

## A G E N D A



Thursday, August 21, 2008

**Purchasing Office  
RECOMMENDATION FOR COUNCIL ACTION****Item No. 28**

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**Subject:** Approve ratification of an emergency contract with ERGON ASPHALT & EMULSIONS INC., Austin, TX for the supply of HFRS-2P asphalt emulsion for the Public Works Department for a total contract amount not to exceed \$876,000.

**Amount and Source of Funding:** Funding is available in the Fiscal Year 2007-2008 Operating Budget of the Public Works Department.

**Fiscal Note:** There is no unanticipated fiscal impact. A fiscal note is not required.

**For More Information:** Roy Rivers, Buyer II, 974-6434

**Purchasing Language:** Emergency Purchase.

**MBE/WBE:** This contract was awarded in compliance with Chapter 2-9D of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program). This was an emergency contract; therefore, it is exempted under Chapter 252.022 of the Texas Local Government Code and no goals were established for this solicitation.

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SemMaterials has been under contract with the City to supply HFRS-2P emulsified asphalt. SemMaterials filed Chapter 11 bankruptcy and has been unable to supply the necessary quantities of contractual asphalt.

The City of Austin Street and Bridge Division needs approximately 200,000 gallons of HFRS-2P emulsion to finish the seal coat season which usually ends in early October. Vendors, statewide, were contacted to see if they can produce and sell HFRS-2P to the City of Austin. Ergon Asphalt is the only known vendor that produces this material within the state of Texas and has facilities near Austin that can provide and deliver the material.

Without this material, the Street and Bridge Division of the Public Works Department will not be able to complete the needed seal coat projects within the acceptable warm weather months.

A purchase order was issued to Ergon Asphalt & Emulsions Inc. on August 4, 2008, so seal coat work could continue and also be completed during the normal seal coat season, which ends in October. Due to the emergency nature of this purchase to continue seal coat operations and complete necessary projects during the warm weather, as well as the time involved to obtain quantities of this material, competitive bids were not obtained under the provisions of Local Government Code.

An emergency condition exists in that the failure by the City of Austin to conduct seal coat operations will lead to further deterioration of the streets and roadways. Streets and roadways that do not get the seal coat timely applied will cause an increase in expenditures for repairs and could cause traffic problems and issues.

Emergency purchases are exempt from competitive bidding as per Section 252.022 of the Texas Local Government Code.