialists work with you to provide a quote quickly and confirm your order so that the materials are ready when you need them. Our Commercial Sales Specialists are available 7 days a week to help you identify and order the materials you need to get the job done right, and right on time.

All orders placed before 3 p.m. can be picked up in 2 hours. All orders placed by 6 p.m. will be ready for 7 a.m. pickup the next day

- Our Commercial Sales Specialists work with you to provide a quote quickly and confirm your order so that the materials are ready when you need them. Our Commercial Sales Specialists are available 7 days a week to help you identify and order the materials you need to get the job done right, and right on time.
- All orders placed before 3 p.m. can be picked up in 2 hours. All orders placed by 6 p.m. will be ready for 7 a.m. pickup the next day
- A 'Call-Ahead Worksheet' can be accessed by using the following link: http://www.lowesforpros.com/EasyOrderFulfillment

TCPN members should report to the 'Commercial Sales Desk', clearly marked by a red banner sign, in each store. A minimum of 24 hours notice is required to ensure all contract compliance requirements are met for each TCPN order.

a) Lowe's will not assign a special account number to TCPN members. TCPN members will be responsible for identifying themselves as members to Lowe's store personnel in order to receive TCPN pricing.
b) Currently there are no limitations that will prevent Lowe's from offering the pricing that we've outlined in this bid response.
c) TCPN member purchase orders can be accepted and will be processed through Lowe's Corporate Headquarters in North Carolina.

Manage Contract Pricing at multiple locations

When orders are placed with 24 hrs notice, stores will submit item s through QSP to pull the % discount for the product s on the order. QSP will send the store pricing according to the Contract Price

Business Account

1) In lieu of a Government agency submitting an LAR application, Lowe's will accept "company letterhead" requests for credit.
2) When an agency submits, the request must come on the requestors "company letterhead" with a signature and the following text must be included:
   - "We are requesting an LAR account."
   - "We understand the terms of repayment are net 20th prox."
   - "We agree to the terms and conditions that govern the LAR account program."

It is Lowe's responsibility to furnish a copy of the credit Terms & Conditions in advance of an account being established. See Attachment #3 in Tab 8 for Terms & Conditions of the LAR business account.

Credit Hold

1) Lowe's Credit Center will communicate directly with TCPN Members should it be necessary for the account to be placed on credit hold.

TAB 5 – REFERENCES

Provide a minimum of ten (10) customer references for product and/or services of similar scope dating within the past 3 years. Please try to provide an equal number of references for K12, Higher Education and City/County entities. Provide the following information for each reference:

- Entity Name
- Contact Name and Title
- City and State
- Phone Number
- Years Serviced
- Description of Services
- Annual Volume

TAB 5 – REFERENCES

Entity Name	Iredell Statesville Schools
Contact Name and Title	Kenny Miller, Exec. Dir. Facilities & Planning
City and State	Statesville, North Carolina
Phone Number	704-873-3755
Years Serviced	Almost 2
Description of Services	Provide MRO, specialty items, playground equipment, etc.
Annual Volume	Proprietary

Entity Name	York Housing Authority
Contact Name and Title	Kyle Hall, Maintenance Supervisor
City and State	York, South Carolina
Phone Number	803-684-7359 ext. 25
Years Serviced	1 year
Description of Services	Construction materials and MRO
Annual Volume	Proprietary

Entity Name	UNCC
Contact Name and Title	Wanda Kay, Purchasing Agent
City and State	Charlotte, North Carolina
Phone Number	704-687-7324
Years Serviced	1 year
Description of Services	Provide MRO, specialty items, playground equipment, etc.
Annual Volume	Proprietary

Entity Name	York School District One
Contact Name and Title	Stan Quinn, Director of Operations
City and State	York, South Carolina
Phone Number	803-684-1924 ext. 251
Years Serviced	1 year
Description of Services	Every maintenance items, specialty items and bulk orders
Annual Volume	Proprietary

Entity Name	Waxahachie Independent School District
Contact Name and Title	Mike J. Craig, Building Trades
City and State	Waxahachie, Texas
Phone Number	972-923-4600
Years Serviced	5 years
Description of Services	Provide MRO, specialty items, playground equipment, etc.
Annual Volume	Proprietary

TAB 5 – REFERENCES

Entity Name	Dallas Housing Authority
Contact Name and Title	Martin Hendren, Purchasing Agent
City and State	Dallas, Texas
Phone Number	214-951-8450
Years Serviced	10 years
Description of Services	Every maintenance items, specialty items and bulk orders
Annual Volume	Proprietary

Entity Name	Rutgers University
Contact Name and Title	Stephanie Culpepper, Senior Buyer
City and State	New Brunswick, New Jersey
Phone Number	732-445-4636
Years Serviced	1 year
Description of Services	Every maintenance items, specialty items and bulk orders
Annual Volume	Proprietary

Entity Name	Housing Authority of Maricopa County
Contact Name and Title	Ben Chao, NSP Program Director
City and State	Phoenix, Arizona
Phone Number	602-300-5310
Years Serviced	1 year
Description of Services	Every maintenance items, specialty items and bulk orders
Annual Volume	Proprietary

Entity Name	Tempe Union High School District
Contact Name and Title	Bob Anderson, Director
City and State	Tempe, Arizona
Phone Number	480-839-0292
Years Serviced	1 year
Description of Services	Maintenance of their school campuses
Annual Volume	Proprietary

Entity Name	Prescott Unified School District No. 1
Contact Name and Title	Jay Collier, Director of Facilities
City and State	Prescott, Arizona
Phone Number	928-445-2515
Years Serviced	2 years
Description of Services	Maintenance of their school campuses
Annual Volume	Proprietary

TAB 6 – PRICING

Paper and/or Electronic Price Lists

- Respondents must submit products, services, warranties, etc. in price list.
- Prices listed will be used to establish the extent of a manufacturer's product lines, services, warranties, etc. that are available from a particular bidder and the pricing per item.
- Paper and electronic price lists must contain the following:
  - Manufacturer part #
  - Vendor part # (if different from manufacturer part #)
  - Description
  - Manufacturers Suggested List Price and Net Price
  - Net price to TCPN (including freight)
- Media submitted for price list must include the respondents' company name, name of the solicitation, and date on CD, DVD or Flash Drive (i.e. Pin or Jump Drives).

Not to Exceed Pricing

- TCPN requests pricing be submitted as not to exceed for any participating entity.
- Unlike fixed pricing the awarded vendor can adjust submitted pricing lower if needed but, cannot exceed original pricing submitted for solicitation.
- Vendor must allow for lower pricing to be available for similar product and service purchases.

Lowe's Home Centers – TCPN pricing files are available upon request. Please email requests in writing to tcpn@tcpn.org.

TAB 7 – MISCELLANEOUS

Please include any additional products and/or services not included in the scope of the solicitation you think will enhance and add value to this contract for TCPN participating agencies.

Addendum A

Lowe's Home Centers, Inc.

The Cooperative Purchasing Network

Request for Proposal (RFP) for MRO Equipment, Supplies and Related Items & Services

Solicitation Number: 09-25

CHANGES TO VENDOR CONTRACT:

10. Reporting

The awarded vendor shall electronically provide TCPN with a detailed monthly or quarterly report showing the dollar volume of all sales made through trackable tender (e.g. a Purchasing Card . a Lowe's Accounts Receivable ("LAR") Account, purchase order or some other means that identifies the sale as made by a TCPN member) under the contract for the previous month or quarter. Purchases made through non-trackable tender cannot be included in the report. Reports shall be sent via e-mail to TCPN offices at reporting@tcpn.org. Reports are due on the fifteenth (15th) day after the close of the previous month or quarter. It is the responsibility of the awarded vendor to collect and compile all sales under the contract from participating members and submit one (1) report. Contracts are reviewed monthly; failure to report as stipulated may result in suspension of contract. The report shall include at least the following information as listed in the example below:

Vendor Name
TCPN Report
Month or Quarter

Entity Name	Zip Code	State	PO or Job#	Sale Amount

Total _____

11. Payments

The entity using the contract will make payments directly to the awarded vendor. Payments shall be made using a Purchasing Card, a purchase order, a LAR account, or some other trackable tender.

13. Warranty conditions

All supplies and ~~,~~ equipment ~~and services~~ shall include manufacturer's minimum standard warranty. ~~and one (1) year labor warranty unless agreed to in writing.~~

KHW

10. Reporting

The awarded vendor shall electronically provide TCPN with a detailed monthly or quarterly report showing the dollar volume of all sales made through trackable tender (e.g. a Purchasing Card . a Lowe's Accounts Receivable ("LAR") Account, purchase order or some other means that identifies the sale as made by a TCPN member) under the contract for the previous month or quarter. Purchases made through non-trackable tender cannot be included in the report. Reports shall be sent via e-mail to TCPN offices at reporting@tcpn.org. Reports are due on the fifteenth (15th) day after the close of the previous month or quarter. It is the responsibility of the awarded vendor to collect and compile all sales under the contract from participating members and submit one (1) report. Contracts are reviewed monthly; failure to report as stipulated may result in suspension of contract. The report shall include at least the following information as listed in the example below:

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11. Payments

The entity using the contract will make payments directly to the awarded vendor. Payments shall be made using a Purchasing Card, a purchase order, a LAR account, or some other trackable tender.

13. Warranty conditions

All supplies and equipment shall include manufacturer's minimum standard warranty.

KAW

Addendum A

Lowe's Home Centers, LLC

City of Austin
Contract # GC140000005

Further Information – Insurance

Lowe's Home Centers, LLC ("Lowe's") (a subsidiary of Lowe's Companies, Inc. "Lowe's Co.", a publicly traded company), will maintain during the term of the project and for a two year period following completion of services, the following insurance:

Commercial general liability insurance, under a blanket program providing coverage for multiple projects and locations, with minimum limits of $1,000,000 per occurrence; $2,000,000 general aggregate and $2,000,000 products-completed operations aggregate which shall include coverage for bodily injury, death, property damage, personal and advertising injury and contractual liability; commercial automobile liability insurance providing coverage for owned, hired and non-owned autos in the minimum combined single limit of $1,000,000; and excess liability insurance in the minimum amount of $5,000,000. Such insurance will respond on a primary basis for claims arising out of Lowe's performance under the terms of the agreement. Lowe's will also maintain workers' compensation insurance as required by applicable statute and employer's liability insurance in the minimum amount of $500,000 per employee for disease, $500,000 bodily injury per accident and $500,000 policy limit for disease.

All policies shall be written on an occurrence basis by insurers rated A/X or higher by A.M. Best and authorized to do business in the state where the services are performed. Lowe's will satisfy the commercial general liability insurance requirement through a program of self-insurance covering Lowe's Companies, Inc. and its US subsidiaries, including Lowe's Home Centers, LLC.

An evidence of coverage certificate of insurance providing information on Lowe's insurance program is attached. Lowe's shall provide the City of Austin with a renewal certificate, upon the City of Austin's request, should this certificate expire during the awarded contract term. Lowe's will use commercially reasonable efforts to provide the City of Austin with thirty (30) days' prior written notice of cancellation of the insurance described herein; such notice will not be provided by the insurance company.

If requested by the City of Austin, upon executing a contract with Lowe's, Lowe's shall include the City of Austin as an additional insured, by blanket endorsement, under the commercial general liability and automobile liability insurance, and shall provide the City of Austin with a certificate of insurance naming the City of Austin as an additional insured. All certificates bear an electronic signature. Lowe's will provide a certificate of insurance only; Lowe's will not provide copies of its insurance policies.

A Memorandum of Insurance that provides information about Lowe's insurance program can be found online at:
https://online.marsh.com/marshconnectpublic/marsh2/public/moi?client=114850155

By awarding a project to Lowe's Home Centers, LLC, the City of Austin accepts Lowe's insurance program contained herein and agrees this program satisfies the City of Austin's insurance requirements set forth under its Requirements for Certificates of Insurance for Contractors.

MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)
PROCUREMENT PROGRAM
NO GOALS UTILIZATION PLAN
(Please duplicate as needed)

SOLICITATION NUMBER:	TCPN Contract R4954
PROJECT NAME:	

PRIME CONTRACTOR/CONSULTANT COMPANY INFORMATION

Name of Contractor/Consultant	Lowe's Home Centers, LLC		
Address	1605 Curtis Bridge Road		
City, State Zip	Wilkesboro, NC 28697		
Phone		Fax Number	
Name of Contact Person			
Is company City certified?	Yes ☐ No ☒ MBE ☐ WBE ☐ MBE/WBE Joint Venture ☐		

I certify that the information included in this No Goals Utilization Plan is true and complete to the best of my knowledge and belief. I further understand and agree that the information in this document shall become part of my Contract with the City of Austin.

Michael J Horn VP ProServices
Name and Title of Authorized Representative (Print or Type)

Signature March 3, 2014 **Date**

Provide a list of all proposed subcontractors/subconsultants/suppliers that will be used in the performance of this Contract. **Attach Good Faith Efforts documentation if non MBE/WBE firms will be used.**

Sub-Contractor/Consultant	
City of Austin Certified	MBE ☐ WBE ☐ Ethnic/Gender Code: ☐NON-CERTIFIED
Vendor ID Code	
Contact Person	Phone Number:
Amount of Subcontract	$
List commodity codes & description of services	

Sub-Contractor/Consultant	
City of Austin Certified	MBE ☐ WBE ☐ Ethnic/Gender Code: ☐NON-CERTIFIED
Vendor ID Code	
Contact Person	Phone Number:
Amount of Subcontract	$
List commodity codes & description of services	

FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:

Having reviewed this plan, I acknowledge that the proposer (HAS) or (HAS NOT) complied with City Code Chapter 2-9A/B/C/D, as amended.

Reviewing Counselor _____ **Date** _____ **Director/Deputy Director** _____ **Date** _____

Approved per legal form - KF

MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)
PROCUREMENT PROGRAM
NO GOALS FORM

SOLICITATION NUMBER: TCPN Contract R4954

PROJECT NAME:

The City of Austin has determined that no goals are appropriate for this project. Even though no goals have been established for this solicitation, the Bidder/Proposer is required to comply with the City's MBE/WBE Procurement Program, if areas of subcontracting are identified.

If any service is needed to perform the Contract and the Bidder/Proposer does not perform the service with its own workforce or if supplies or materials are required and the Bidder/Proposer does not have the supplies or materials in its inventory, the Bidder/Proposer shall contact the Small and Minority Business Resources Department (SMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Bidder/Proposer must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

Will subcontractors or sub-consultants or suppliers be used to perform portions of this Contract?

No _X_ **If no, please sign the No Goals Form and submit it with your Bid/Proposal in a sealed envelope.**

Yes_____ **If yes, please contact SMBR to obtain further instructions and an availability list and perform Good Faith Efforts. Complete and submit the No Goals Form and the No Goals Utilization Plan with your Bid/Proposal in a sealed envelope.**

After Contract award, if your firm subcontracts any portion of the Contract, it is a requirement to complete Good Faith Efforts and the No Goals Utilization Plan, listing any subcontractor, subconsultant, or supplier. Return the completed Plan to the Project Manager or the Contract Manager.

I understand that even though no goals have been established, I must comply with the City's MBE/WBE Procurement Program if subcontracting areas are identified. I agree that this No Goals Form and No Goals Utilization Plan shall become a part of my Contract with the City of Austin.

Lowe's Home Centers, LLC
Company Name

Michael J Horn VP ProServices
Name and Title of Authorized Representative (Print or Type)

Signature March 3, 2014 **Date**

Approved per legal form - KF

MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)
PROCUREMENT PROGRAM
NO GOALS FORM

SOLICITATION NUMBER:

PROJECT NAME:

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_____
Company Name

_____
Name and Title of Authorized Representative (Print or Type)

_____ _____
Signature **Date**

MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)
PROCUREMENT PROGRAM
NO GOALS UTILIZATION PLAN
(Please duplicate as needed)

SOLICITATION NUMBER:

PROJECT NAME:

PRIME CONTRACTOR/CONSULTANT COMPANY INFORMATION

Name of Contractor/Consultant			
Address			
City, State Zip			
Phone		Fax Number	
Name of Contact Person			
Is company City certified?	Yes ☐ No ☐ MBE ☐ WBE ☐ MBE/WBE Joint Venture ☐		

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Signature **Date**

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Vendor ID Code			
Contact Person		Phone Number:	
Amount of Subcontract	$		
List commodity codes & description of services			

Sub-Contractor/Consultant			
City of Austin Certified	MBE ☐ WBE ☐	Ethnic/Gender Code:	☐NON-CERTIFIED
Vendor ID Code			
Contact Person		Phone Number:	
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Reviewing Counselor _____**Date** _____ **Director/Deputy Director**_____**Date**_____