

ACWP-GOVALLE 4-CHICON STREET
WASTEWATER IMPROVEMENTS PROJECT
PURCHASING AFFIDAVIT

STATE OF TEXAS }
 }
COUNTY OF TRAVIS }

BEFORE ME, the undersigned authority, personally appeared Sondra Creighton, who being by me first duly sworn, upon oath depose and stated: "My name is Sondra Creighton. I am the Director of the City of Austin's Public Works Department. I am over eighteen (18) years of age and I have personal knowledge of the facts set forth below and am competent and authorized to make this affidavit.

The City of Austin's Department of Public Works manages the construction of the ACWP-Govalle 4-Chicon Street Wastewater Improvements Project, which is a portion of the City's Clean Water Program ("ACWP"). The City created the ACWP to address an EPA Order directing the City to make improvements to its wastewater system in a timely manner. The City, through the ACWP, is currently providing essential wastewater infrastructure improvements to the citizens of the City of Austin. In doing so, the City is responsible for the health, safety and security of literally hundreds of thousands of citizens of the City.

In 2007, during the course of construction of the ACWP-Govalle 4-Chicon Street Wastewater Improvements Project, the contractor encountered unforeseen conditions in the form of concrete construction and sloughing soils in the roadway bed, which required disposal in accordance with environmental regulations and additional trench safety procedures. Rather than re-bid the Project to provide for the disposal of the unanticipated concrete debris and the implementation of the additional trench safety procedures, which would have left the Project unfinished, the ACWP directed the contractor to complete the work. The contractor incurred additional expenses and additional time on the Project due to the unanticipated conditions, which could not be paid or compensated in accordance with the statutorily imposed 25% ceiling on change orders. As a result, there is an amount owing to the contractor of \$24,382.80, which cannot be approved as a change order.

The City directed the contractor to timely complete the Project in order to preserve or protect the public health and safety of the City's residents and the traveling public. Until the Project was completed, the City would have been faced with a continuing probability of wastewater system failures and safety related concerns. The ability of the ACWP to implement the Clean Water Program includes the ability to safely and efficiently excavate, construct and close its Projects, which involve open street cut excavations. The situation described above required immediate action to complete the scope of work on the Project on a reasonable schedule and to relieve the health and safety necessity of the municipality.

The Department of Public Works is satisfied that the quality of the completed work will adequately provide for the health and safety of the traveling public.

As the affiant, I am familiar with state and local laws relating to competition and bidding requirements and realize that the willful violations of these laws can invoke criminal sanctions. I understand further that the Charter of the City of Austin does not exempt emergency or health and safety purchases from the requirement of competition. However, I believe that the time required to repackage bid documents, advertise for replacement contractors, award a contract, and execute new contracts, would place the municipality's residents or property in further danger and that my fiduciary responsibilities to the City of Austin required that the purchase of (item/service) be made as soon as reasonably possible, if not immediately. This procurement is necessary to protect or preserve the public health or safety of the municipality. "Further Affiant sayeth not."

A handwritten signature in cursive script, reading "Joe B. Ramos Jr.", written in black ink.

Joe Ramos, P.E., Assistant Director
City of Austin Public Works Department

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BEFORE ME, the undersigned notary public, personally appeared Sondra Creighton, known to me personally or on the basis to legally sufficient identification to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed, in the capacity therein stated, and that each and every statement therein is within his knowledge and is true and correct.

Given under my hand and seal of office on the 16 day of July, 2007.



Melina Torres
NOTARY PUBLIC, STATE OF TEXAS

Melissa Torres
Printed Name of Notary

My Commission Expires: July 29, 2007