



Amendment No. 4  
to  
Contract No. 6200 NA130000128  
for  
Sidewalk Repair Services  
between  
Austin/San Antonio Concrete Raising LLC dba Concrete Raising of Austin  
and the  
City of Austin

1.0 The City hereby exercises the option to increase the total Not-to Exceed Contract Amount by \$61,000.00. This increase will be combined between multiple contractors for the duration of the contract.

2.0 The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 07/01/2013 – 06/30/2016	\$800,000.00	\$800,000.00
Amendment No. 1: Option 1 - Extension 07/01/2016 – 06/30/2017	\$300,000.00	\$1,100,000.00
Amendment No. 2: Option 2 – Extension 07/01/2017 – 06/30/2018	\$300,000.00	\$1,400,000.00
Amendment No. 3: Option 3 – Extension 07/01/2018 – 06/30/2019	\$300,000.00	\$1,700,000.00
Amendment No. 4: Administrative Increase	\$61,000.00	\$1,761,000.00

3.0 MBE/WBE goals do not apply to 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 SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: [Signature] 2/25/2019  
Printed Name: NEALE VANSTREEPEN  
Authorized Representative

Concrete Raising of Austin  
1720 Howard Lane  
Austin, TX 78708

Sign/Date: [Signature] 2/26/19  
Printed Name: Bartley Tyler  
Authorized Representative

Sign/Date: [Signature] 2-26-19

Approved By:

Printed Name: Erin Divincent

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



Amendment No. 4  
to  
Contract No. 8200 NA130000128  
for  
Sidewalk Repair Services  
between  
American Grinding Company, LLC  
and the  
City of Austin

1.0 The City hereby exercises the option to increase the total Not-to Exceed Contract Amount by \$61,000.00. This increase will be combined between multiple contractors for the duration of the contract.

2.0 The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 07/01/2013 – 06/30/2016	\$800,000.00	\$800,000.00
Amendment No. 1: Option 1 - Extension 07/01/2016 – 06/30/2017	\$300,000.00	\$1,100,000.00
Amendment No. 2: Option 2 – Extension 07/01/2017 – 06/30/2018	\$300,000.00	\$1,400,000.00
Amendment No. 3: Option 3 – Extension 07/01/2018 – 06/30/2019	\$300,000.00	\$1,700,000.00
Amendment No. 4: Administrative Increase	\$61,000.00	\$1,761,000.00

3.0 MBE/WBE goals do not apply to 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 SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: [Signature] 2/26/19

Printed Name: Joel Van Veen  
Authorized Representative

American Grinding Company, LLC  
1220 Baycrest  
Wesley Chapel, FL 33544

Sign/Date: [Signature] 2/26/19

Printed Name: Bartley Tyler  
Authorized Representative

Sign/Date: [Signature] 2-26-19

Approved By:

Printed Name: Erin Divincent

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





Amendment No. 3  
of  
Contract No. NA130000128  
for  
Sidewalk Repair Services  
between  
American Grinding Company, LLC  
and the  
City of Austin

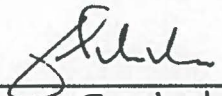
- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective July 1, 2018, to June 30, 2019. Zero options remain.
- 2.0 The total contract amount is increased by \$300,000.00 Combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 7/01/13 – 06/30/16	\$800,000.00	\$800,000.00
Amendment No. 1: Option 1 07/01/16 – 06/30/17	\$300,000.00	\$1,100,000.00
Amendment No. 2: Option 2 07/01/17 – 06/30/18	\$300,000.00	\$1,400,000.00
Amendment No. 3: Option 3 07/01/18 – 06/30/19	\$300,000.00	\$1,700,000.00

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

Signature and Date:

 6/13/18

Printed Name:  
Authorized Representative

Joel Van Veen - President

Signature and Date:

 6/21/18

Danielle Lord, Procurement Manager  
City of Austin  
Purchasing Office

American Grinding Company, LLC  
1220 Baycrest  
Wesley Chapel, FL 33544



Amendment No. 2  
of  
Contract No. NA130000128  
for  
Sidewalk Repair Services  
between  
Austin/San Antonio Concrete Raising LLC dba Concrete Raising of Austin  
and the  
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective July 1, 2017, to June 30, 2018 One option remain.
- 2.0 The total contract amount is increased by \$300,000.00 **Combined between multiple contractors** for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 7/01/13 – 06/30/16	\$800,000.00	\$800,000.00
Amendment No. 1: Option 1 07/01/16 – 06/30/17	\$300,000.00	\$1,100,000.00
Amendment No. 2: Option 2 07/01/17 – 06/30/18	\$300,000.00	\$1,400,000.00

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

Signature and Date:

Printed Name:  
Authorized Representative

NEALE VAN STREEPEN

Concrete Raising of Austin  
1720 Howard Lane t  
Austin, TX 78708

Signature and Date:

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

6-18-17





Amendment No. 2  
of  
Contract No. NA130000128  
for  
Sidewalk Repair Services  
between  
American Grinding Company, LLC  
and the  
City of Austin

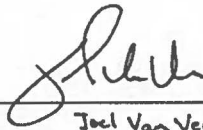
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- 2.0 The total contract amount is increased by \$300,000.00 Combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 7/01/13 – 06/30/16	\$800,000.00	\$800,000.00
Amendment No. 1: Option 1 07/01/16 – 06/30/17	\$300,000.00	\$1,100,000.00
Amendment No. 2: Option 2 07/01/17 – 06/30/18	\$300,000.00	\$1,400,000.00

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

Signature and Date:

 5/26/17

Printed Name:

Authorized Representative

Joel Van Veen, President

Signature and Date:

 6-19-17

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

American Grinding Company, LLC  
1220 Baycrest  
Wesley Chapel, FL 33544



Amendment No. 1  
of  
Contract No. NA130000128  
for  
Sidewalk Repair Services  
between  
American Grinding Company, LLC  
and the  
City of Austin


- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective July 1, 2016, the term for the extension option will be July 1, 2016 to June 30, 2017 and there are two remaining options.
- 2.0 The total contract amount is increased by \$300,000.00 Combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 7/01/13 – 06/30/16	\$800,000.00	\$800,000.00
Amendment No. 1: Option 1 07/01/16 – 06/30/17	\$300,000.00	\$1,100,000.00

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

Signature and Date:

 6/20/16

Printed Name: Joel Van Veen  
Authorized Representative

Signature and Date:

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

6-23-16

American Grinding Company, LLC  
1220 Baycrest  
Wesley Chapel, FL 33544



Amendment No. 1  
of  
Contract No. NA130000128  
for  
Sidewalk Repair Services  
between  
Austin/San Antonio Concrete Raising LLC dba Concrete Raising of Austin  
and the  
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective July 1, 2016, the term for the extension option will be July 1, 2016 to June 30, 2017 and there are two remaining options.
- 2.0 The total contract amount is increased by \$300,000.00 Combined between multiple contractors for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 7/01/13 – 06/30/16	\$800,000.00	\$800,000.00
Amendment No. 1: Option 1 07/01/16 – 06/30/17	\$300,000.00	\$1,100,000.00

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

Signature and Date:

Printed Name:  
Authorized Representative

NOAL VAN STREEPEN  
Concrete Raising of Austin  
1720 Howard Lane t  
Austin, TX 78708

Signature and Date:

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

6-23-16





**Financial and Administrative Service Department**  
**Purchasing Office**  
P.O. Box 1088, Austin, Texas, 78767

July 1, 2013

American Grinding Company, LLC  
Joel Van Veen  
2721 Capilano Drive SE  
Grand Rapids, MI 49546

Dear Joel:

The City of Austin has approved the award and execution of a contract with your company for Sidewalk Repair Services in accordance with solicitation IFB EAD0222.

Responsible Department:	Public Works – Street & Bridge Operations
Department Contact Person:	Brenda Jimenez / Lisa Escobedo
Department Contact Email:	<a href="mailto:brenda.jimenez@austintexas.gov">brenda.jimenez@austintexas.gov</a> / <a href="mailto:lisa.escobedo@austintexas.gov">lisa.escobedo@austintexas.gov</a>
Department Contact Telephone:	(512) 974-7955 / (512) 974-8758
Project Name:	Sidewalk Repair Services
Contractor Name:	Austin/San Antonio Concrete Raising, LLC & American Grinding Company, LLC
Contract Number:	NA130000128
Contract Period:	7/1/13 – 6/30/16
Contract Period Amount	\$800,000 combined between both vendors
Extension Options:	Three, 12-month options
Requisition Number:	6200 13041600335
Solicitation Number:	IFB EAD0222
Agenda Item Number:	54
Council Approval Date:	6/27/13

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 above.

Sincerely,

Erin D'Vincent  
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
American Grinding Company, LLC ("Contractor")  
for  
Sidewalk Repair Services  
MA 6200 NA130000128**

The City accepts the Contractor's Offer (as referenced in Section 1.1.3 below) for the above requirement and enters into the following Contract.

This Contract is between American Grinding Company, LLC having offices at Grand Rapids, MI 49546 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").

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number EAD0222.

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

- 1.1.1 This Contract
- 1.1.2 The City's Solicitation, Invitation for Bid (IFB), EAD0222 including all documents incorporated by reference
- 1.1.3 American Grinding Company, LLC's Offer, dated 5/20/13, including subsequent clarifications

**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 This Contract
- 1.2.2 The City's Solicitation as referenced in Section 1.1.2, including all documents incorporated by reference
- 1.2.3 The Contractor's Offer as referenced in Section 1.1.3, including subsequent clarifications.

**1.3 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. See the Term of Contract provision in Section 0400 for additional Contract requirements.

**1.4 Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of \$800,000 for the initial Contract term between American Grinding LLC and Austin/San Antonio Concrete Raising, LLC and \$300,000 for each extension option between American Grinding LLC and Austin/San Antonio Concrete Raising, LLC as indicated in the Bid Sheet, IFB Section 0600. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.

- 1.5 **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

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.

**CITY OF AUSTIN**

Erin D'Vincent

Printed Name of Authorized Person



Signature

Buyer II

Title:

7/1/13

Date:

**CITY OF AUSTIN**

Stephen T. Aden

Printed Name of Authorized Person



Signature

Corporate Purchasing Manager

Title:

7/1/13

Date:



**City of Austin**  
**May 20, 2013**

**Solicitation Details**

Description: Sidewalk Maintenance and Trip Hazard Removal  
Solicitation No: EAD0222  
Bid Opening Date: May 22, 2013

**Bidder**

American Grinding Company, LLC  
Joel Van Veen – President  
2721 Capilano Drive SE  
Grand Rapids, MI 49546

**Florida Operations**

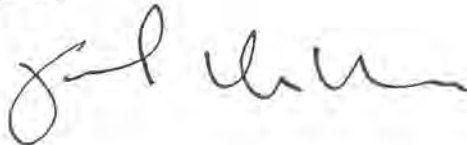
American Grinding Company, LLC  
1220 Baycrest Drive  
Wesley Chapel, FL 33544

**Experience**

Operations commenced in Australia in 2001 under the name Australian Grinding Company and since then we have provided our services to over 160 cities. We have operated in the States of Florida and Michigan under the name the American Grinding Company since July 2012 providing our services to municipalities in the United States. We sincerely appreciate the opportunity to bid on work for the City of Austin and in our third state, the State of Texas.

Thank you for your consideration.

Regards,

A handwritten signature in black ink, appearing to read 'Joel Van Veen', with a stylized, cursive script.

Joel Van Veen | President | American Grinding Company | 616-308-7136

# CITY OF AUSTIN, TEXAS

## Purchasing Office INVITATION FOR BID (IFB) Offer Sheet

**SOLICITATION NO:** EAD0222

**COMMODITY/SERVICE DESCRIPTION:** Sidewalk Maintenance and Trip Hazard Removal

**DATE ISSUED:** April 29, 2013

**REQUISITION NO.:** 13041600335

**BID DUE PRIOR TO:** May 22, 2013, 2:00 PM, local time

**COMMODITY CODE:** 9139671

**FOR CONTRACTUAL AND TECHNICAL  
ISSUES CONTACT:**

**BID OPENING TIME AND DATE:** May 22, 2013, 2:15 PM, local time

**COMPLIANCE PLAN DUE PRIOR TO:** N/A

Erin D'Vincent

Buyer II

Phone: (512) 972-4017

**LIVE BID OPENING ONLINE:**

For information on how to attend the Bid Opening online, please select this link:

[https://www.ci.austin.tx.us/financeonline/vendor\\_connection/index.cfm#BIDOPENINGWEBINAR](https://www.ci.austin.tx.us/financeonline/vendor_connection/index.cfm#BIDOPENINGWEBINAR)

**LOCATION:** MUNICIPAL BUILDING, 124 W 8<sup>th</sup> STREET RM 310,  
AUSTIN, TEXAS 78701

When submitting a sealed Offer and/or Compliance Plan, use the proper address for the type of service desired, as shown below.

P.O. Address for US Mail	Street Address for Hand Delivery or Courier Service
City of Austin	City of Austin, Purchasing Office
Purchasing Office	Municipal Building
P.O. Box 1088	124 W 8 <sup>th</sup> Street, Rm 310
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

Offers (including Compliance Plans) that are not submitted in a sealed envelope or container will not be considered.

**SUBMIT 1 ORIGINAL AND 1 SIGNED COPY OF OFFER**

OFFER SUBMITTED BY

By the signature below, I certify that I have submitted a binding offer.

  
Signature of Person Authorized to Sign Offer

Joel Van Veen · President  
Signer's Name and Title: (please print or type)

**FEDERAL TAX ID NO.** [REDACTED]

Date: 5/20/13

Company Name: American Grinding Company, LLC

Address: 2721 Capilano Drive SE

Email Address: joel@americangrindingcompany.

City, State, Zip Code Grand Rapids, MI 49546

Phone No. (616) 308-7136

Fax No. (616) 392-5791

**Table of Contents**

SECTION NO.	TITLE	PAGES
0100, 0200, 0300	See <a href="http://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDOCUMENTS">http://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDOCUMENTS</a> *	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	7
0500	SCOPE OF WORK - SSSJ	7
0500	SCOPE OF WORK - SSST	6
0600	BID SHEET	2
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM	2
0700	REFERENCE SHEET	2
0800	NON-DISCRIMINATION CERTIFICATION	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	1
0810	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT	2
0815	LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION	1
0820	LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION	1
0835	NONRESIDENT BIDDER PROVISIONS	1
0900	MBE/WBE PROCUREMENT PROGRAM PACKAGE or NO GOALS UTILIZATION PLAN	2
1000	"NO OFFER" RESPONSE FORM	1

All other Sections may be viewed at: [http://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm](http://www.austintexas.gov/financeonline/vendor_connection/index.cfm)

**RETURN THE FOLLOWING DOCUMENTS WITH YOUR OFFER\*\***

- \* Cover Page                      Offer Sheet
- \* Section 0600                    Bid Sheet(s)
- \* Section 0605                    Local Business Presence Identification Form
- \* Section 0700                    Reference Sheet (if required)
- \* Sections 0800 - 0835          Certifications and Affidavits
- \* Section 0900                    MBE/WBE Procurement Program Package or No Goals Utilization Plan

**\*\* See also Section 0200, Solicitation Instructions, Section 0400, Supplemental Purchase Provisions, and Section 0500, Scope of Work/Specification, for additional documents that must be submitted with the Offer.**

The Vendor agrees, if this Offer is accepted within 120 calendar days after the Due Date, to fully comply in strict accordance with the Solicitation, specifications and provisions attached thereto for the amounts shown on the accompanying Offer.

**\* INCORPORATION OF DOCUMENTS.** Section 0100, Standard Purchase Definitions; Section 0200, Standard Solicitation Instructions; and Section 0300, Standard Purchase Terms and Conditions are hereby incorporated into this Solicitation by reference, with the same force and effect as if they were incorporated in full text. The full text versions of these Sections are available, on the Internet at the following online address: [http://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm#STANDARDBIDDOCUMENTS](http://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDOCUMENTS)

If you do not have access to the Internet, you may obtain a copy of these Sections from the City of Austin Purchasing Office at the address or phone number indicated on page 1 of this Offer Sheet. Please have the Solicitation number available so that the staff can select the proper documents. These documents can be mailed, expressed mailed, or faxed to you.

***It is the policy of the City of Austin to involve certified Minority Owned Business Enterprises (MBEs) and Woman Owned Business Enterprises (WBEs) in City contracting. MBE and WBE goals for this Solicitation are contained in Section 0900.***

***All Contractors and Subcontractors should be registered to do business with the City prior to submitting a response to a City Solicitation. In the case of Joint Ventures, each individual business in the joint venture should be registered with the City prior to submitting a response to a City solicitation. If the Joint Venture is awarded a contract, the Joint Venture must register to do business with the City. Prime Contractors are responsible for ensuring that their Subcontractors are registered. Registration can be done through the City's on-line vendor registration system. Log onto [http://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm](http://www.austintexas.gov/financeonline/vendor_connection/index.cfm) and follow the directions.***



**CITY OF AUSTIN  
PURCHASING OFFICE  
STANDARD PURCHASE TERMS AND CONDITIONS**

By submitting an Offer in response to the Solicitation, the Contractor agrees that the Contract shall be governed by the following terms and conditions. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a Solicitation to purchase Goods, and Sections 9, 10, 11 and 22 shall apply only to a Solicitation to purchase Services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.
3. **CONTRACTOR TO PACKAGE DELIVERABLES**: 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.
4. **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.
5. **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.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **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.
8. **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.
9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which

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could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

**10. WORKFORCE**

- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
- B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property .
  - i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or
  - ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.
- C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

- 11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

**12. INVOICES:**

- A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release 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.
- B. **Proper Invoices must include 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 to 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.
- C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

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13. **PAYMENT:**

- A. All proper invoices 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.
- B. **If payment is not timely made, (per paragraph A), 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; 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.**
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
- D. 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:
  - i. delivery of defective or non-conforming deliverables by the Contractor;
  - ii. 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;
  - iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
  - iv. 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;
  - v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - vi. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
  - vii. failure of the Contractor to comply with any material provision of the Contract Documents.
- E. 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.
- F. Payment will be made bycheck 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 funds transfer.
- G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. **TRAVEL EXPENSES:** All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:



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<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of detailed itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

**15. FINAL PAYMENT AND CLOSE-OUT:**

- A. If an MBE/WBE Program Compliance Plan is required by the Solicitation, 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.
- B. The making and acceptance of final payment will constitute:
  - i. 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
  - ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

**16. SPECIAL TOOLS & TEST EQUIPMENT:** If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

**17. RIGHT TO AUDIT:**

- A. 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, examine, or reproduce, 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.
- B. The Contractor shall include section a. above in all subcontractor agreements entered into in connection with this Contract.

**18. SUBCONTRACTORS:**

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, 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 initially employ any Subcontractor except as provided in the Contractor's 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, 2-9B, 2-9C and 2-9D, 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

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Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

- B. 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:
- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
  - ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. 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;
  - iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
  - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
  - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own 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.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

**19. WARRANTY-PRICE:**

- A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.
- B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

20. **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.

21. **WARRANTY – DELIVERABLES:** The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and

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regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.

- A. Recycled deliverables shall be clearly identified as such.
  - B. 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.
  - C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are 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) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
  - D. 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.
  - E. 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.
22. **WARRANTY – SERVICES:** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
- A. 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.
  - B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
  - C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services 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 services from another source.
23. **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

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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.

24. **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.
25. **STOP WORK NOTICE:** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.
26. **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 Paragraph 24, (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 the Contractor to the City.
27. **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. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
28. **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.
29. **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.
30. **DELAYS:**
- A. 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 work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an

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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 in paragraph 49. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

- B. 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 of the services 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.

**31. INDEMNITY:**

A. Definitions:

- i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:
- (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or
  - (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),
- ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

- B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

**32. INSURANCE:** (reference Section 0400 for specific coverage requirements). The following insurance requirement applies. (Revised 6/01/98).

A. General Requirements.

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated in Section 0400, Supplemental Purchase Provisions, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverages and endorsements required in Section 0400, Supplemental Purchase Provisions, to the City as verification of coverage prior to contract execution and within fourteen (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. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.



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- iii. 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.
- iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.
- xii. The Contractor shall endeavor to provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.
- xiii. The insurance coverages specified in Section 0400, Supplemental Purchase Provisions, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

**B. Specific Coverage Requirements: Specific insurance requirements are contained in Section 0400, Supplemental Purchase Provisions**

33. **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,

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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 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

34. **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 Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the Contract Administrator.
35. **RIGHTS TO BID, 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.
36. **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 accordance with the specifications 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. Further, Contractor agrees that the City's specifications regarding the deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such deliverables will not impact such warranties of Contractor.
37. **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 Agreement, 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.
38. **OWNERSHIP AND USE OF DELIVERABLES**: The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

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- A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.
- B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 38 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.
- C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligation to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 38 a., b., and c. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 37 above.
39. **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.
40. **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.
41. **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.
42. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City

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shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

43. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.
44. **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.
45. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.
46. **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.
47. **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.
48. **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.
49. **DISPUTE RESOLUTION**:
- A. 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.

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- B. 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 fees 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 the mediation.
50. **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.
51. **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.
52. **HOLIDAYS:** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
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	July 4
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.

53. **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.
54. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**



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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.

**55. EQUAL OPPORTUNITY**

- A. **Equal Employment Opportunity:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. 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.
- B. **Americans with Disabilities Act (ADA) Compliance:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

**56. BUY AMERICAN ACT-SUPPLIES (Applicable to certain Federally funded requirements)**

- A. Definitions. As used in this paragraph –
- i. "Component" means an article, material, or supply incorporated directly into an end product.
  - ii. "Cost of components" means -
    - (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
    - (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
  - iii. "Domestic end product" means-
    - (1) An unmanufactured end product mined or produced in the United States; or
    - (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
  - iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
  - v. "Foreign end product" means an end product other than a domestic end product.
  - vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

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- B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
- C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
- D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

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The following Supplemental Purchasing Provisions apply to this solicitation:

1. **EXPLANATIONS OR CLARIFICATIONS** (reference paragraph 5 in Section 0200)

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by fax to 512-972-4015, or email, [erin.d'vincent@austintexas.gov](mailto:erin.d'vincent@austintexas.gov), no later than close of business seven calendar days before the solicitation closes.

2. **INSURANCE**. Insurance is required for this solicitation.

A. **General Requirements**. See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for general insurance requirements.

- i. The Contractor shall provide a Certificate 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 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, and updates, 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 minimum 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) Thirty (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 Injury).
  - (1) The policy shall contain the following provisions:

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- (a) Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
    - (b) Contractor/Subcontracted Work.
    - (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/or 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.

**3. TERM OF CONTRACT**

- A. The Contract shall be in effect for an initial term of 36 months and may be extended thereafter for up to 3 additional 12 month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.
- B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
- C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above. A price increase, subject to the provisions of this Contract, may be requested by the Contractor (for each period of extension) for approval by the City's Purchasing Officer or his designee.

THIS IS A 36 MONTH CONTRACT.

FIRM PRICES ARE TO BE SUBMITTED FOR THE FIRST TWELVE (12) MONTH PERIOD

**4. QUANTITIES**

The annual quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as

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needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.

**5. DELIVERY REQUIREMENTS**

Location:

Days: M – F, 8 AM – 5 PM

TBD based on locations requiring service

- A. Services are to be provided within 14 calendar days after the order is placed (either verbally or in writing).
- B. The Contractor shall provide, with each delivery, a Shipping or Delivery Ticket showing the description of each item, quantity, and unit price.
- C. The Contractor shall confirm the quantity to be shipped on all orders within two (2) hours of notification by phone from the City.
- D. Unless requested by the City, deliveries shall not be made on City-recognized legal holidays (see paragraph 52 in Section 0300).

**6. INVOICES and PAYMENT** (reference paragraphs 12 and 13 in Section 0300)

- A. Invoices shall contain a non-duplicated invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.

Invoices shall be mailed to the below address:

	City of Austin
Department	Street & Bridge Operations
Attn:	Accounts Payable
Address	4411-A Meinardus Drive
City, State Zip Code	Austin, TX 78744

- B. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer (EFT) for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.

**7. HAZARDOUS MATERIALS**

- A. If this Solicitation involves hazardous materials, the Offeror shall furnish with the Offer Material Safety Data Sheets (MSDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.
- B. Failure to submit the MSDS as part of the Offer may subject the Offer to disqualification from consideration for award.



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- C. The MSDS, instructions and information required in paragraph "a " must be included with each shipment under the contract.

**8. LIVING WAGES AND BENEFITS (applicable to procurements involving the use of labor)**

- A. In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a "living wage" and affordable health care protection. Currently, the minimum wage for City employees is \$11.00 per hour. This minimum wage is required for any Contractor employee directly assigned to this City Contract, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. Additionally, the City provides health insurance for its employees, and for a nominal rate, employees may obtain coverage for their family members. Contractors must offer health insurance with optional family coverage for all Contractor employees directly assigned to this contract. Proof of the health care plan shall be provided prior to award of a Contract. In addition, an insurance certificate for Workers' Compensation Insurance Coverage must be provided if required by the solicitation.
- C. The City requires Contractors submitting Offers on this Contract to provide a signed certification (**see the Living Wages and Benefits Contractor Certification included in the Solicitation**) with their Offer certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$11.00 per hour and are offered a health care plan. The certification shall include a list of all employees directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- D. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA). Basic employment records shall at a minimum include:
- i. employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;
  - ii. time and date of week when employee's workweek begins;
  - iii. hours worked each day and total hours worked each workweek;
  - iv. basis on which employee's wages are paid;
  - v. regular hourly pay rate;
  - vi. total daily or weekly straight-time earnings;
  - vii. total overtime earnings for the workweek;
  - viii. all additions to or deductions from the employee's wages;
  - ix. total wages paid each pay period; and
  - x. date of payment and the pay period covered by the payment.
- E. The Contractor shall provide with the first invoice and as requested by the Department's Contract Manager, individual Employee Certifications (**see the Living Wages and Benefits Employee Certification included in the Solicitation**) for all employees directly assigned to the contract containing:
- i. the employee's name and job title;
  - ii. a statement certifying that the employee is paid at a rate equal to or greater than the Living Wage of \$11.00 per hour;
  - iii. a statement certifying that the employee is offered a health care plan with optional family coverage.

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Employee Certifications shall be signed by each employee directly assigned to the contract.

- A. Contractor shall submit employee certifications quarterly with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract.
- G. The Department's Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records identified in paragraph D above to verify compliance with this provision.

**9. NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING**

- A. On November 10, 2011, the Austin City Council adopted Ordinance No. 20111110-052 amending Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the Authorized Contact Person in the Solicitation as the contact for questions and comments regarding the Solicitation.
- B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. If a Respondent has been disqualified under this article more than two times in a sixty (60) month period, the Purchasing Officer shall debar the Offeror from doing business with the City for a period not to exceed three (3) years, provided the Respondent is given written notice and a hearing in advance of the debarment.
- D. The City requires Offerors submitting Offers on this Solicitation to provide a signed Section 0810, Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit, certifying that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at:  
<http://www.ci.austin.tx.us/edims/document.cfm?id=161145>

**10. ECONOMIC PRICE ADJUSTMENT**

- A. Prices shown in this contract shall remain firm for the first 12-month period of the contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor subject to the following considerations:
- B. Price Increases
  - i. Requests for price increases must be made in writing and submitted to the appropriate Buyer in the City's Purchasing Office. The letter must be signed by a person with the authority to bind the Contractor contractually, shall reference the contract number, and include the following documentation:
    - (1) an itemized, revised price list with the effective date of the proposed increase;
    - (2) copies of the documentation provided by the manufacturer regarding the proposed price increase if the contractor is not the manufacturer of the products. If the Contractor is the manufacturer of the products, a letter so stating must be provided;

**CITY OF AUSTIN  
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Contractor shall submit, as a part of the request for increase, the version of the U.S. Department of Labor Consumer Price Index for U.S. City Average (the "Index") current as of the date of the Contractor's Offer; and a copy of the index for the most current period.

- (3) Proposed price increases must be solely for the purpose of accommodating increases in the Contractor's costs for the products or services provided. Prices for products or services unaffected by verifiable cost trends shall not be subject to change.
- ii. Requests for price increases must be made in writing and submitted to the appropriate Contract Manager prior to each yearly anniversary date of contract. Prices will only be considered for an increase at that time. Once received, the City will have 30 calendar days to review and approve/disapprove the requested increase. Should the City not agree with the requested increase, Contractor may either maintain the prices currently in effect, negotiate an acceptable increase with the City or terminate the contract.
- iii. The proposed percentage change between the current contract price and the requested price shall not exceed the percentage change between the Index in effect at the beginning of the current review period and the one in effect at the time the price increase is requested. Except in the case of emergency situations, the requested index related or non-index related price increase shall not exceed twenty-five percent (25%) for any single line item, and in no event shall the total amount of the contract be automatically increased as a result of the increase in any one or more line items made pursuant to this provision.
- iv. Since the perceived need for price increases may be due in whole or in part to factors other than index changes, the City may consider approving fully-documented increase requests which, in the Contractor's opinion, justify price increases for one or more line items in the contract. If index changes are responsible in part for the requested change, those changes shall be documented as previously described above.

**C. Price Decreases**

- i. Proposed price decreases may be offered to the City at any time, and become effective upon acceptance by the City unless a different effective date is specified by the Contractor. Request for price decreases by the City will be based on the same documentation as price increase request. Price decrease offers may also be subject to negotiation.
- ii. Price decreases based on relevant factors may be requested by the City at any time. Such requests shall be accompanied by a complete statement of the City's justification for the request. The Contractor shall have 30 calendar days to respond to the City's request. Following receipt of the Contractor's agreement with the requested decrease, the City may implement the decrease at any time. Should the Contractor not agree with the requested decrease, the City may either maintain the prices currently in effect, negotiate with the contractor, or terminate the contract.

**11. INTERLOCAL PURCHASING AGREEMENTS** (applicable to competitively procured goods/services contracts).

- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions to other eligible governmental agencies that have an interlocal agreement with the City.
- B. The City does not accept any responsibility or liability for the purchases by other governmental agencies through an interlocal cooperative agreement.



**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS**

**12. CONTRACT MANAGER FOR SIDEWALK MAINTENANCE SERVICE**

The following people are designated as Contract Managers, and will act as the contact point between the City and the Contractor during the term of the Contract:

Daren Duncan	Brenda Jimenez/Lisa Escobedo
512-974-8774	512-974-7955 / 512-974-8758
<a href="mailto:Daren.Duncan@austintexas.gov">Daren.Duncan@austintexas.gov</a>	<a href="mailto:Brenda.Jimenez@austintexas.gov">Brenda.Jimenez@austintexas.gov</a> <a href="mailto:Lisa.Escobedo@austintexas.gov">Lisa.Escobedo@austintexas.gov</a>

**13. CONTRACT MANAGER FOR SAW CUTTING & TRIP HAZARD REMOVAL**

The following people are designated as Contract Managers, and will act as the contact point between the City and the Contractor during the term of the Contract:

Colly Kreidler	Brenda Jimenez/Lisa Escobedo
512-974-7063	512-974-7955 / 512-974-8758
<a href="mailto:Colly.Kreidler@austintexas.gov">Colly.Kreidler@austintexas.gov</a>	<a href="mailto:Brenda.Jimenez@austintexas.gov">Brenda.Jimenez@austintexas.gov</a> <a href="mailto:Lisa.Escobedo@austintexas.gov">Lisa.Escobedo@austintexas.gov</a>

\*Note: The above listed Contract Managers are not the authorized Contact Person for purposes of the **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING Provision** of this Section; and therefore, contact with the Contract Managers is prohibited during the no contact period.

**City of Austin  
Purchasing Scope of Work for SSSJ:  
Sidewalk Maintenance Service**

**1.0 Purpose:**

This work is a service contract for maintenance and is subsidiary to the City of Austin concrete replacement program. This work will be along streets identified by the City of Austin Concrete Repair Superintendent or a designated representative as having damaged concrete to be repaired by lifting the concrete instead of removal and replacement. The locations of this work are located throughout the City of Austin with specific locations being designated by the project manager and reviewed with the service provider before any work begins. A minimum of 350 square feet of concrete raising within a 2 block radius per occurrence/job order per day is required.

**1.1 Description:**

These specifications cover the Contractor's requirements for boring, drilling, and pumping cementitious grout slurry and appurtenances for maintenance by raising existing concrete slabs to their original lines and grade, or filling the void between the bottom of the existing concrete slab and the subgrade for the general maintenance program.

The work described in each item includes the Contractor furnishing of all materials, equipment, supplies, tools, the performance of all labor and services, and all incidentals necessary to complete the maintenance of concrete by slab raising and /or void filling under the concrete slab.

**2.0 Maintenance Materials and Methods**

**2.1 Materials**

2.1.1 Cement Slurry Mixture: The slurry mixture used for raising concrete slabs shall be composed of lime, sand, ground clay, Portland Cement (Type 1A conforming to A.S.T.M. C150), and fly ash in the following proportions by volume:

Lime / Fly Ash Mixture passing #50 sieve 100%	27%
Sand passing #4 sieve 100%	15%
Ground clay passing #4 sieve 100%	50%
Portland cement – 3 ½ bag mix (approx.)	8%

If Fly Ash and/or Lime are not readily available, at the discretion of the City of Austin Concrete Repair Superintendent or a designated representative,



with written approval the Contractor can increase the amount of Sand by 27% to the mixture.

This shall be accomplished by use of continuous mixer. All aggregate shall be metered for precise mix design to assure consistent quality control.

2.1.2 All materials for a job site shall be mobile at all times and not stored in the road or walk area, unless agreed upon in writing between Contractor and City of Austin Concrete Repair Superintendent or a designated representative.

2.1.3 Contractor shall mix the slurry material for slab and curb raising with enough potable water to a workable consistency (3 to 6 inch slump). Once mixed, material shall be utilized within one hour and may not be reused unless directed by the City of Austin Concrete Repair Superintendent or a designated representative.

2.1.4 Unless specified otherwise in this specification, there will be NO deviation from the specified mix design.

2.1.5 All holes drilled for injection pumping by the Contractor shall be repaired with an aggregate mixture to match existing surface as best as possible. Holes shall be patched utilizing a mixture of Portland Type 1A Cement and mason sand in a 2 to 1 proportion.

2.1.6 If crack repair is required, Contractor shall install a 2-part epoxy to within  $\frac{3}{4}$ " of the top surface and allow to dry. Contractor shall grout remaining crack to surface with 2-part sand, 1-part cement and if applicable, apply matching crushed aggregate blend.

2.1.7 An alternative method is for Contractor to install backer rod to within  $\frac{3}{8}$ " from top surface and fill remaining gap with a self-leveling polyurethane caulk.

## 2.2 Equipment

2.2.1 Mixing equipment shall be a self-contained continuous mixer with calibrated mixing and delivery capability, carrying all water, cement and aggregate needed for the job site. The continuous mixer shall meet or exceed the Standards of Calibration as set forth by the Volumetric Mixer Manufacturer Bureau (VMMB), a member of the National Ready Mix Concrete Association (NRMCA), and conforming to American Society for Testing and Materials ASTM 685, ACI 304.6, and CSA 23.7.

2.2.2 All materials pumped shall be of a minimum of 500 PSI to a maximum of 1,000 PSI mix design.

## 2.3 Work

2.3.1 Work Areas: The City of Austin Concrete Repair Superintendent or a designated representative will provide the Contractor general areas, street names within those areas, and address ranges on those streets where work is to be completed.

2.3.2 Trip Hazard Locations: Once the Work Area has been identified by the Concrete Repair Superintendent or a designated representative, the Contractor shall proceed to identify and remove all trip hazards in the Work Area that are between ¼" to 2" in height and where the cross slope of the sidewalk does not exceed 2%. Only trip hazards in intact sidewalk panels will be removed. Fractured or broken panels will not be repaired by this method.

2.3.3 Trip Hazard Location Documentation: The Contractor shall provide the City a spreadsheet listing the street name, address, size (length and height) of repair and GPS point data information (approximately 10m accuracy) collected for each trip hazard that is removed. Contractor shall take digital photographs with a minimum 640x480 resolution at each location where trip hazards are removed to document the before and after condition of each location. Each photograph shall be taken before the trip hazard is removed and include a reference scale.

2.3.4 Advance Notification of Work: The Contractor shall notify the City of Austin Concrete Repair Superintendent or a designated representative two weeks in advance of initiating sidewalk maintenance work in identified trip hazard Work Areas.

2.3.5 Holes: The Contractor shall drill holes exercising caution to prevent cracking of concrete slab in which the hole is being drilled. The hole size for slab raising operations shall be a minimum of one inch (1") up to a maximum of two inches (2") in diameter. The holes shall be spaced uniformly to ensure complete communication of slurry between holes.

2.3.6 Slab Raising: Contractor shall raise slabs to the required elevation and pitched at one-quarter inch (¼") per twelve (12) inches of lineal run, or as directed by the City of Austin Concrete Repair Superintendent or a designated representative. If required, saw cuts shall be made at joints to allow free movement of the work. Saw cutting is inclusive to the unit price as bid for slab raising.

2.3.7 Patching Holes: Contractor shall clean holes to the full depth of the slab by removing excess slurry and wire brushing exposed sidewalls. Prior to placement of the Portland cement, the surface around the holes shall be damp. Slab raising holes shall not be cleaned out and patched until the slurry that was pumped has been stabilized.

2.3.8 Mobilization: If the Contractor completes work in one Work Area in less than a full day and needs to move to another Work Area in the same day, the Contractor may charge a fee for mobilization between Work Areas. Only one mobilization fee per site/day may be charged. Mobilization fees shall not be charged for moving from street to street.

## 2.4 Damage to Slabs

2.4.1 Any concrete damaged by the Contractor from slab raising operation as determined by the City of Austin Concrete Repair Superintendent or a designated representative shall be repaired by the Contractor at the Contractor's expense. If repair isn't an option, the Contractor shall replace and install the damaged concrete at the Contractor's expense.

2.4.1.1 Removal of the damaged area shall be completed by the Contractor subject to the approval of the City of Austin Concrete Repair Superintendent or a designated representative. Removal and replacement limits shall be defined by the nearest existing contraction joint. The City of Austin Concrete Repair Superintendent or a designated representative may direct that a new joint be saw cut near the damaged area.

2.4.1.2 Street/sidewalk slab replacement shall be in accordance with the Code of General Ordinance of the City of Austin. Slab repair and replacement shall be in accordance with applicable sections of the City of Austin Standard Specifications.

2.4.2 Monetary Compensation In lieu of the removal/replacement specified above, monetary damage compensation may be agreed upon between the Contractor and the City of Austin in form of written change order.

## 3.0 **Damage to Grass/Vegetation Areas:**

Grassy/vegetation areas damaged by the Contractor shall be restored at the Contractor's expense to conditions that are equal to or better than the existing conditions prior to commencement of work. Grass/vegetation restoration shall be as per City of Austin specification.

#### **4.0 Utility conflicts and coordination:**

If the Contractor damages any utilities, they shall immediately notify the Utility Company and City of Austin Concrete Repair Superintendent or a designated representative within 30 minutes of damage. Any damage to existing utilities shall be repaired at the Contractors expense.

#### **5.0 Damage to Existing Irrigation System:**

If the Contractor damages any portion of an existing irrigation system they shall immediately notify the Property Owner either through personal contact or leaving their contact information to the extent practicable. The Contractor shall also notify the City of Austin Concrete Repair Superintendent or a designated representative within one hour of damage. Any damage to existing irrigation systems shall be repaired at the Contractor's expense.

#### **6.0 Clean up:**

Contractor is required to maintain dust control during the sidewalk and slab operations that are sawed or ground and shall thoroughly be swept after completion. This clean-up is inclusive to the price as bid for trip hazard removal. The Contractor shall maintain a thorough and systematic clean-up operation immediately after the completion of the work and shall be completed within one working day unless authorized otherwise in advance by the Concrete Repair Superintendent. The Contractor shall leave all work areas in broom clean condition. The Contractor shall remove and properly dispose of dirt, debris, and excess materials resulting from execution of work to a City approved landfill or other location approved by the City of Austin Concrete Repair Superintendent or a designated representative.

#### **7.0 Permits and Traffic Control:**

7.1 The Contractor shall furnish and install all construction signs, pavement markings, barricades, and all other safety controls for the duration of each work-order. The Contract Manager has the authority to determine that work-orders resulting from an emergency, **as defined by the City**, may be performed without permits. Under no circumstances shall the Contractor assume permits are not required. The Contract Manager shall notify the Contractor in writing when an emergency has been declared by the City and permits are not required. Notification shall be by work-order. Non-emergency work-orders require all necessary permits which the Contractor is responsible for obtaining to complete work-orders. The Contractor shall have a certified traffic-control person

available at all times during any work which requires placement of traffic control devices within the right-of-way. The City's Standard Details for Traffic Control should be used in all areas that apply.

*Reference the City's website for additional information on the City's Standard Details for Traffic Control Series 800:*

[http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:austin\\_standards\\$anc=](http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates$fn=default.htm$3.0$vid=amlegal:austin_standards$anc=)

7.2 No compensation will be made to the Contractor for work and materials involved in maintaining barricades, signs, pavement markings, warning devices and lights, or for providing any other incidental items necessary for traffic control which employs the use of the City's approved Standard Details for Traffic Control. However, for non-standard occurrence where a signed and sealed Traffic Control Plan is deemed required by staff from Street & Bridge Operations, the Contractor shall utilize a State of Texas licensed professional Engineer to prepare a signed and sealed Traffic Control Plan, approved by the Right-of-Way Management Office, prior to commencing work. Compensation of engineers related to non-standard occurrences will be based on actual costs plus 15% of overhead. Copies of invoices and payment supporting actual costs will be required to be submitted for confirming payment of traffic control plans. For purposes of this section, "non-standard occurrence" is defined as unplanned and unforeseen events related to weather, traffic accidents, or any other occurrence which the City will require immediate service.

7.3 The Contractor shall report to the City of Austin Concrete Repair Superintendent or a designated representative in writing or by telephone, any conditions before commencing or during the work that will adversely affect the performance of the Contractor in execution of the work-order.

7.4 The Contractor shall remove barriers, signs, and other Contractor material and equipment from the project site at the completion of the work-order.

## **8.0 Measurements:**

8.1 Sidewalk panels at the designated sites scheduled to be jacked/raised shall be measured by the square foot of repair.

8.2 Curb and Gutter panels at the designated sites, scheduled to be jacked/raised, shall be measured by the linear foot of repair.

8.3 Asphalt used for temporary level up shall be removed and measured by the square foot.

8.4 Void filling (i.e. sinkholes) underneath the concrete slab will be measured by the cubic yard loose truck measure. Contractor shall notify the City of Austin Concrete Repair Superintendent or a designated representative when apparent voids are discovered and shall halt grout injection until a determination of additional material pumping requirements are identified by the City of Austin Concrete Repair Superintendent or a designated representative.

8.5 The work shall be deemed completed by the City when all locations selected by the City of Austin Concrete Repair Superintendent or a designated representative have been completed or when work amounting to the total amount of bid has been completed. Work at each location shall be accepted when it is completed to the satisfaction of the City designated representative.

## **9.0 Payment**

The unit prices on the Bid Sheet (Section 0600) for the various designated repair sites shall include full compensation for hauling, and mixing all slab jacking materials, drilling injection holes, saw cutting concrete as necessary, grouting of drill holes and crack filling all concrete replacement areas as specified or required including placing, finishing and curing all concrete, and for all labor, tools, equipment and incidentals necessary to complete the work.

**\*\*NOTE: This contract, combined with SSST Special Specification for Sidewalk Maintenance Service by Saw Cutting to Remove Trip Hazards will be funded by bond money. The first year amount will not exceed \$200,000.00 between the two scopes of work. Funding for the remaining months of the original contract period and extension options is contingent upon available funding in future budgets.**



**City of Austin**  
**Purchasing Scope of Work for SSST:**  
**Sidewalk Maintenance Service by Saw Cutting or Grinding to Remove Trip Hazards**

**1.0 Purpose:**

This work is a service contract for maintenance and is subsidiary to the City of Austin concrete replacement program. This work will be along streets identified by the City of Austin Concrete Repair Superintendent or a designated representative as having trip hazards that shall be repaired by saw cutting or grinding the concrete instead of removal and replacement. The locations of this work are located throughout the City of Austin will be designated by the project manager and reviewed with the service provider before any work begins.

1.1 Description:

These specifications cover the Contractor's requirements for sawing or grinding, sweeping, and cleaning for maintenance of existing concrete sidewalks to eliminate trip hazards of more than one quarter inch ( $\frac{1}{4}$ " ) to not more than two inches (2") in size for the general maintenance program.

The work described in each item includes the Contractor furnishing of all materials, equipment, supplies, tools, performance of all labor and services, and all incidentals necessary to complete the maintenance service of existing concrete sidewalks by sawing or grinding to remove trip hazards with results that produce an ADA compliant cut with a smooth and slip resistant finish after a trip hazard is removed.

**2.0 Materials and Methods:**

2.1 Equipment

2.1.1 Sawing equipment shall be self-contained, with calibrated adjustment capability, and designed to capture debris and dust byproducts of the sawing action.

2.1.2 All materials removed in the process shall be captured, contained, and disposed of in a landfill at the Contractor's expense.

2.2 Work

2.2.1 Work Areas: The City of Austin Concrete Repair Superintendent or a designated representative will provide the

Contractor general areas, street names within those areas, and address ranges on those streets where work is to be completed.

**2.2.2 Trip Hazard Locations:** Once the Work Area has been identified by the Concrete Repair Superintendent or a designated representative, the Contractor shall proceed to identify and remove all trip hazards in the Work Area that are between ¼" to 2" in height and where the cross slope of the sidewalk does not exceed 2%. Only trip hazards in intact sidewalk panels will be removed. Fractured or broken panels will not be repaired by this method.

**2.2.3 Trip Hazard Location Documentation:** The Contractor shall provide the City a spreadsheet listing the street name, address, size (length and height) of repair and GPS point data information (approximately 10m accuracy) collected for each trip hazard that is removed. Contractor shall take digital photographs with a minimum 640x480 resolution at each location where trip hazards are removed to document the before and after condition of each location. Each photograph shall be taken before the trip hazard is removed and include a reference scale.

**2.2.4 Advance Notification of Work:** The Contractor shall notify the City of Austin Concrete Repair Superintendent or a designated representative two weeks in advance of initiating sidewalk maintenance work in identified trip hazard Work Areas.

**2.2.5 Mobilization:** If the Contractor completes work in one Work Area in less than a full day and needs to move to another Work Area in the same day, the Contractor may charge a fee for mobilization between Work Areas. Only one mobilization fee per site/day may be charged. Mobilization fees shall not be charged for moving from street to street.

**2.2.6 Trip Hazard Removal:** The Contractor shall not initiate removal in each Work Area until the City of Austin Concrete Repair Superintendent or a designated representative provides documented approval in the form of a signature or email.

**2.2.7 Trip Hazard Removal Completion:** The Contractor shall notify the City of Austin Concrete Repair Superintendent or a designated representative of completed sections of sidewalk trip hazard removal so City verification can be made and completion approval provided in the form of a signature or email.

### **3.0 Damage to Slabs:**

3.1 Any damage to the slab caused by the Contractor's concrete sawing or grinding operations shall be repaired by the Contractor at the Contractor's expense. If repair isn't an option, the Contractor shall replace and install the damaged concrete at the Contractor's expense.

3.1.1 Removal of the damaged area shall be completed by the Contractor subject to the approval of the City of Austin Concrete Repair Superintendent or a designated representative. Removal and replacement limits shall be defined by the nearest existing contraction joint. The City of Austin Concrete Repair Superintendent or a designated representative may direct that a new joint be saw cut near the damaged area.

3.1.2 Sidewalk slab replacement by the Contractor shall be in accordance with the Code of General Ordinance of the City of Austin. Slab repair and replacement shall be in accordance with applicable sections of the City of Austin Standard Specifications, available at the link below.

[http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:austin\\_standards\\$anc=](http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates$fn=default.htm$3.0$vid=amlegal:austin_standards$anc=)

3.2 Monetary Compensation in lieu of the removal/replacement specified above, may be agreed upon between the Contractor and the City of Austin in the form of a written change order.

#### **4.0 Damage to Grassy/Vegetation Areas:**

Grassy/vegetation areas damaged by the Contractor shall be restored at the Contractor's expense to conditions that are equal to or better than the existing conditions prior to commencement of work. Grass/vegetation restoration shall be as per City of Austin specification.

#### **5.0 Utility Conflicts and Coordination:**

If the Contractor damages any utilities, they shall immediately notify the Utility Company and City of Austin Concrete Repair Superintendent or a designated representative within 30 minutes of damage. Any damage to existing utilities shall be repaired at the Contractors expense.

#### **6.0 Damage to Existing Irrigation System**

If the Contractor damages any portion of an existing irrigation system they shall immediately notify the Property Owner either through personal contact or leaving their contact information to the extent practicable. The Contractor

shall also notify the City of Austin Concrete Repair Superintendent or a designated representative within one hour of damage. Any damage to existing irrigation systems shall be repaired at the Contractor's expense.

## **7.0 Clean up**

Contractor is required to maintain dust control during the sidewalk and slab operations that are sawed or ground and shall thoroughly be swept after completion. This clean-up is inclusive to the price as bid for trip hazard removal. The Contractor shall maintain a thorough and systematic clean-up operation immediately after the completion of the work and shall be completed within one working day unless authorized otherwise in advance by the Concrete Repair Superintendent. The Contractor shall leave all work areas in broom clean condition. The Contractor shall remove and properly dispose of dirt, debris, and excess materials resulting from execution of work to a City approved landfill or other location approved by the City of Austin Concrete Repair Superintendent or a designated representative.

## **8.0 Permits and Traffic Control**

8.1 The Contractor shall furnish and install all construction signs, pavement markings, barricades, and all other safety controls for the duration of each work-order. The Contract Manager has the authority to determine that work-orders resulting from an emergency, **as defined by the City**, may be performed without permits. Under no circumstances shall the Contractor assume permits are not required. The Contract Manager shall notify the Contractor in writing when an emergency has been declared by the City and permits are not required. Notification shall be by work-order. Non-emergency work-orders require all necessary permits which the Contractor is responsible for obtaining to complete work-orders. The Contractor shall have a certified traffic-control person available at all times during any work which requires placement of traffic control devices within the right-of-way. The City's Standard Details for Traffic Control should be used in all areas that apply.

*Reference the City's website for additional information on the City's Standard Details for Traffic Control Series 800:*

[http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:austin\\_standards\\$anc=](http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates$fn=default.htm$3.0$vid=amlegal:austin_standards$anc=)

8.2 No compensation will be made to the Contractor for work and materials involved in maintaining barricades, signs, pavement markings, warning devices and lights, or for providing any other incidental items necessary for traffic control which employs the use of the City's approved Standard Details for Traffic Control. However, for non-standard

occurrence where a signed and sealed Traffic Control Plan is deemed required by City staff from Street & Bridge Operations, the Contractor shall utilize a State of Texas licensed professional Engineer to prepare a signed and sealed Traffic Control Plan, approved by the Right-of-Way Management Office, prior to commencing work. Compensation of engineers related to non-standard occurrences will be based on actual costs plus 15% of overhead. Copies of invoices and payment supporting actual costs will be required to be submitted for confirming payment of traffic control plans. For purposes of this section, "non-standard occurrence" is defined as unplanned and unforeseen events related to weather, traffic accidents, or any other occurrence which the City designates will require immediate service.

8.3 The Contractor shall report to the City of Austin Concrete Repair Superintendent or a designated representative in writing or by telephone, any conditions before commencing or during the work that will adversely affect the performance of the Contractor in execution of the work-order.

8.4 The Contractor shall remove barriers, signs, and other Contractor material and equipment from the project site at the completion of the work-order.

## **9.0 Measurements:**

9.1 The amount of material to be removed from sidewalk panels scheduled to be saw cut at the designated locations shall be measured by the average depth of the cut in inches times the length of the cut in feet. This product will be expressed as inch foot of repair.

9.2 Asphalt used for temporary level up shall be removed and measured by the square foot.

9.3 The work shall be deemed completed by the City when all locations selected by the City of Austin Concrete Repair Superintendent or a designated representative have been completed or when work amounting to the total amount of bid has been completed. Work at each location shall be accepted when it is completed to the satisfaction of the City designated representative.

## **10.0 Payment:**

The unit prices on the Bid Sheet (Section 0600) for the various designated repair sites shall include full compensation for hauling, saw cutting concrete as necessary, clean-up of each location, digital photograph documentation, GIS point data collection and for all labor, tools, equipment and incidentals necessary to complete the work.

**\*\*NOTE: This contract, combined with SSSJ Special Specification for Sidewalk Maintenance Service by Saw Cutting to Remove Trip Hazards will be funded by bond money. The first year amount will not exceed \$200,000.00 between the two scopes of work. Funding for the remaining months of the original contract period and extension options is contingent upon available funding in future budgets.**



CITY OF AUSTIN  
PURCHASING OFFICE  
BID SHEET FOR

Sidewalk Maintenance and Trip Hazard Removal

BID NO. EAD0222

RQM NO. 6200 13041600335

DUE DATE: May 22, 2013, 2:00 PM, local time

BUYER: Erin D'Vincent

Copies of Bid: Vendor must submit two copies of its signed bid - one original and one copy

Special Instructions: Be advised that exceptions taken to any portion of the solicitations may jeopardize acceptance of the bid.

\*\*\*\* THE QUANTITIES SHOWN BELOW ARE FOR PRICING PURPOSES\*\*\*\*

Lowest total of all unit costs per group will be awarded the contract. Unit price shall be actual costs for service as referenced in the specifications. City of Austin reserves the right to make an award to all groups or make split awards per group. The work performed and materials furnished as prescribed by this item and measured in accordance with the applicable provisions of "Measurement" above will be paid for as follows

ITEM NO.	ITEM DESCRIPTION	UNIT	Unit Price
<b>GROUP 1</b>	<b>Sidewalk Raising (Specification No. SSSJ)</b>		
1	Sidewalk Raising	Price Per Square Foot	N/A
2	Remove Temporary Asphalt Level Up	Price Per Square Foot	N/A
3	Curb and Gutter Raising	Price Per Linear Foot	N/A
4	Void Filling	Price Per Cubic Yard	N/A
5	Mobilization	Price Per Project	N/A
6	Permits	Each	N/A
7	Standard Traffic Control	Per Permit	N/A
8	Before and After Digital Photos (2 photos per location)	Per Location	N/A
9	GIS Point Data Collection	Per Data Point	N/A
<b>GROUP TOTAL</b>			N/A
<b>GROUP 2</b>	<b>Saw Cutting/Trip Hazard Removal (Item No. SSST)</b>		
10	Trip Hazard Removal	Price Per Inch/Foot	\$30.00
11	Temporary Asphalt Level-up Removal	Price Per Square Foot	\$15.00
12	Mobilization	Each	\$100.00
13	Standard Traffic Control	Per Permit	\$100.00
14	Before and After Digital Photos (2 photos per location)	Per Location	\$0.00
15	GPS Point Data Collection	Per Data Point	\$0.00
<b>GROUP TOTAL</b>			\$245.00
<b>TOTAL BID (Group 1 and 2)</b>			N/A

Company Name American Grinding Company, LLC

Address 2721 Capilano Drive SE, Grand Rapids, MI 49546

Signature of Authorized Representative 

Printed Name Joel Van Veen - President

Telephone No (616) 308-7136 Fax No (616) 392-5791

Email Address Joel@amcangrindingcompany.com

**City of Austin  
Purchasing Office  
Local Business Presence Identification Form**

A firm (Offeror or Subcontractor) is considered to have a Local Business Presence if the firm is headquartered in the Austin Corporate City Limits, or has a branch office located in the Austin Corporate City Limits in operation for the last five (5) years. The City defines headquarters as the administrative center where most of the important functions and full responsibility for managing and coordinating the business activities of the firm are located. The City defines branch office as a smaller, remotely located office that is separate from a firm's headquarters that offers the services requested and required under this solicitation.

**OFFEROR MUST SUBMIT THE FOLLOWING INFORMATION FOR EACH LOCAL BUSINESS (INCLUDING THE OFFEROR, IF APPLICABLE).**

*NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN, SECTION 0900 OF THE SOLICITATION.*

USE ADDITIONAL PAGES AS NECESSARY

**OFFEROR:**

Name of Local Firm						
Physical Address						
Is Firm located in the Corporate City Limits? (circle one)	Yes			No		
In business at this location for past 5 yrs?	Yes			No		
Location Type:	Headquarters	Yes	No	Branch	Yes	No

**SUBCONTRACTOR(S):**

Name of Local Firm						
Physical Address						
Is Firm located in the Corporate City Limits? (circle one)	Yes			No		
In business at this location for past 5 yrs?	Yes			No		
Location Type:	Headquarters	Yes	No	Branch	Yes	No

**SUBCONTRACTOR(S):**

Name of Local Firm						
Physical Address						
Is Firm located in the Corporate City Limits? (circle one)	Yes			No		
In business at this location for past 5 yrs?	Yes			No		
Location Type:	Headquarters	Yes	No	Branch	Yes	No

**City of Austin  
Purchasing Office  
Local Business Presence Identification Form**

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**ACKNOWLEDGEMENT**

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I certify that my responses and the information provided on **Form 0605** are true and correct to the best of my personal knowledge and belief and that I have made no willful misrepresentations in this Section, nor have I withheld any relevant information in my statements and answers to questions. I am aware that any information given by me in this Section may be investigated and I hereby give my full permission for any such investigation and I fully acknowledge that any misrepresentations or omissions in my responses and information may cause my offer to be rejected.

**OFFEROR'S FULL NAME AND ENTITY STATUS:**

\_\_\_\_\_

\_\_\_\_\_  
Signature, Authorized Representative of Offeror

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**END**

**CITY OF AUSTIN  
PURCHASING OFFICE  
REFERENCE SHEET**

**Please Complete and Return This Form with the Offer**

Solicitation Number:

Offeror's Name

Date

The Offeror shall furnish, with the Offer, the following information, for at least  recent customers to whom products and/or services have been provided that are similar to those required by this Solicitation.

To add additional references to this form, click the Add Reference Button. =====>

Company's Name	<input type="text" value="City of Fort Myers"/>		
Name of Contact	<input type="text" value="Richard Moulton"/>	Contact Title	<input type="text" value="Public Works Superintendent"/>
Present Address	<input type="text" value="2200 Second Street"/>		
City	<input type="text" value="Fort Myers"/>	State	<input type="text" value="Florida"/> Zip Code <input type="text" value="33902"/>
Telephone Number	<input type="text" value="(239) 321-7594"/>	FAX Number	<input type="text" value="(239) 344-5951"/>
Email Address	<input type="text" value="rmoulton@cityftmyers.com"/>		

Company's Name	<input type="text" value="City of DeLand"/>		
Name of Contact	<input type="text" value="Sal LaGreca"/>	Contact Title	<input type="text" value="Street &amp; Stormwater Superintendent"/>
Present Address	<input type="text" value="1102 S. Garfield Avenue"/>		
City	<input type="text" value="DeLand"/>	State	<input type="text" value="Florida"/> Zip Code <input type="text" value="32724"/>
Telephone Number	<input type="text" value="(386) 626-7202"/>	FAX Number	<input type="text" value="(386) 736-5366"/>
Email Address	<input type="text" value="lagrecas@deland.org"/>		

Company's Name	<input type="text" value="City of Grand Rapids"/>		
Name of Contact	<input type="text" value="John Hayes"/>	Contact Title	<input type="text" value="Construction Inspection Supervisor"/>
Present Address	<input type="text" value="300 Monroe Ave NW"/>		
City	<input type="text" value="Grand Rapids"/>	State	<input type="text" value="Michigan"/> Zip Code <input type="text" value="49503"/>
Telephone Number	<input type="text" value="(616) 456-3831"/>	FAX Number	<input type="text" value="(616) 456-3828"/>
Email Address	<input type="text" value="jhayes@grcity.us"/>		

**City of Austin, Texas**  
**EQUAL EMPLOYMENT/FAIR HOUSING OFFICE**  
**NON-DISCRIMINATION CERTIFICATION**  
**SOLICITATION NO** **EAD0222**

**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:**

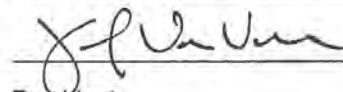
The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration 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 20<sup>th</sup> day of May, 2013.

CONTRACTOR

American Grinding Company, LLC

Authorized Signature



Title

President



**City of Austin, Texas**  
**NON-SUSPENSION OR DEBARMENT CERTIFICATION**

SOLICITATION NO. EAD0222

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:	<div style="border: 1px solid black; padding: 2px;">American Grinding Company, LLC</div>		
Signature of Officer or Authorized Representative:		Date:	<div style="border: 1px solid black; padding: 2px;">May 20, 2013</div>
Printed Name:	<div style="border: 1px solid black; padding: 2px;">Joel Van Veen</div>		
Title:	<div style="border: 1px solid black; padding: 2px;">President</div>		

**CITY OF AUSTIN  
NON-COLLUSION,  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT  
SOLICITATION NO. EAD0222  
FOR**

Sidewalk Maintenance and Trip Hazard Removal

**State of Texas**

**County of Travis**

**The undersigned "Affiant" is a duly authorized representative of the Offeror for the purpose of making this Affidavit, and, after being first duly sworn, has deposed and stated and hereby deposes and states, to the best of his or her personal knowledge and belief as follows:**

The term "**Offeror**", as used herein, includes the individual or business entity submitting the Offer and for the purpose of this Affidavit includes the directors, officers, partners, managers, members, principals, owners, agents, representatives, employees, other parties in interest of the Offeror, and anyone or any entity acting for or on behalf of the Offeror, including a subcontractor in connection with this Offer.

- 1. Anti-Collusion Statement.** The Offeror has not in any way directly or indirectly:
  - a. colluded, conspired, or agreed with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.
  - b. paid or agreed to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.
- 2. Preparation of Solicitation and Contract Documents.** . The Offeror has not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, the Offeror has not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Offerors, so as to have an unfair advantage over other Offerors, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
- 3. Participation in Decision Making Process.** The Offeror has not participated in the evaluation of Offers or other decision making process for this Solicitation, and, if Offeror is awarded a Contract hereunder, no individual, agent, representative, consultant, subcontractor, or subconsultant associated with Offeror, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
- 4. Present Knowledge.** Offeror is not presently aware of any potential or actual conflicts of interest regarding this Solicitation, which either enabled Offeror to obtain an advantage over other Offerors or would prevent Offeror from advancing the best interests of the City in the course of the performance of the Contract.
- 5. City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a substantial interest in Offeror is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.
- 6. Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local Government Code, the Offeror:
  - a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;

**CITY OF AUSTIN  
NON-COLLUSION,  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT**

- b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$250 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that OWNER is considering doing business with the Offeror.
- c. as required by Chapter 176 of the Texas Local Government Code, Offeror must file a Conflict of Interest Questionnaire with the Office of the City Clerk no later than 5:00 P.M. on the seventh (7) business day after the commencement of contract discussions or negotiations with the City or the submission of an Offer, or other writing related to a potential Contract with the City. The questionnaire is available on line at the following website for the City Clerk:

<http://www.austintexas.gov/department/conflict-interest-questionnaire>

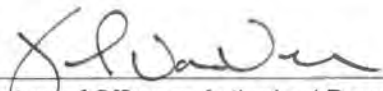
There are statutory penalties for failure to comply with Chapter 176.

If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation in the space provided below or, as necessary, on separate pages to be annexed hereto.

Offeror's  
Explanation:

7. **Anti-Lobbying Ordinance.** As set forth in the Solicitation Instructions, Section 0200, paragraph 7N, between the date that the Solicitation was issued and the date of full execution of the Contract, Offeror has not made and will not make a representation to a City official or to a City employee, other than the Authorized Contact Person for the Solicitation, except as permitted by the Ordinance.

Contractor's Name:	American Grinding Company, LLC
Printed Name:	Joel Van Veen
Title:	President

  
Signature of Officer or Authorized Representative:

Subscribed and sworn to before me this 20<sup>th</sup> day of May, 20 13.

  
Notary Public

My Commission Expires 7-15-2015

**CITY OF AUSTIN, TEXAS**  
**LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION**  
(Please duplicate as needed)

**SOLICITATION NO.** EAD0222

Pursuant to the Living Wages and Benefits provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour.

I hereby certify under penalty of perjury that all of the below listed employees of the Contractor who are directly assigned to this contract:

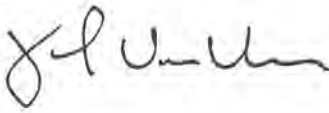
- (1) are compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) are offered a health care plan with optional family coverage.

(To add additional employees to this page, click the Add Button.)

	Employee Name	Employee Job Title
Add	Paul Slotsema	Operator
Delete		

- (3) all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.00 per hour and offered a health care plan with optional family coverage.
- (4) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

A Contractor who violates this Living Wage provision shall pay each employee affected the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision may result in termination of this Contract for Cause and subject the firm to possible suspension or debarment.

Contractor's Name:	<span style="border: 1px solid black; padding: 2px;">American Grinding Company, LLC</span>		
Signature of Officer or Authorized Representative:		Date:	<span style="border: 1px solid black; padding: 2px;">May 20, 2013</span>
Printed Name:	<span style="border: 1px solid black; padding: 2px;">Joel Van Veen</span>		
Title:	<span style="border: 1px solid black; padding: 2px;">President</span>		



**CITY OF AUSTIN, TEXAS  
LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION**

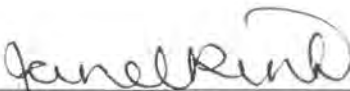
Contract Number:	
Description of Services:	Sidewalk Maintenance and Trip Hazard Removal
Contractor Name:	American Grinding Company, LLC

Pursuant to the Living Wages and Benefits provision of the contract (reference Section 0400, Supplemental Purchase Provisions), the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee's Title:	Operator		
Signature of Employee:		Date:	May 20, 2013
Employee's Printed Name:	Paul Slotsema		

  
(Witness Signature)

Janel Rink  
(Printed Name)

**City of Austin, Texas  
NONRESIDENT BIDDER PROVISIONS**

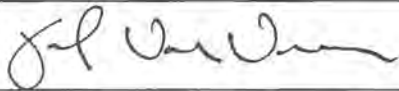
SOLICITATION NO. EAD0222

- A. Bidder must answer the following questions in accordance with Vernon's Texas Statutes and Codes Annotated Government Code 2252.002, as amended:

Is the Bidder that is making and submitting this Bid a "Resident Bidder" or a "Non-resident Bidder"?

- ☐ Texas Resident Bidder - A Bidder whose principal place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.
- ☒ Non-resident Bidder

- B. If the Bidder is a "Nonresident Bidder" does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the Bid of a Resident Bidder of that state in order for the nonresident Bidder of that state to be awarded a Contract on such bid in said state? ☐ Yes ☒ No

Bidder's Name:	American Grinding Company, LLC		
Signature of Officer or Authorized Representative:		Date:	May 20, 2013
Printed Name:	Joel Van Veen		
Title:	President		



**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
NO GOALS FORM**

SOLICITATION NUMBER: EAD0222

PROJECT NAME: Sidewalk Maintenance and Trip Hazard Removal

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 ☒ 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.

American Grinding Company, LLC  
Company Name

Joel Van Veen - President  
Name and Title of Authorized Representative (Print or Type)

[Signature]  
Signature

5/20/13  
Date

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
NO GOALS UTILIZATION PLAN**  
(Please duplicate as needed)

SOLICITATION NUMBER:	EAD0222
PROJECT NAME:	Sidewalk Maintenance and Trip Hazard Removal

**PRIME CONTRACTOR/CONSULTANT COMPANY INFORMATION**

Name of Contractor/Consultant	American Grinding Company, LLC		
Address	2721 Capilano Drive SE		
City, State Zip	Grand Rapids, MI 49546		
Phone	616-308-7136	Fax Number	616-392-5791
Name of Contact Person	Joel Van Veen		
Is company City certified?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture <input type="checkbox"/>		

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.

Joel Van Veen - President  
Name and Title of Authorized Representative (Print or Type)

[Signature] 5/20/13  
Signature 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 <input type="checkbox"/> WBE <input type="checkbox"/>	Ethnic/Gender Code:	<input type="checkbox"/> 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 <input type="checkbox"/> WBE <input type="checkbox"/>	Ethnic/Gender Code:	<input type="checkbox"/> 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 \_\_\_\_\_



**Financial and Administrative Service Department**  
**Purchasing Office**  
P.O. Box 1088, Austin, Texas, 78767

July 1, 2013

Austin/San Antonio Concrete Raising, LLC  
Neale VanStreepen  
P.O. Box 81496  
Austin, TX 78708

Dear Neale:

The City of Austin has approved the award and execution of a contract with your company for Sidewalk Repair Services in accordance with solicitation IFB EAD0222.

Responsible Department:	Public Works – Street & Bridge Operations
Department Contact Person:	Brenda Jimenez / Lisa Escobedo
Department Contact Email:	<a href="mailto:brenda.jimenez@austintexas.gov">brenda.jimenez@austintexas.gov</a> / <a href="mailto:lisa.escobedo@austintexas.gov">lisa.escobedo@austintexas.gov</a>
Department Contact Telephone:	(512) 974-7955 / (512) 974-8758
Project Name:	Sidewalk Repair Services
Contractor Name:	Austin/San Antonio Concrete Raising, LLC & American Grinding Company, LLC
Contract Number:	NA130000128
Contract Period:	7/1/13 – 6/30/16
Contract Period Amount	\$800,000 combined between both vendors
Extension Options:	Three, 12-month options
Requisition Number:	6200 13041600335
Solicitation Number:	IFB EAD0222
Agenda Item Number:	54
Council Approval Date:	6/27/13

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 above.

Sincerely,

Erin D'Vincent  
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
Austin/San Antonio Concrete Raising, LLC ("Contractor")  
for  
Sidewalk Repair Services  
MA 6200 NA130000128**

The City accepts the Contractor's Offer (as referenced in Section 1.1.3 below) for the above requirement and enters into the following Contract.

This Contract is between Austin/San Antonio Concrete Raising, LLC having offices at Austin, TX 78708 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").

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number EAD0222.

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

- 1.1.1 This Contract
- 1.1.2 The City's Solicitation, Invitation for Bid (IFB), EAD0222 including all documents incorporated by reference
- 1.1.3 Austin/San Antonio Concrete Raising, LLC's Offer, dated 5/21/13, including subsequent clarifications

**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 This Contract
- 1.2.2 The City's Solicitation as referenced in Section 1.1.2, including all documents incorporated by reference
- 1.2.3 The Contractor's Offer as referenced in Section 1.1.3, including subsequent clarifications.

**1.3 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. See the Term of Contract provision in Section 0400 for additional Contract requirements.

**1.4 Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of \$800,000 for the initial Contract term between American Grinding LLC and Austin/San Antonio Concrete Raising, LLC and \$300,000 for each extension option between American Grinding LLC and Austin/San Antonio Concrete Raising, LLC as indicated in the Bid Sheet, IFB Section 0600. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.

- 1.5 **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

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.

**CITY OF AUSTIN**

Erin D'Vincent

Printed Name of Authorized Person



Signature

Buyer II

Title:

7/1/13

Date:

**CITY OF AUSTIN**

Stephen T. Aden

Printed Name of Authorized Person



Signature

Corporate Purchasing Manager

Title:

7/1/13

Date:



# CITY OF AUSTIN, TEXAS

## Purchasing Office INVITATION FOR BID (IFB) Offer Sheet

SOLICITATION NO: EAD0222

COMMODITY/SERVICE DESCRIPTION: Sidewalk Maintenance and Trip Hazard Removal

DATE ISSUED: April 29, 2013

REQUISITION NO.: 13041600335

BID DUE PRIOR TO: May 22, 2013, 2:00 PM, local time

COMMODITY CODE: 9139671

FOR CONTRACTUAL AND TECHNICAL  
ISSUES CONTACT:

BID OPENING TIME AND DATE: May 22, 2013, 2:15 PM, local time

COMPLIANCE PLAN DUE PRIOR TO: N/A

Erin D'Vincent

Buyer II

Phone: (512) 972-4017

**LIVE BID OPENING ONLINE:**

For information on how to attend the Bid Opening online, please select this link:

[https://www.ci.austin.tx.us/financeonline/vendor\\_connection/index.cfm#BIDOPENINGWEBINAR](https://www.ci.austin.tx.us/financeonline/vendor_connection/index.cfm#BIDOPENINGWEBINAR)

LOCATION: MUNICIPAL BUILDING, 124 W 8<sup>th</sup> STREET RM 310,  
AUSTIN, TEXAS 78701

When submitting a sealed Offer and/or Compliance Plan, use the proper address for the type of service desired, as shown below.

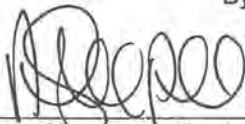
P.O. Address for US Mail	Street Address for Hand Delivery or Courier Service
City of Austin	City of Austin, Purchasing Office
Purchasing Office	Municipal Building
P.O. Box 1088	124 W 8 <sup>th</sup> Street, Rm 310
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

Offers (including Compliance Plans) that are not submitted in a sealed envelope or container will not be considered.

### SUBMIT 1 ORIGINAL AND 1 SIGNED COPY OF OFFER

#### OFFER SUBMITTED BY

By the signature below, I certify that I have submitted a binding offer.



Signature of Person Authorized to Sign Offer

NEALE VANSTROEPEN - GENERAL MANAGER

Signer's Name and Title: (please print or type)

FEDERAL TAX ID NO. [REDACTED]

Date: 5/21/13

Company Name: AUSTIN/SAN ANTONIO CONCRETE RAISING LLC

Address: P.O. BOX 81496

Email Address: NEALE@AUSTINCRRC.COM

City, State, Zip Code AUSTIN TX 78708

Phone No. (512) 410-7378

Fax No. (512) 308-6777



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0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	1
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All other Sections may be viewed at: [http://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm](http://www.austintexas.gov/financeonline/vendor_connection/index.cfm)

### RETURN THE FOLLOWING DOCUMENTS WITH YOUR OFFER\*\*

- Cover Page                      Offer Sheet
- Section 0600                    Bid Sheet(s)
- Section 0605                    Local Business Presence Identification Form
- Section 0700                    Reference Sheet (if required)
- Sections 0800 - 0835            Certifications and Affidavits
- Section 0900                    MBE/WBE Procurement Program Package or No Goals Utilization Plan

**\*\* See also Section 0200, Solicitation Instructions, Section 0400, Supplemental Purchase Provisions, and Section 0500, Scope of Work/Specification, for additional documents that must be submitted with the Offer.**

The Vendor agrees, if this Offer is accepted within 120 calendar days after the Due Date, to fully comply in strict accordance with the Solicitation, specifications and provisions attached thereto for the amounts shown on the accompanying Offer.

**\* INCORPORATION OF DOCUMENTS.** Section 0100, Standard Purchase Definitions; Section 0200, Standard Solicitation Instructions; and Section 0300, Standard Purchase Terms and Conditions are hereby incorporated into this Solicitation by reference, with the same force and effect as if they were incorporated in full text. The full text versions of these Sections are available, on the Internet at the following online address: [http://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm#STANDARDBIDDOCUMENTS](http://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDOCUMENTS)

If you do not have access to the Internet, you may obtain a copy of these Sections from the City of Austin Purchasing Office at the address or phone number indicated on page 1 of this Offer Sheet. Please have the Solicitation number available so that the staff can select the proper documents. These documents can be mailed, expressed mailed, or faxed to you.

***It is the policy of the City of Austin to involve certified Minority Owned Business Enterprises (MBEs) and Woman Owned Business Enterprises (WBEs) in City contracting. MBE and WBE goals for this Solicitation are contained in Section 0900.***

***All Contractors and Subcontractors should be registered to do business with the City prior to submitting a response to a City Solicitation. In the case of Joint Ventures, each individual business in the joint venture should be registered with the City prior to submitting a response to a City solicitation. If the Joint Venture is awarded a contract, the Joint Venture must register to do business with the City. Prime Contractors are responsible for ensuring that their Subcontractors are registered. Registration can be done through the City's on-line vendor registration system. Log onto [http://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm](http://www.austintexas.gov/financeonline/vendor_connection/index.cfm) and follow the directions.***

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By submitting an Offer in response to the Solicitation, the Contractor agrees that the Contract shall be governed by the following terms and conditions. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a Solicitation to purchase Goods, and Sections 9, 10, 11 and 22 shall apply only to a Solicitation to purchase Services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.
3. **CONTRACTOR TO PACKAGE DELIVERABLES**: 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.
4. **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.
5. **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.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **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.
8. **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.
9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which

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could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

**10. WORKFORCE**

- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
- B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property .
  - i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or
  - ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.
- C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

- 11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

**12. INVOICES:**

- A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release 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.
- B. **Proper Invoices must include 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 to 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.
- C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

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13. **PAYMENT:**

- A. All proper invoices 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.
- B. **If payment is not timely made, (per paragraph A), 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; 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.**
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
- D. 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:
  - i. delivery of defective or non-conforming deliverables by the Contractor;
  - ii. 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;
  - iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
  - iv. 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;
  - v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - vi. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
  - vii. failure of the Contractor to comply with any material provision of the Contract Documents.
- E. 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.
- F. Payment will be made bycheck 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 funds transfer.
- G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. **TRAVEL EXPENSES:** All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

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<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of detailed itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

**15. FINAL PAYMENT AND CLOSE-OUT:**

- A. If an MBE/WBE Program Compliance Plan is required by the Solicitation, 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.
- B. The making and acceptance of final payment will constitute:
  - i. 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
  - ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

**16. SPECIAL TOOLS & TEST EQUIPMENT:** If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

**17. RIGHT TO AUDIT:**

- A. 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, examine, or reproduce, 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.
- B. The Contractor shall include section a. above in all subcontractor agreements entered into in connection with this Contract.

**18. SUBCONTRACTORS:**

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, 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 initially employ any Subcontractor except as provided in the Contractor's 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, 2-9B, 2-9C and 2-9D, 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

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Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

- B. 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:
- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
  - ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. 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;
  - iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
  - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
  - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own 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.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

**19. WARRANTY-PRICE:**

- A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.
- B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

20. **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.

21. **WARRANTY – DELIVERABLES:** The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and



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regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.

- A. Recycled deliverables shall be clearly identified as such.
  - B. 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.
  - C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are 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) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
  - D. 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.
  - E. 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.
22. **WARRANTY – SERVICES:** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
- A. 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.
  - B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
  - C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services 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 services from another source.
23. **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

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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.

24. **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.
25. **STOP WORK NOTICE:** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.
26. **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 Paragraph 24, (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 the Contractor to the City.
27. **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. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
28. **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.
29. **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.
30. **DELAYS:**
- A. 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 work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an

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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 in paragraph 49. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

- B. 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 of the services 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.

**31. INDEMNITY:**

A. Definitions:

- i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:
- (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or
  - (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),
- ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

- B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

**32. INSURANCE:** (reference Section 0400 for specific coverage requirements). The following insurance requirement applies. (Revised 6/01/98).

A. General Requirements.

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated in Section 0400, Supplemental Purchase Provisions, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverages and endorsements required in Section 0400, Supplemental Purchase Provisions, to the City as verification of coverage prior to contract execution and within fourteen (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. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.

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- iii. 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.
- iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.
- xii. The Contractor shall endeavor to provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.
- xiii. The insurance coverages specified in Section 0400, Supplemental Purchase Provisions, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

**B. Specific Coverage Requirements: Specific insurance requirements are contained in Section 0400, Supplemental Purchase Provisions**

33. **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,

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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 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

34. **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 Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the Contract Administrator.
35. **RIGHTS TO BID, 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.
36. **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 accordance with the specifications 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. Further, Contractor agrees that the City's specifications regarding the deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such deliverables will not impact such warranties of Contractor.
37. **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 Agreement, 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.
38. **OWNERSHIP AND USE OF DELIVERABLES**: The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

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- A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.
- B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 38 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.
- C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligation to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 38 a., b., and c. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 37 above.
39. **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.
40. **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.
41. **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.
42. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City



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shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

43. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.
44. **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.
45. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.
46. **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.
47. **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.
48. **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.
49. **DISPUTE RESOLUTION**:
- A. 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.

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- B. 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 fees 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 the mediation.
50. **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.
51. **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.
52. **HOLIDAYS:** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
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	July 4
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.

53. **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.
54. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**

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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.

**55. EQUAL OPPORTUNITY**

- A. **Equal Employment Opportunity:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. 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.
- B. **Americans with Disabilities Act (ADA) Compliance:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

**56. BUY AMERICAN ACT-SUPPLIES (Applicable to certain Federally funded requirements)**

- A. Definitions. As used in this paragraph –
- i. "Component" means an article, material, or supply incorporated directly into an end product.
  - ii. "Cost of components" means -
    - (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
    - (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
  - iii. "Domestic end product" means-
    - (1) An unmanufactured end product mined or produced in the United States; or
    - (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
  - iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
  - v. "Foreign end product" means an end product other than a domestic end product.
  - vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

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- B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
- C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
- D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

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SUPPLEMENTAL PURCHASE PROVISIONS**

The following Supplemental Purchasing Provisions apply to this solicitation:

1. **EXPLANATIONS OR CLARIFICATIONS** (reference paragraph 5 in Section 0200)

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by fax to 512-972-4015, or email, [erin.d'vincent@austintexas.gov](mailto:erin.d'vincent@austintexas.gov), no later than close of business seven calendar days before the solicitation closes.

2. **INSURANCE**. Insurance is required for this solicitation.

A. **General Requirements**. See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for general insurance requirements.

- i. The Contractor shall provide a Certificate 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 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, and updates, 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 minimum 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) Thirty (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 Injury).

- (1) The policy shall contain the following provisions:

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- (a) Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
    - (b) Contractor/Subcontracted Work.
    - (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/or 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.

**3. TERM OF CONTRACT**

- A. The Contract shall be in effect for an initial term of 36 months and may be extended thereafter for up to 3 additional 12 month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.
- B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
- C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above. A price increase, subject to the provisions of this Contract, may be requested by the Contractor (for each period of extension) for approval by the City's Purchasing Officer or his designee.

**THIS IS A 36 MONTH CONTRACT.**

**FIRM PRICES ARE TO BE SUBMITTED FOR THE FIRST TWELVE (12) MONTH PERIOD**

**4. QUANTITIES**

The annual quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as



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needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.

**5. DELIVERY REQUIREMENTS**

Location:

Days: M – F, 8 AM – 5 PM

TBD based on locations requiring service

- A. Services are to be provided within 14 calendar days after the order is placed (either verbally or in writing).
- B. The Contractor shall provide, with each delivery, a Shipping or Delivery Ticket showing the description of each item, quantity, and unit price.
- C. The Contractor shall confirm the quantity to be shipped on all orders within two (2) hours of notification by phone from the City.
- D. Unless requested by the City, deliveries shall not be made on City-recognized legal holidays (see paragraph 52 in Section 0300).

**6. INVOICES and PAYMENT** (reference paragraphs 12 and 13 in Section 0300)

- A. Invoices shall contain a non-duplicated invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.

Invoices shall be mailed to the below address:

	City of Austin
Department	Street & Bridge Operations
Attn:	Accounts Payable
Address	4411-A Meinardus Drive
City, State Zip Code	Austin, TX 78744

- B. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer (EFT) for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.

**7. HAZARDOUS MATERIALS**

- A. If this Solicitation involves hazardous materials, the Offeror shall furnish with the Offer Material Safety Data Sheets (MSDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.
- B. Failure to submit the MSDS as part of the Offer may subject the Offer to disqualification from consideration for award.

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- C. The MSDS, instructions and information required in paragraph "a " must be included with each shipment under the contract.

**8. LIVING WAGES AND BENEFITS (applicable to procurements involving the use of labor)**

- A. In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a "living wage" and affordable health care protection. Currently, the minimum wage for City employees is \$11.00 per hour. This minimum wage is required for any Contractor employee directly assigned to this City Contract, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. Additionally, the City provides health insurance for its employees, and for a nominal rate, employees may obtain coverage for their family members. Contractors must offer health insurance with optional family coverage for all Contractor employees directly assigned to this contract. Proof of the health care plan shall be provided prior to award of a Contract. In addition, an insurance certificate for Workers' Compensation Insurance Coverage must be provided if required by the solicitation.
- C. The City requires Contractors submitting Offers on this Contract to provide a signed certification (**see the Living Wages and Benefits Contractor Certification included in the Solicitation**) with their Offer certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$11.00 per hour and are offered a health care plan. The certification shall include a list of all employees directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- D. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA). Basic employment records shall at a minimum include:
- i. employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;
  - ii. time and date of week when employee's workweek begins;
  - iii. hours worked each day and total hours worked each workweek;
  - iv. basis on which employee's wages are paid;
  - v. regular hourly pay rate;
  - vi. total daily or weekly straight-time earnings;
  - vii. total overtime earnings for the workweek;
  - viii. all additions to or deductions from the employee's wages;
  - ix. total wages paid each pay period; and
  - x. date of payment and the pay period covered by the payment.
- E. The Contractor shall provide with the first invoice and as requested by the Department's Contract Manager, individual Employee Certifications (**see the Living Wages and Benefits Employee Certification included in the Solicitation**) for all employees directly assigned to the contract containing:
- i. the employee's name and job title;
  - ii. a statement certifying that the employee is paid at a rate equal to or greater than the Living Wage of \$11.00 per hour;
  - iii. a statement certifying that the employee is offered a health care plan with optional family coverage.

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Employee Certifications shall be signed by each employee directly assigned to the contract.

- A. Contractor shall submit employee certifications quarterly with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract.
- G. The Department's Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records identified in paragraph D above to verify compliance with this provision.

**9. NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING**

- A. On November 10, 2011, the Austin City Council adopted Ordinance No. 20111110-052 amending Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the Authorized Contact Person in the Solicitation as the contact for questions and comments regarding the Solicitation.
- B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. If a Respondent has been disqualified under this article more than two times in a sixty (60) month period, the Purchasing Officer shall debar the Offeror from doing business with the City for a period not to exceed three (3) years, provided the Respondent is given written notice and a hearing in advance of the debarment.
- D. The City requires Offerors submitting Offers on this Solicitation to provide a signed Section 0810, Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit, certifying that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at:  
<http://www.ci.austin.tx.us/edims/document.cfm?id=161145>

**10. ECONOMIC PRICE ADJUSTMENT**

- A. Prices shown in this contract shall remain firm for the first 12-month period of the contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor subject to the following considerations:
- B. Price Increases
  - i. Requests for price increases must be made in writing and submitted to the appropriate Buyer in the City's Purchasing Office. The letter must be signed by a person with the authority to bind the Contractor contractually, shall reference the contract number, and include the following documentation:
    - (1) an itemized, revised price list with the effective date of the proposed increase;
    - (2) copies of the documentation provided by the manufacturer regarding the proposed price increase if the contractor is not the manufacturer of the products. If the Contractor is the manufacturer of the products, a letter so stating must be provided;

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Contractor shall submit, as a part of the request for increase, the version of the U.S. Department of Labor Consumer Price Index for U.S. City Average (the "Index") current as of the date of the Contractor's Offer; and a copy of the index for the most current period.

- (3) Proposed price increases must be solely for the purpose of accommodating increases in the Contractor's costs for the products or services provided. Prices for products or services unaffected by verifiable cost trends shall not be subject to change.
- ii. Requests for price increases must be made in writing and submitted to the appropriate Contract Manager prior to each yearly anniversary date of contract. Prices will only be considered for an increase at that time. Once received, the City will have 30 calendar days to review and approve/disapprove the requested increase. Should the City not agree with the requested increase, Contractor may either maintain the prices currently in effect, negotiate an acceptable increase with the City or terminate the contract.
- iii. The proposed percentage change between the current contract price and the requested price shall not exceed the percentage change between the Index in effect at the beginning of the current review period and the one in effect at the time the price increase is requested. Except in the case of emergency situations, the requested index related or non-index related price increase shall not exceed twenty-five percent (25%) for any single line item, and in no event shall the total amount of the contract be automatically increased as a result of the increase in any one or more line items made pursuant to this provision.
- iv. Since the perceived need for price increases may be due in whole or in part to factors other than index changes, the City may consider approving fully-documented increase requests which, in the Contractor's opinion, justify price increases for one or more line items in the contract. If index changes are responsible in part for the requested change, those changes shall be documented as previously described above.

**C. Price Decreases**

- i. Proposed price decreases may be offered to the City at any time, and become effective upon acceptance by the City unless a different effective date is specified by the Contractor. Request for price decreases by the City will be based on the same documentation as price increase request. Price decrease offers may also be subject to negotiation.
- ii. Price decreases based on relevant factors may be requested by the City at any time. Such requests shall be accompanied by a complete statement of the City's justification for the request. The Contractor shall have 30 calendar days to respond to the City's request. Following receipt of the Contractor's agreement with the requested decrease, the City may implement the decrease at any time. Should the Contractor not agree with the requested decrease, the City may either maintain the prices currently in effect, negotiate with the contractor, or terminate the contract.

**11. INTERLOCAL PURCHASING AGREEMENTS** (applicable to competitively procured goods/services contracts).

- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions to other eligible governmental agencies that have an interlocal agreement with the City.
- B. The City does not accept any responsibility or liability for the purchases by other governmental agencies through an interlocal cooperative agreement.

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**12. CONTRACT MANAGER FOR SIDEWALK MAINTENANCE SERVICE**

The following people are designated as Contract Managers, and will act as the contact point between the City and the Contractor during the term of the Contract:

Daren Duncan	Brenda Jimenez/Lisa Escobedo
512-974-8774	512-974-7955 / 512-974-8758
<a href="mailto:Daren.Duncan@austintexas.gov">Daren.Duncan@austintexas.gov</a>	<a href="mailto:Brenda.Jimenez@austintexas.gov">Brenda.Jimenez@austintexas.gov</a> <a href="mailto:Lisa.Escobedo@austintexas.gov">Lisa.Escobedo@austintexas.gov</a>

**13. CONTRACT MANAGER FOR SAW CUTTING & TRIP HAZARD REMOVAL**

The following people are designated as Contract Managers, and will act as the contact point between the City and the Contractor during the term of the Contract:

Colly Kreidler	Brenda Jimenez/Lisa Escobedo
512-974-7063	512-974-7955 / 512-974-8758
<a href="mailto:Colly.Kreidler@austintexas.gov">Colly.Kreidler@austintexas.gov</a>	<a href="mailto:Brenda.Jimenez@austintexas.gov">Brenda.Jimenez@austintexas.gov</a> <a href="mailto:Lisa.Escobedo@austintexas.gov">Lisa.Escobedo@austintexas.gov</a>

\*Note: The above listed Contract Managers are not the authorized Contact Person for purposes of the **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING Provision** of this Section; and therefore, contact with the Contract Managers is prohibited during the no contact period.



**City of Austin  
Purchasing Scope of Work for SSSJ:  
Sidewalk Maintenance Service**

**1.0 Purpose:**

This work is a service contract for maintenance and is subsidiary to the City of Austin concrete replacement program. This work will be along streets identified by the City of Austin Concrete Repair Superintendent or a designated representative as having damaged concrete to be repaired by lifting the concrete instead of removal and replacement. The locations of this work are located throughout the City of Austin with specific locations being designated by the project manager and reviewed with the service provider before any work begins. A minimum of 350 square feet of concrete raising within a 2 block radius per occurrence/job order per day is required.

**1.1 Description:**

These specifications cover the Contractor's requirements for boring, drilling, and pumping cementitious grout slurry and appurtenances for maintenance by raising existing concrete slabs to their original lines and grade, or filling the void between the bottom of the existing concrete slab and the subgrade for the general maintenance program.

The work described in each item includes the Contractor furnishing of all materials, equipment, supplies, tools, the performance of all labor and services, and all incidentals necessary to complete the maintenance of concrete by slab raising and /or void filling under the concrete slab.

**2.0 Maintenance Materials and Methods**

**2.1 Materials**

2.1.1 Cement Slurry Mixture: The slurry mixture used for raising concrete slabs shall be composed of lime, sand, ground clay, Portland Cement (Type 1A conforming to A.S.T.M. C150), and fly ash in the following proportions by volume:

Lime / Fly Ash Mixture passing #50 sieve 100%	27%
Sand passing #4 sieve 100%	15%
Ground clay passing #4 sieve 100%	50%
Portland cement – 3 ½ bag mix (approx.)	8%

If Fly Ash and/or Lime are not readily available, at the discretion of the City of Austin Concrete Repair Superintendent or a designated representative,



with written approval the Contractor can increase the amount of Sand by 27% to the mixture.

This shall be accomplished by use of continuous mixer. All aggregate shall be metered for precise mix design to assure consistent quality control.

2.1.2 All materials for a job site shall be mobile at all times and not stored in the road or walk area, unless agreed upon in writing between Contractor and City of Austin Concrete Repair Superintendent or a designated representative.

2.1.3 Contractor shall mix the slurry material for slab and curb raising with enough potable water to a workable consistency (3 to 6 inch slump). Once mixed, material shall be utilized within one hour and may not be reused unless directed by the City of Austin Concrete Repair Superintendent or a designated representative.

2.1.4 Unless specified otherwise in this specification, there will be NO deviation from the specified mix design.

2.1.5 All holes drilled for injection pumping by the Contractor shall be repaired with an aggregate mixture to match existing surface as best as possible. Holes shall be patched utilizing a mixture of Portland Type 1A Cement and mason sand in a 2 to 1 proportion.

2.1.6 If crack repair is required, Contractor shall install a 2-part epoxy to within  $\frac{3}{4}$ " of the top surface and allow to dry. Contractor shall grout remaining crack to surface with 2-part sand, 1-part cement and if applicable, apply matching crushed aggregate blend.

2.1.7 An alternative method is for Contractor to install backer rod to within  $\frac{3}{8}$ " from top surface and fill remaining gap with a self-leveling polyurethane caulk.

## 2.2 Equipment

2.2.1 Mixing equipment shall be a self-contained continuous mixer with calibrated mixing and delivery capability, carrying all water, cement and aggregate needed for the job site. The continuous mixer shall meet or exceed the Standards of Calibration as set forth by the Volumetric Mixer Manufacturer Bureau (VMMB), a member of the National Ready Mix Concrete Association (NRMCA), and conforming to American Society for Testing and Materials ASTM 685, ACI 304.6, and CSA 23.7.

2.2.2 All materials pumped shall be of a minimum of 500 PSI to a maximum of 1,000 PSI mix design.

## 2.3 Work

2.3.1 Work Areas: The City of Austin Concrete Repair Superintendent or a designated representative will provide the Contractor general areas, street names within those areas, and address ranges on those streets where work is to be completed.

2.3.2 Trip Hazard Locations: Once the Work Area has been identified by the Concrete Repair Superintendent or a designated representative, the Contractor shall proceed to identify and remove all trip hazards in the Work Area that are between ¼" to 2" in height and where the cross slope of the sidewalk does not exceed 2%. Only trip hazards in intact sidewalk panels will be removed. Fractured or broken panels will not be repaired by this method.

2.3.3 Trip Hazard Location Documentation: The Contractor shall provide the City a spreadsheet listing the street name, address, size (length and height) of repair and GPS point data information (approximately 10m accuracy) collected for each trip hazard that is removed. Contractor shall take digital photographs with a minimum 640x480 resolution at each location where trip hazards are removed to document the before and after condition of each location. Each photograph shall be taken before the trip hazard is removed and include a reference scale.

2.3.4 Advance Notification of Work: The Contractor shall notify the City of Austin Concrete Repair Superintendent or a designated representative two weeks in advance of initiating sidewalk maintenance work in identified trip hazard Work Areas.

2.3.5 Holes: The Contractor shall drill holes exercising caution to prevent cracking of concrete slab in which the hole is being drilled. The hole size for slab raising operations shall be a minimum of one inch (1") up to a maximum of two inches (2") in diameter. The holes shall be spaced uniformly to ensure complete communication of slurry between holes.

2.3.6 Slab Raising: Contractor shall raise slabs to the required elevation and pitched at one-quarter inch (¼") per twelve (12) inches of lineal run, or as directed by the City of Austin Concrete Repair Superintendent or a designated representative. If required, saw cuts shall be made at joints to allow free movement of the work. Saw cutting is inclusive to the unit price as bid for slab raising.

2.3.7 Patching Holes: Contractor shall clean holes to the full depth of the slab by removing excess slurry and wire brushing exposed sidewalls. Prior to placement of the Portland cement, the surface around the holes shall be damp. Slab raising holes shall not be cleaned out and patched until the slurry that was pumped has been stabilized.

2.3.8 Mobilization: If the Contractor completes work in one Work Area in less than a full day and needs to move to another Work Area in the same day, the Contractor may charge a fee for mobilization between Work Areas. Only one mobilization fee per site/day may be charged. Mobilization fees shall not be charged for moving from street to street.

## 2.4 Damage to Slabs

2.4.1 Any concrete damaged by the Contractor from slab raising operation as determined by the City of Austin Concrete Repair Superintendent or a designated representative shall be repaired by the Contractor at the Contractor's expense. If repair isn't an option, the Contractor shall replace and install the damaged concrete at the Contractor's expense.

2.4.1.1 Removal of the damaged area shall be completed by the Contractor subject to the approval of the City of Austin Concrete Repair Superintendent or a designated representative. Removal and replacement limits shall be defined by the nearest existing contraction joint. The City of Austin Concrete Repair Superintendent or a designated representative may direct that a new joint be saw cut near the damaged area.

2.4.1.2 Street/sidewalk slab replacement shall be in accordance with the Code of General Ordinance of the City of Austin. Slab repair and replacement shall be in accordance with applicable sections of the City of Austin Standard Specifications.

2.4.2 Monetary Compensation In lieu of the removal/replacement specified above, monetary damage compensation may be agreed upon between the Contractor and the City of Austin in form of written change order.

## 3.0 **Damage to Grass/Vegetation Areas:**

Grassy/vegetation areas damaged by the Contractor shall be restored at the Contractor's expense to conditions that are equal to or better than the existing conditions prior to commencement of work. Grass/vegetation restoration shall be as per City of Austin specification.

#### **4.0 Utility conflicts and coordination:**

If the Contractor damages any utilities, they shall immediately notify the Utility Company and City of Austin Concrete Repair Superintendent or a designated representative within 30 minutes of damage. Any damage to existing utilities shall be repaired at the Contractors expense.

#### **5.0 Damage to Existing Irrigation System:**

If the Contractor damages any portion of an existing irrigation system they shall immediately notify the Property Owner either through personal contact or leaving their contact information to the extent practicable. The Contractor shall also notify the City of Austin Concrete Repair Superintendent or a designated representative within one hour of damage. Any damage to existing irrigation systems shall be repaired at the Contractor's expense.

#### **6.0 Clean up:**

Contractor is required to maintain dust control during the sidewalk and slab operations that are sawed or ground and shall thoroughly be swept after completion. This clean-up is inclusive to the price as bid for trip hazard removal. The Contractor shall maintain a thorough and systematic clean-up operation immediately after the completion of the work and shall be completed within one working day unless authorized otherwise in advance by the Concrete Repair Superintendent. The Contractor shall leave all work areas in broom clean condition. The Contractor shall remove and properly dispose of dirt, debris, and excess materials resulting from execution of work to a City approved landfill or other location approved by the City of Austin Concrete Repair Superintendent or a designated representative.

#### **7.0 Permits and Traffic Control:**

7.1 The Contractor shall furnish and install all construction signs, pavement markings, barricades, and all other safety controls for the duration of each work-order. The Contract Manager has the authority to determine that work-orders resulting from an emergency, **as defined by the City**, may be performed without permits. Under no circumstances shall the Contractor assume permits are not required. The Contract Manager shall notify the Contractor in writing when an emergency has been declared by the City and permits are not required. Notification shall be by work-order. Non-emergency work-orders require all necessary permits which the Contractor is responsible for obtaining to complete work-orders. The Contractor shall have a certified traffic-control person

available at all times during any work which requires placement of traffic control devices within the right-of-way. The City's Standard Details for Traffic Control should be used in all areas that apply.

*Reference the City's website for additional information on the City's Standard Details for Traffic Control Series 800:*

[http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:austin\\_standards\\$anc=](http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates$fn=default.htm$3.0$vid=amlegal:austin_standards$anc=)

7.2 No compensation will be made to the Contractor for work and materials involved in maintaining barricades, signs, pavement markings, warning devices and lights, or for providing any other incidental items necessary for traffic control which employs the use of the City's approved Standard Details for Traffic Control. However, for non-standard occurrence where a signed and sealed Traffic Control Plan is deemed required by staff from Street & Bridge Operations, the Contractor shall utilize a State of Texas licensed professional Engineer to prepare a signed and sealed Traffic Control Plan, approved by the Right-of-Way Management Office, prior to commencing work. Compensation of engineers related to non-standard occurrences will be based on actual costs plus 15% of overhead. Copies of invoices and payment supporting actual costs will be required to be submitted for confirming payment of traffic control plans. For purposes of this section, "non-standard occurrence" is defined as unplanned and unforeseen events related to weather, traffic accidents, or any other occurrence which the City will require immediate service.

7.3 The Contractor shall report to the City of Austin Concrete Repair Superintendent or a designated representative in writing or by telephone, any conditions before commencing or during the work that will adversely affect the performance of the Contractor in execution of the work-order.

7.4 The Contractor shall remove barriers, signs, and other Contractor material and equipment from the project site at the completion of the work-order.

## **8.0 Measurements:**

8.1 Sidewalk panels at the designated sites scheduled to be jacked/raised shall be measured by the square foot of repair.

8.2 Curb and Gutter panels at the designated sites, scheduled to be jacked/raised, shall be measured by the linear foot of repair.



8.3 Asphalt used for temporary level up shall be removed and measured by the square foot.

8.4 Void filling (i.e. sinkholes) underneath the concrete slab will be measured by the cubic yard loose truck measure. Contractor shall notify the City of Austin Concrete Repair Superintendent or a designated representative when apparent voids are discovered and shall halt grout injection until a determination of additional material pumping requirements are identified by the City of Austin Concrete Repair Superintendent or a designated representative.

8.5 The work shall be deemed completed by the City when all locations selected by the City of Austin Concrete Repair Superintendent or a designated representative have been completed or when work amounting to the total amount of bid has been completed. Work at each location shall be accepted when it is completed to the satisfaction of the City designated representative.

## **9.0 Payment**

The unit prices on the Bid Sheet (Section 0600) for the various designated repair sites shall include full compensation for hauling, and mixing all slab jacking materials, drilling injection holes, saw cutting concrete as necessary, grouting of drill holes and crack filling all concrete replacement areas as specified or required including placing, finishing and curing all concrete, and for all labor, tools, equipment and incidentals necessary to complete the work.

**\*\*NOTE: This contract, combined with SSST Special Specification for Sidewalk Maintenance Service by Saw Cutting to Remove Trip Hazards will be funded by bond money. The first year amount will not exceed \$200,000.00 between the two scopes of work. Funding for the remaining months of the original contract period and extension options is contingent upon available funding in future budgets.**



**City of Austin**  
**Purchasing Scope of Work for SSST:**  
**Sidewalk Maintenance Service by Saw Cutting or Grinding to Remove Trip Hazards**

**1.0 Purpose:**

This work is a service contract for maintenance and is subsidiary to the City of Austin concrete replacement program. This work will be along streets identified by the City of Austin Concrete Repair Superintendent or a designated representative as having trip hazards that shall be repaired by saw cutting or grinding the concrete instead of removal and replacement. The locations of this work are located throughout the City of Austin will be designated by the project manager and reviewed with the service provider before any work begins.

**1.1 Description:**

These specifications cover the Contractor's requirements for sawing or grinding, sweeping, and cleaning for maintenance of existing concrete sidewalks to eliminate trip hazards of more than one quarter inch ( $\frac{1}{4}$ " ) to not more than two inches (2") in size for the general maintenance program.

The work described in each item includes the Contractor furnishing of all materials, equipment, supplies, tools, performance of all labor and services, and all incidentals necessary to complete the maintenance service of existing concrete sidewalks by sawing or grinding to remove trip hazards with results that produce an ADA compliant cut with a smooth and slip resistant finish after a trip hazard is removed.

**2.0 Materials and Methods:**

**2.1 Equipment**

2.1.1 Sawing equipment shall be self-contained, with calibrated adjustment capability, and designed to capture debris and dust byproducts of the sawing action.

2.1.2 All materials removed in the process shall be captured, contained, and disposed of in a landfill at the Contractor's expense.

**2.2 Work**

2.2.1 Work Areas: The City of Austin Concrete Repair Superintendent or a designated representative will provide the

Contractor general areas, street names within those areas, and address ranges on those streets where work is to be completed.

2.2.2 Trip Hazard Locations: Once the Work Area has been identified by the Concrete Repair Superintendent or a designated representative, the Contractor shall proceed to identify and remove all trip hazards in the Work Area that are between ¼" to 2" in height and where the cross slope of the sidewalk does not exceed 2%. Only trip hazards in intact sidewalk panels will be removed. Fractured or broken panels will not be repaired by this method.

2.2.3 Trip Hazard Location Documentation: The Contractor shall provide the City a spreadsheet listing the street name, address, size (length and height) of repair and GPS point data information (approximately 10m accuracy) collected for each trip hazard that is removed. Contractor shall take digital photographs with a minimum 640x480 resolution at each location where trip hazards are removed to document the before and after condition of each location. Each photograph shall be taken before the trip hazard is removed and include a reference scale.

2.2.4 Advance Notification of Work: The Contractor shall notify the City of Austin Concrete Repair Superintendent or a designated representative two weeks in advance of initiating sidewalk maintenance work in identified trip hazard Work Areas.

2.2.5 Mobilization: If the Contractor completes work in one Work Area in less than a full day and needs to move to another Work Area in the same day, the Contractor may charge a fee for mobilization between Work Areas. Only one mobilization fee per site/day may be charged. Mobilization fees shall not be charged for moving from street to street.

2.2.6 Trip Hazard Removal: The Contractor shall not initiate removal in each Work Area until the City of Austin Concrete Repair Superintendent or a designated representative provides documented approval in the form of a signature or email.

2.2.7 Trip Hazard Removal Completion: The Contractor shall notify the City of Austin Concrete Repair Superintendent or a designated representative of completed sections of sidewalk trip hazard removal so City verification can be made and completion approval provided in the form of a signature or email.

### **3.0 Damage to Slabs:**

3.1 Any damage to the slab caused by the Contractor's concrete sawing or grinding operations shall be repaired by the Contractor at the Contractor's expense. If repair isn't an option, the Contractor shall replace and install the damaged concrete at the Contractor's expense.

3.1.1 Removal of the damaged area shall be completed by the Contractor subject to the approval of the City of Austin Concrete Repair Superintendent or a designated representative. Removal and replacement limits shall be defined by the nearest existing contraction joint. The City of Austin Concrete Repair Superintendent or a designated representative may direct that a new joint be saw cut near the damaged area.

3.1.2 Sidewalk slab replacement by the Contractor shall be in accordance with the Code of General Ordinance of the City of Austin. Slab repair and replacement shall be in accordance with applicable sections of the City of Austin Standard Specifications, available at the link below.

[http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:austin\\_standards\\$anc=](http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates$fn=default.htm$3.0$vid=amlegal:austin_standards$anc=)

3.2 Monetary Compensation in lieu of the removal/replacement specified above, may be agreed upon between the Contractor and the City of Austin in the form of a written change order.

#### **4.0 Damage to Grassy/Vegetation Areas:**

Grassy/vegetation areas damaged by the Contractor shall be restored at the Contractor's expense to conditions that are equal to or better than the existing conditions prior to commencement of work. Grass/vegetation restoration shall be as per City of Austin specification.

#### **5.0 Utility Conflicts and Coordination:**

If the Contractor damages any utilities, they shall immediately notify the Utility Company and City of Austin Concrete Repair Superintendent or a designated representative within 30 minutes of damage. Any damage to existing utilities shall be repaired at the Contractors expense.

#### **6.0 Damage to Existing Irrigation System**

If the Contractor damages any portion of an existing irrigation system they shall immediately notify the Property Owner either through personal contact or leaving their contact information to the extent practicable. The Contractor

shall also notify the City of Austin Concrete Repair Superintendent or a designated representative within one hour of damage. Any damage to existing irrigation systems shall be repaired at the Contractor's expense.

## 7.0 Clean up

Contractor is required to maintain dust control during the sidewalk and slab operations that are sawed or ground and shall thoroughly be swept after completion. This clean-up is inclusive to the price as bid for trip hazard removal. The Contractor shall maintain a thorough and systematic clean-up operation immediately after the completion of the work and shall be completed within one working day unless authorized otherwise in advance by the Concrete Repair Superintendent. The Contractor shall leave all work areas in broom clean condition. The Contractor shall remove and properly dispose of dirt, debris, and excess materials resulting from execution of work to a City approved landfill or other location approved by the City of Austin Concrete Repair Superintendent or a designated representative.

## 8.0 Permits and Traffic Control

8.1 The Contractor shall furnish and install all construction signs, pavement markings, barricades, and all other safety controls for the duration of each work-order. The Contract Manager has the authority to determine that work-orders resulting from an emergency, **as defined by the City**, may be performed without permits. Under no circumstances shall the Contractor assume permits are not required. The Contract Manager shall notify the Contractor in writing when an emergency has been declared by the City and permits are not required. Notification shall be by work-order. Non-emergency work-orders require all necessary permits which the Contractor is responsible for obtaining to complete work-orders. The Contractor shall have a certified traffic-control person available at all times during any work which requires placement of traffic control devices within the right-of-way. The City's Standard Details for Traffic Control should be used in all areas that apply.

*Reference the City's website for additional information on the City's Standard Details for Traffic Control Series 800:*

[http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:austin\\_standards\\$anc=](http://austintech.amlegal.com/nxt/gateway.dll/Texas/standard/cityofaustintexasstandards?f=templates$fn=default.htm$3.0$vid=amlegal:austin_standards$anc=)

8.2 No compensation will be made to the Contractor for work and materials involved in maintaining barricades, signs, pavement markings, warning devices and lights, or for providing any other incidental items necessary for traffic control which employs the use of the City's approved Standard Details for Traffic Control. However, for non-standard

occurrence where a signed and sealed Traffic Control Plan is deemed required by City staff from Street & Bridge Operations, the Contractor shall utilize a State of Texas licensed professional Engineer to prepare a signed and sealed Traffic Control Plan, approved by the Right-of-Way Management Office, prior to commencing work. Compensation of engineers related to non-standard occurrences will be based on actual costs plus 15% of overhead. Copies of invoices and payment supporting actual costs will be required to be submitted for confirming payment of traffic control plans. For purposes of this section, "non-standard occurrence" is defined as unplanned and unforeseen events related to weather, traffic accidents, or any other occurrence which the City designates will require immediate service.

8.3 The Contractor shall report to the City of Austin Concrete Repair Superintendent or a designated representative in writing or by telephone, any conditions before commencing or during the work that will adversely affect the performance of the Contractor in execution of the work-order.

8.4 The Contractor shall remove barriers, signs, and other Contractor material and equipment from the project site at the completion of the work-order.

#### **9.0 Measurements:**

9.1 The amount of material to be removed from sidewalk panels scheduled to be saw cut at the designated locations shall be measured by the average depth of the cut in inches times the length of the cut in feet. This product will be expressed as inch foot of repair.

9.2 Asphalt used for temporary level up shall be removed and measured by the square foot.

9.3 The work shall be deemed completed by the City when all locations selected by the City of Austin Concrete Repair Superintendent or a designated representative have been completed or when work amounting to the total amount of bid has been completed. Work at each location shall be accepted when it is completed to the satisfaction of the City designated representative.

#### **10.0 Payment:**

The unit prices on the Bid Sheet (Section 0600) for the various designated repair sites shall include full compensation for hauling, saw cutting concrete as necessary, clean-up of each location, digital photograph documentation, GIS point data collection and for all labor, tools, equipment and incidentals necessary to complete the work.



**\*\*NOTE: This contract, combined with SSSJ Special Specification for Sidewalk Maintenance Service by Saw Cutting to Remove Trip Hazards will be funded by bond money. The first year amount will not exceed \$200,000.00 between the two scopes of work. Funding for the remaining months of the original contract period and extension options is contingent upon available funding in future budgets.**



**CITY OF AUSTIN  
PURCHASING OFFICE  
BID SHEET FOR**

**Sidewalk Maintenance and Trip Hazard Removal**

**BID NO. EAD0222**

**RQM NO. 6200 13041600335**

**DUE DATE: May 22, 2013, 2:00 PM, local time**

**BUYER: Erin D'Vincent**

**Copies of Bid: Vendor must submit two copies of its signed bid - one original and one copy**

**Special Instructions:** Be advised that exceptions taken to any portion of the solicitations may jeopardize acceptance of the bid.

**\*\*\*\* THE QUANTITIES SHOWN BELOW ARE FOR PRICING PURPOSES\*\*\*\***

Lowest total of all unit costs per group will be awarded the contract. Unit price shall be actual costs for service as referenced in the specifications. City of Austin reserves the right to make an award to all groups or make split awards per group.

The work performed and materials furnished as prescribed by this item and measured in accordance with the applicable provisions of "Measurement" above will be paid for as follows.

ITEM NO.	ITEM DESCRIPTION	UNIT	Unit Price
<b>GROUP 1</b>	<b>Sidewalk Raising (Specification No. SSSJ)</b>		
1	Sidewalk Raising	Price Per Square Foot	\$3.50
2	Remove Temporary Asphalt Level Up	Price Per Square Foot	\$8.00
3	Curb and Gutter Raising	Price Per Linear Foot	\$17.00
4	Void Filling	Price Per Cubic Yard	\$202.50
5	Mobilization	Price Per Project	\$125.00
6	Permits	Each	\$250.00
7	Standard Traffic Control	Per Permit	\$125.00
8	Before and After Digital Photos (2 photos per location)	Per Location	\$15.00
9	GIS Point Data Collection	Per Data Point	\$5.00
<b>GROUP TOTAL</b>			
<b>GROUP 2</b>	<b>Saw Cutting/Trip Hazard Removal (Item No. SSST)</b>		
10	Trip Hazard Removal	Price Per Inch/Foot	NO BID
11	Temporary Asphalt Level-up Removal	Price Per Square Foot	NO BID

12	Mobilization	Each	NO BID
13	Standard Traffic Control	Per Permit	NO BID
14	Before and After Digital Photos (2 photos per location)	Per Location	NO BID
15	GPS Point Data Collection	Per Data Point	NO BID
<b>GROUP TOTAL</b>			
<b>TOTAL BID (Group 1 and 2)</b>			

Company Name : AUSTIN / SAN ANTONIO CONCRETE RAISING LLC

Address: P.O. BOX 81496, AUSTIN TEXAS 78708

Signature of Authorized Representative: \_\_\_\_\_



Printed Name: NEALE VANSTREEPEN

Telephone No: 512-410-7378 Fax No.: 512-308-6777

Email Address: NEALE@AUSTINCRRC.COM

**City of Austin**  
**Purchasing Office**  
**Local Business Presence Identification Form**

A firm (Offeror or Subcontractor) is considered to have a Local Business Presence if the firm is headquartered in the Austin Corporate City Limits, or has a branch office located in the Austin Corporate City Limits in operation for the last five (5) years. The City defines headquarters as the administrative center where most of the important functions and full responsibility for managing and coordinating the business activities of the firm are located. The City defines branch office as a smaller, remotely located office that is separate from a firm's headquarters that offers the services requested and required under this solicitation.

**OFFEROR MUST SUBMIT THE FOLLOWING INFORMATION FOR EACH LOCAL BUSINESS (INCLUDING THE OFFEROR, IF APPLICABLE).**

*NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN, SECTION 0900 OF THE SOLICITATION.*

USE ADDITIONAL PAGES AS NECESSARY

**OFFEROR:**

Name of Local Firm	AUSTIN/SAN ANTONIO CONCRETE RAISING LLC					
Physical Address	1720 HOWARD LANE, AUSTIN TX 78208					
Is Firm located in the Corporate City Limits? (circle one)	Yes		<input checked="" type="radio"/> No			
In business at this location for past 5 yrs?	Yes		<input checked="" type="radio"/> No ONLY 3 YEARS OLD.			
Location Type:	<input checked="" type="radio"/> Headquarters	Yes	No	Branch	Yes	No

**SUBCONTRACTOR(S):**

Name of Local Firm						
Physical Address						
Is Firm located in the Corporate City Limits? (circle one)	Yes		No			
In business at this location for past 5 yrs?	Yes		No			
Location Type:	Headquarters	Yes	No	Branch	Yes	No

**SUBCONTRACTOR(S):**

Name of Local Firm						
Physical Address						
Is Firm located in the Corporate City Limits? (circle one)	Yes		No			
In business at this location for past 5 yrs?	Yes		No			
Location Type:	Headquarters	Yes	No	Branch	Yes	No

**City of Austin  
Purchasing Office  
Local Business Presence Identification Form**

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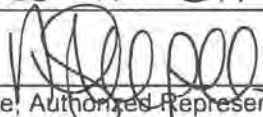
**ACKNOWLEDGEMENT**

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I certify that my responses and the information provided on **Form 0605** are true and correct to the best of my personal knowledge and belief and that I have made no willful misrepresentations in this Section, nor have I withheld any relevant information in my statements and answers to questions. I am aware that any information given by me in this Section may be investigated and I hereby give my full permission for any such investigation and I fully acknowledge that any misrepresentations or omissions in my responses and information may cause my offer to be rejected.

**OFFEROR'S FULL NAME AND ENTITY STATUS:**

NEALE VANSTREEPEN.

  
\_\_\_\_\_  
Signature, Authorized Representative of Offeror

GENERAL MANAGER  
\_\_\_\_\_  
Title

5/21/2013  
\_\_\_\_\_  
Date

**END**

**CITY OF AUSTIN  
PURCHASING OFFICE  
REFERENCE SHEET**

**Please Complete and Return This Form with the Offer**

Solicitation Number:

Offeror's Name

Date

The Offeror shall furnish, with the Offer, the following information, for at least  recent customers to whom products and/or services have been provided that are similar to those required by this Solicitation.

To add additional references to this form, click the Add Reference Button.

=====>

Company's Name	<input type="text" value="City of Pflugerville"/>		
Name of Contact	<input type="text" value="Wayne Granger"/>	Contact Title	<input type="text" value="Streets Superintendent"/>
Present Address	<input type="text" value="15500 Sun Light Near Way, #B"/>		
City	<input type="text" value="Pflugerville"/>	State	<input type="text" value="Texas"/> <input type="button" value="v"/> <input type="text" value="78660"/>
Telephone Number	<input type="text" value="(512) 990-6400"/>	FAX Number	<input type="text" value="(512) 989-1052"/>
Email Address	<input type="text" value="wayneg@pflugervilletx.gov"/>		

Company's Name	<input type="text" value="Del Valle ISD"/>		
Name of Contact	<input type="text" value="Bill Moran"/>	Contact Title	<input type="text" value="Director of Maintenance"/>
Present Address	<input type="text" value="2454 A Cardinal Loop,"/>		
City	<input type="text" value="Del Valle"/>	State	<input type="text" value="Texas"/> <input type="button" value="v"/> <input type="text" value="78617"/>
Telephone Number	<input type="text" value="(512) 386-3131"/>	FAX Number	<input type="text" value="(512) 385-2356"/>
Email Address	<input type="text" value="bmoran@del-valle.k12.tx.us"/>		

Company's Name	<input type="text" value="Eanes ISD"/>		
Name of Contact	<input type="text" value="David Hoedebeck"/>	Contact Title	<input type="text" value="Maintenance Coordinator"/>
Present Address	<input type="text" value="601 Camp Craft Road"/>		
City	<input type="text" value="Austin"/>	State	<input type="text" value="Texas"/> <input type="button" value="v"/> <input type="text" value="78746"/>
Telephone Number	<input type="text" value="(512) 732-9051"/>	FAX Number	<input type="text" value="(512) 732-9054"/>
Email Address	<input type="text" value="DHoedebeck@eanesisd.net"/>		

Company's Name	Lincoln Property Company		
Name of Contact	Tina Heggins	Contact Title	Property Manager
Present Address	505 E. Huntland Dr., Suite 500,		
City	Austin	State	Texas ▼ Zip Code 78752
Telephone Number	(512) 454-8898	FAX Number	(512) 459-9001
Email Address	theggins@lpc.com		

Company's Name	Pflugerville ISD		
Name of Contact	Bill Clayton	Contact Title	Executive Director of Facilities & Const
Present Address	2021 Crystal Bend Drive		
City	Pflugerville	State	Texas ▼ Zip Code
Telephone Number	(512) 594-0244	FAX Number	(512) 594-0251
Email Address	Bill.Clayton@pflugervilleisd.net		



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

**SOLICITATION NO** **EAD0222**

**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:**

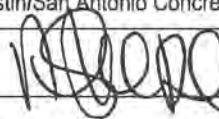
The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration 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 21<sup>st</sup> day of MAY, 2013.

CONTRACTOR

Austin/San Antonio Concrete Raising LLC

Authorized Signature



Title

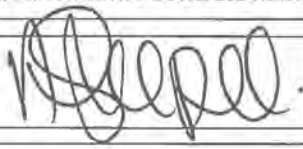
General Manager

**City of Austin, Texas**  
**NON-SUSPENSION OR DEBARMENT CERTIFICATION**

SOLICITATION NO. EAD0222

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:	<div style="border: 1px solid black; min-height: 20px;">Austin/San Antonio Concrete Raising LLC</div>		
Signature of Officer or Authorized Representative:		Date:	<div style="border: 1px solid black; min-height: 20px;">May 21, 2013</div>
Printed Name:	<div style="border: 1px solid black; min-height: 20px;">Neale VanStreepen</div>		
Title:	<div style="border: 1px solid black; min-height: 20px;">General Manager</div>		

CITY OF AUSTIN  
NON-COLLUSION,  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT  
SOLICITATION NO. EAD0222  
FOR

Sidewalk Maintenance and Trip Hazard Removal

State of Texas

County of Travis

**The undersigned "Affiant" is a duly authorized representative of the Offeror for the purpose of making this Affidavit, and, after being first duly sworn, has deposed and stated and hereby deposes and states, to the best of his or her personal knowledge and belief as follows:**

The term "**Offeror**", as used herein, includes the individual or business entity submitting the Offer and for the purpose of this Affidavit includes the directors, officers, partners, managers, members, principals, owners, agents, representatives, employees, other parties in interest of the Offeror, and anyone or any entity acting for or on behalf of the Offeror, including a subcontractor in connection with this Offer.

1. **Anti-Collusion Statement.** The Offeror has not in any way directly or indirectly:
  - a. colluded, conspired, or agreed with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.
  - b. paid or agreed to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.
2. **Preparation of Solicitation and Contract Documents.** . The Offeror has not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, the Offeror has not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Offerors, so as to have an unfair advantage over other Offerors, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
3. **Participation in Decision Making Process.** The Offeror has not participated in the evaluation of Offers or other decision making process for this Solicitation, and, if Offeror is awarded a Contract hereunder, no individual, agent, representative, consultant, subcontractor, or subconsultant associated with Offeror, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
4. **Present Knowledge.** Offeror is not presently aware of any potential or actual conflicts of interest regarding this Solicitation, which either enabled Offeror to obtain an advantage over other Offerors or would prevent Offeror from advancing the best interests of the City in the course of the performance of the Contract.
5. **City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a substantial interest in Offeror is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.
6. **Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local Government Code, the Offeror:
  - a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;



**CITY OF AUSTIN  
NON-COLLUSION,  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT**

- b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$250 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that OWNER is considering doing business with the Offeror.
- c. as required by Chapter 176 of the Texas Local Government Code, Offeror must file a Conflict of Interest Questionnaire with the Office of the City Clerk no later than 5:00 P.M. on the seventh (7) business day after the commencement of contract discussions or negotiations with the City or the submission of an Offer, or other writing related to a potential Contract with the City. The questionnaire is available on line at the following website for the City Clerk:

<http://www.austintexas.gov/department/conflict-interest-questionnaire>

There are statutory penalties for failure to comply with Chapter 176.

If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation in the space provided below or, as necessary, on separate pages to be annexed hereto.

Offeror's  
Explanation:

7. **Anti-Lobbying Ordinance.** As set forth in the Solicitation Instructions, Section 0200, paragraph 7N, between the date that the Solicitation was issued and the date of full execution of the Contract, Offeror has not made and will not make a representation to a City official or to a City employee, other than the Authorized Contact Person for the Solicitation, except as permitted by the Ordinance.

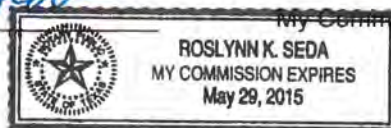
Contractor's Name:	Austin/San Antonio Concrete Raising LLC
Printed Name:	Neale VanStreepen
Title:	General Manager

Signature of Officer or Authorized Representative:

Subscribed and sworn to before me this 21<sup>st</sup> day of May, 2013.

Notary Public

*Roslynn K. Seda*



My Commission Expires

5/29/2015

**CITY OF AUSTIN, TEXAS**  
**LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION**  
*(Please duplicate as needed)*

**SOLICITATION NO.**

Pursuant to the Living Wages and Benefits provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour.

I hereby certify under penalty of perjury that all of the below listed employees of the Contractor who are directly assigned to this contract:


- (1) are compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) are offered a health care plan with optional family coverage.

(To add additional employees to this page, click the Add Button.)

	Employee Name	Employee Job Title
<div>Add</div> <div>Delete</div>	Erik Kramer	Crew Chief
<div>Add</div> <div>Delete</div>	Roy Lee Julson	Laborer
<div>Add</div> <div>Delete</div>	Thomas Lucas	Driver / Laborer

- (3) all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.00 per hour and offered a health care plan with optional family coverage.
- (4) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

A Contractor who violates this Living Wage provision shall pay each employee affected the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision may result in termination of this Contract for Cause and subject the firm to possible suspension or debarment.

Contractor's Name:	<input type="text" value="Austin/San Antonio Concrete Raising LLC"/>		
Signature of Officer or Authorized Representative:		Date:	<input type="text" value="May 21, 2013"/>
Printed Name:	<input type="text" value="Neale VanStreepen"/>		
Title:	<input type="text" value="General Manager"/>		



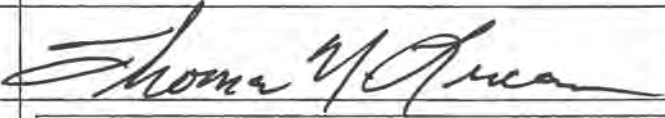
**CITY OF AUSTIN, TEXAS  
LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION**

Contract Number:	
Description of Services:	Sidewalk Maintenance and Trip Hazard Removal
Contractor Name:	Austin/San Antonio Concrete Raising LLC

Pursuant to the Living Wages and Benefits provision of the contract (reference Section 0400, Supplemental Purchase Provisions), the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee's Title:	Driver/Laborer		
Signature of Employee:		Date:	May 21, 2013
Employee's Printed Name:	Thomas Lucas		

(Witness Signature)

(Printed Name)


**CITY OF AUSTIN, TEXAS  
LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION**

Contract Number:	
Description of Services:	Sidewalk Maintenance and Trip Hazard Removal
Contractor Name:	Austin/San Antonio Concrete Raising LLC

Pursuant to the Living Wages and Benefits provision of the contract (reference Section 0400, Supplemental Purchase Provisions), the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee's Title:	Laborer		
Signature of Employee:		Date:	May 21, 2013
Employee's Printed Name:	Roy Lee Julson		

(Witness Signature)



NATALIE VAN STREPEN

(Printed Name)

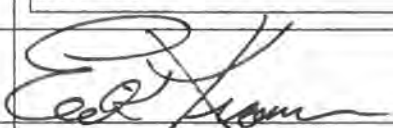
**CITY OF AUSTIN, TEXAS  
LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION**

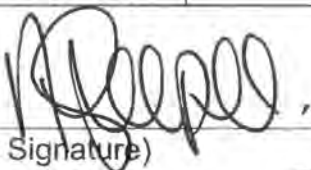
Contract Number:	
Description of Services:	Sidewalk Maintenance and Trip Hazard Removal
Contractor Name:	Austin/San Antonio Concrete Raising LLC

Pursuant to the Living Wages and Benefits provision of the contract (reference Section 0400, Supplemental Purchase Provisions), the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee's Title:	Crew Chief		
Signature of Employee:		Date:	May 21, 2013
Employee's Printed Name:	Erik Kramer		

  
(Witness Signature)

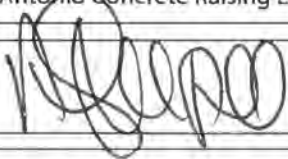
NEAL VAN STRAATEN  
(Printed Name)

**City of Austin, Texas**  
**NONRESIDENT BIDDER PROVISIONS**  
SOLICITATION NO. EAD0222

- A. Bidder must answer the following questions in accordance with Vernon's Texas Statutes and Codes Annotated Government Code 2252.002, as amended:

Is the Bidder that is making and submitting this Bid a "Resident Bidder" or a "Non-resident Bidder"?

- ☒ Texas Resident Bidder - A Bidder whose principal place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.
- ☐ Non-resident Bidder

Bidder's Name:	<span style="border: 1px solid black; display: block; min-height: 1.2em;">Austin/San Antonio Concrete Raising LLC</span>		
Signature of Officer or Authorized Representative:		Date:	<span style="border: 1px solid black; display: block; min-height: 1.2em;">May 21, 2013</span>
Printed Name:	<span style="border: 1px solid black; display: block; min-height: 1.2em;">Neale VanStreepen</span>		
Title:	<span style="border: 1px solid black; display: block; min-height: 1.2em;">General Manager</span>		

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
NO GOALS FORM**

SOLICITATION NUMBER: EAD0222  
PROJECT NAME: Sidewalk Maintenance and Trip Hazard Removal

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 ☒ 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.

AUSTIN/SAN ANTONIO CONCRETE RAKING LLC

Company Name

NEALE VANSTRAEPEN - GENERAL MANAGER

Name and Title of Authorized Representative (Print or Type)

Signature

Date

5/21/13

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
NO GOALS UTILIZATION PLAN**  
*(Please duplicate as needed)*

SOLICITATION NUMBER:	EAD0222
PROJECT NAME:	Sidewalk Maintenance and Trip Hazard Removal

**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 <input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture <input type="checkbox"/>

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.

\_\_\_\_\_  
Name and Title of Authorized Representative (Print or Type)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
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.**

<b>Sub-Contractor/Consultant</b>	
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/> Ethnic/Gender Code: <input type="checkbox"/> NON-CERTIFIED
Vendor ID Code	
Contact Person	Phone Number:
Amount of Subcontract	\$
List commodity codes & description of services	

<b>Sub-Contractor/Consultant</b>	
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/> Ethnic/Gender Code: <input type="checkbox"/> 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 \_\_\_\_\_



## Portland Cement Based Concrete Products

### MATERIAL SAFETY DATA SHEET

(Complies with OSHA 29 CFR 1910.1200)

#### SECTION I: PRODUCT IDENTIFICATION

The QUIKRETE® Companies  
One Securities Centre  
3490 Piedmont Road, Suite 1300  
Atlanta, GA 30329

Emergency Telephone Number  
(770) 216-9580

Information Telephone Number  
(770) 216-9580

MSDS J1  
Revision: May-12

HEALTH			1
FLAMMABILITY			0
PHYSICAL HAZARD			0
PERSONAL PROTECTION Safety Glasses, Gloves and Dust Respirator			

#### **QUIKRETE® Product Name**

#### **Code #**

CONCRETE MIX	1101
FENCE POST MIX	1005
FIBER-REINFORCED CONCRETE MIX	1006
CRACK RESISTANT CONCRETE MIX	1006-80
QUIKRETE 5000 CONCRETE MIX	1007
QUIKRETE 6000 CONCRETE MIX	1007
LIGHTWEIGHT CONCRETE MIX	1008
HANDICRETE CONCRETE MIX	1141
MAXIMUM YIELD CONCRETE MIX	1100-80
B-CRETE	1101-81
PRO-FINISH QUIKRETE 5000	1007-85
BASIC CONCRETE MIX	1015
RIP RAP	1129
ALL-STAR CONCRETE MIX	1121
ALL-STAR CRACK RESISTANT CONCRETE MIX	1470-03
ALL-STAR 5000 CONCRETE MIX	1470-01
RED-E-CRETE CONCRETE MIX	1101-91, -87
RIP RAP SCRIM	1134-80
FIBER REINFORCED DECK MIX	1251-80, -81
PRO-FINISH CRACK RESISTANT CONCRETE MIX	1006-68
COUNTERTOP MIX	1106-80
RITEMix CONCRETE	1171-60
GREEN CONCRETE MIX	1101-63, -73

**Product Use:** Portland cement-based, aggregated products for general construction

#### SECTION II - HAZARD IDENTIFICATION

**Route(s) of Entry:** Inhalation, Skin, Ingestion

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**Acute Exposure:** Product becomes alkaline when exposed to moisture. Exposure can dry the skin, cause alkali burns and affect the mucous membranes. Dust can irritate the eyes and upper respiratory system. Toxic effects noted in animals include, for acute exposures, alveolar damage with pulmonary edema.

**Chronic Exposure:** Dust can cause inflammation of the lining tissue of the interior of the nose and inflammation of the cornea. Hypersensitive individuals may develop an allergic dermatitis.

**Carcinogenicity:** Since Portland cement and blended cements are manufactured from raw materials mined from the earth (limestone, marl, sand, shale, etc.) and process heat is provided by burning fossil fuels, trace, but detectable, amounts of naturally occurring, and possibly harmful, elements may be found during chemical analysis. Under ASTM standards, Portland cement may contain 0.75 % insoluble residue. A fraction of these residues may be free crystalline silica. Respirable crystalline silica (quartz) can cause silicosis, a fibrosis (scarring) of the lungs and possibly cancer. There is evidence that exposure to respirable silica or the disease silicosis is associated with an increased incidence of Scleroderma, tuberculosis and kidney disorders.

**Carcinogenicity Listings:**

NTP:	Known carcinogen
OSHA:	Not listed as a carcinogen
IARC Monographs:	Group 1 Carcinogen
California Proposition 65:	Known carcinogen

NTP: The National Toxicology Program, in its "Ninth Report on Carcinogens" (released May 15, 2000) concluded that "Respirable crystalline silica (RCS), primarily quartz dusts occurring in industrial and occupational settings, is *known to be a human carcinogen*, based on sufficient evidence of carcinogenicity from studies in humans indicating a causal relationship between exposure to RCS and increased lung cancer rates in workers exposed to crystalline silica dust (reviewed in IAC, 1997; Brown *et al.*, 1997; Hind *et al.*, 1997)

IARC: The International Agency for Research on Cancer ("IARC") concluded that there was "*sufficient evidence* in humans for the carcinogenicity of crystalline silica in the forms of quartz or cristobalite from occupational sources", and that there is "*sufficient evidence* in experimental animals for the carcinogenicity of quartz or cristobalite." The overall IARC evaluation was that "crystalline silica inhaled in the form of quartz or cristobalite from occupational sources is *carcinogenic to humans* (Group 1)." The IARC evaluation noted that "carcinogenicity was not detected in all industrial circumstances or studies. Carcinogenicity may be dependent on inherent characteristics of the crystalline silica or on external factors affecting its biological activity or distribution of its polymorphs." For further information on the IARC evaluation, see IARC Monographs on the Evaluation of carcinogenic Risks to Humans, Volume 68, "Silica, Some Silicates." (1997)

**Signs and Symptoms of Exposure:** Symptoms of excessive exposure to the dust include shortness of breath and reduced pulmonary function. Excessive exposure to skin and eyes especially when mixed with water can cause caustic burns as severe as third degree.

**Medical Conditions Generally Aggravated by Exposure:** Individuals with sensitive skin and with pulmonary and/or respiratory disease, including, but not limited to, asthma and bronchitis, or subject to eye irritation, should be precluded from exposure. Exposure to crystalline silica or the disease silicosis is associated with increased incidence of scleroderma, Tuberculosis and possibly increased incidence of kidney lesions.

**Chronic Exposure:** Dust can cause inflammation of the lining tissue of the interior of the nose and inflammation of the cornea. Hypersensitive individuals may develop an allergic dermatitis. (May contain trace (<0.05 %) amounts of chromium salts or compounds including hexavalent chromium, or other metals found to be hazardous or toxic in some chemical forms. These metals are mostly present as trace substitutions within the principal minerals)

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**Medical Conditions Generally Aggravated by Exposure:** Individuals with sensitive skin and with pulmonary and/or respiratory disease, including, but not limited to, asthma and bronchitis, or subject to eye irritation, should be precluded from exposure.

**SECTION III - HAZARDOUS INGREDIENTS/IDENTITY INFORMATION**

Hazardous Components	CAS No.	%	PEL (OSHA) mg/M <sup>3</sup>	TLV (ACGIH) mg/M <sup>3</sup>
Portland Cement	65997-15-1	10-30	5	5
Lime	01305-62-0	0-5	5	5
Silica Sand, crystalline	14808-60-7	70-90	$\frac{10}{\%SiO_2+2}$	0.05 (respirable)

May contain one or more of the following ingredients:

Amorphous Silica (From fly Ash)	07631-86-9	$\frac{80}{\%SiO_2+2}$	10
Alumina (From Fly Ash)	01344-28-1	5	5
Limestone Dust	01317-65-3	5	5
Calcium Sulfate	10101-41-4 or 13397-24-5	5	5

**Other Limits:** National Institute for Occupational Safety and Health (NIOSH). Recommended standard maximum permissible concentration=0.05 mg/M<sup>3</sup> (respirable free silica) as determined by a full-shift sample up to 10-hour working day, 40-hour work week. See NIOSH Criteria for a Recommended Standard Occupational Exposure to Crystalline Silica.

**SECTION IV – First Aid Measures**

**Eyes:** Immediately flush eye thoroughly with water. Continue flushing eye for at least 15 minutes, including under lids, to remove all particles. Call physician immediately.

**Skin:** Wash skin with cool water and pH-neutral soap or a mild detergent. Seek medical treatment if irritation or inflammation develops or persists. Seek immediate medical treatment in the event of burns.

**Inhalation:** Remove person to fresh air. If breathing is difficult, administer oxygen. If not breathing, give artificial respiration. Seek medical help if coughing and other symptoms do not subside. Inhalations of large amounts of Portland cement require immediate medical attention.

**Ingestion:** Do not induce vomiting. If conscious, have the victim drink plenty of water and call a physician immediately.

**SECTION V - FIRE AND EXPLOSION HAZARD DATA**

**Flammability:** Noncombustible and not explosive.

**Auto-ignition Temperature:** Not Applicable

**Flash Points:** Not Applicable

**SECTION VI – ACCIDENTAL RELEASE MEASURES**

If spilled, use dustless methods (vacuum) and place into covered container for disposal (if not contaminated or wet). Use adequate ventilation to keep exposure to airborne contaminants below the exposure limit.

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**SECTION VII - PRECAUTIONS FOR SAFE HANDLING AND STORAGE**

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Do not allow water to contact the product until time of use. DO NOT BREATHE DUST. In dusty environments, the use of an OSHA, MSHA or NIOSH approved respirator and tight fitting goggles is recommended.

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**SECTION VIII – EXPOSURE CONTROL MEASURES**

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**Engineering Controls:** Local exhaust can be used, if necessary, to control airborne dust levels.

**Personal Protection:** The use of barrier creams or impervious gloves, boots and clothing to protect the skin from contact is recommended. Following work, workers should shower with soap and water. Precautions must be observed because burns occur with little warning – little heat is sensed.

WARN EMPLOYEES AND/OR CUSTOMERS OF THE HAZARDS AND REQUIRED OSHA PRECAUTIONS ASSOCIATED WITH THE USE OF THIS PRODUCT.

**Exposure Limits:** Consult local authorities for acceptable exposure limits

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**SECTION IX - PHYSICAL/CHEMICAL CHARACTERISTICS**

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**Appearance:** Gray to gray-brown colored powder; Some products contain coarse aggregates.

**Specific Gravity:** 2.6 to 3.15

**Melting Point:** >2700°F

**Boiling Point:** >2700°F

**Vapor Pressure:** Not Available

**Vapor Density:** Not Available

**Evaporation Rate:** Not Available

**Solubility in Water:** Slight

**Odor:** Not Available

**pH:** 13 (10%)

**Volatile Organic Content (VOC):** 0 g/L

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**SECTION X - REACTIVITY DATA**

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**Stability:** Stable.

**Incompatibility (Materials to Avoid):** Contact of silica with powerful oxidizing agents such as fluorine, chlorine trifluoride, manganese trioxide, or oxygen difluoride may cause fires

**Hazardous Decomposition or By-products:** Silica will dissolve in Hydrofluoric Acid and produce a corrosive gas – silicon tetrafluoride.

**Hazardous Polymerization:** Will Not Occur.

**Condition to Avoid:** Keep dry until used to preserve product utility.

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**SECTION XI – TOXICOLOGICAL INFORMATION**

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**Routes of Entry:** Inhalation, Ingestion

**Toxicity to Animals:**

LD50: Not Available

LC50: Not Available

**Chronic Effects on Humans:** Conditions aggravated by exposure include eye disease, skin disorders and Chronic Respiratory conditions.

**Special Remarks on Toxicity:** Not Available



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**SECTION XII – ECOLOGICAL INFORMATION**

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**Ecotoxicity:** Not Available

**BOD5 and COD:** Not Available

**Products of Biodegradation:** Not available

**Toxicity of the Products of Biodegradation:** Not available

**Special Remarks on the Products of Biodegradation:** Not available

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**SECTION XIII – DISPOSAL CONSIDERATIONS**

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**Waste Disposal Method:** The packaging and material may be land filled; however, material should be covered to minimize generation of airborne dust. This product is not classified as a hazardous waste under the authority of the RCRA (40CFR 261) or CERCLA (40CFR 117&302).

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**SECTION XIV – TRANSPORT INFORMATION**

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Not hazardous under U.S. DOT and TDG regulations.

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**SECTION XV – OTHER REGULATORY INFORMATION**

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**US OSHA 29CFR 1910.1200:** Considered hazardous under this regulation and should be included in the employers' hazard communication program

**SARA (Title III) Sections 311 & 312:** Qualifies as a hazardous substance with delayed health effects

**SARA (Title III) Section 313:** Not subject to reporting requirements

**TSCA (May 1997):** Some substances are on the TSCA inventory list

**Federal Hazardous Substances Act:** Is a hazardous substance subject to statutes promulgated under the subject act

**California Regulation: WARNING:** This product contains chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.

**Canadian Environmental Protection Act:** Not listed

**Canadian WHMIS Classification:** Considered to be a hazardous material under the Hazardous Products Act as defined by the Controlled Products Regulations (Class D2A, E- Corrosive Material) and subject to the requirements of Health Canada's Workplace Hazardous Material Information (WHMIS). This product has been classified according to the hazard criteria of the Controlled Products Regulation (CPR). This document complies with the WHMIS requirements of the Hazardous Products Act (HPA) and the CPR.

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**SECTION XVI – OTHER INFORMATION**

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<b>HMIS-III:</b>	<b>Health –</b>	0 = No significant health risk 1 = Irritation or minor reversible injury possible 2 = Temporary or minor injury possible 3 = Major injury possible unless prompt action is taken 4 = Life threatening, major or permanent damage possible
	<b>Flammability-</b>	0 = Material will not burn 1 = Material must be preheated before ignition will occur 2 = Material must be exposed to high temperatures before ignition

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## Physical Hazard-

- 3 = Material capable of ignition under normal temperatures
- 4 = Flammable gases or very volatile liquids; may ignite spontaneously
- 0 = Material is normally stable, even under fire conditions
- 1 = Material normally stable but may become unstable at high temps
- 2 = Materials that are unstable and may undergo react at room temp
- 3 = Materials that may form explosive mixtures with water
- 4 = Materials that are readily capable of explosive water reaction

**Abbreviations:**

ACGIH	American Conference of Government Industrial Hygienists
CAS	Chemical Abstract Service
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
CPR	Controlled Products Regulations (Canada)
DOT	Department of Transportation
IARC	International Agency for Research
MSHA	Mine Safety and Health Administration
NIOSH	National Institute for Occupational Safety and Health
NTP	National Toxicity Program
OSHA	Occupational Safety and Health Administration
PEL	Permissible Exposure Limit
RCRA	Resource Conservation and Recovery Act
SARA	Superfund Amendments and Reauthorization Act
TLV	Threshold Limit Value
TWA	Time-weighted Average
WHMIS	Workplace Hazardous Material Information System

**Last Updated: May 8, 2012**

**NOTE:** The information and recommendations contained herein are based upon data believed to be correct. However, no guarantee or warranty of any kind, express or implied, is made with respect to the information contained herein. We accept no responsibility and disclaim all liability for any harmful effects which may be caused by exposure to silica contained in our products. END OF MSDS.



# **MATERIAL SAFETY DATA SHEET (MSDS) FOR PORTLAND CEMENT**

(Complies with OSHA and MSHA Hazard Communication Standards,  
29 CFR 1910.1200 and 30 CFR Part 47)



**CEMEX, INC.  
CEMEX CALIFORNIA CEMENT LLC  
VICTORVILLE CEMENT PLANT  
16888 NORTH "E" STREET  
VICTORVILLE, CALIFORNIA 92394-2999**

---

## Section 1 - IDENTIFICATION

### Supplier/Manufacturer

CEMEX, Inc.  
CEMEX California Cement LLC  
Victorville Cement Plant  
16888 North "E" Street  
Victorville, California 92394-2999

### Emergency Contact Information

(619) 381-7600

### Chemical name and synonyms

Portland Cement (CAS #65997-15-1)

### Product name

"CEMEX Type I/II"  
"CEMEX Type III"  
"CEMEX Type II/V"  
"CEMEX Type V"  
"CEMEX Block"  
"CEMEX Class G"

### Chemical family

Calcium salts.

### Formula

3CaO.SiO <sub>2</sub>	(CAS #12168-85-3)
2CaO.SiO <sub>2</sub>	(CAS #10034-77-2)
3CaO.Al <sub>2</sub> O <sub>3</sub>	(CAS #12042-78-3)
4CaO..Al <sub>2</sub> O <sub>3</sub> Fe <sub>2</sub> O <sub>3</sub>	(CAS #12068-35-8)
CaSO <sub>2</sub> .2H <sub>2</sub> O	(CAS #13397-24-5)

Other salts:

Small amounts of MgO, and trace amounts of K<sub>2</sub>SO<sub>4</sub> and Na<sub>2</sub>SO<sub>4</sub> may also be present.

---

## Section 2 - COMPONENTS

### Hazardous Ingredients

Portland cement clinker (CAS# 65997-15- 1) - approximately - 93.5-96.0 % by weight  
ACGIH TLV-TWA (2000) = 10 mg total dust/m<sup>3</sup>  
OSHA PEL (8-hour TWA) = 50 million particles/ft<sup>3</sup>

Gypsum (CAS# 7778-18-9) - approximately - 4.0-6.5 % by weight  
ACGIH TLV-TWA (2000) = 10 mg total dust/m<sup>3</sup>  
OSHA PEL (8-hour TWA) = 15 mg total dust/m<sup>3</sup>  
OSHA PEL (8-hour TWA) = 5 mg respirable dust/m<sup>3</sup>

Respirable quartz (CAS# 14808-60-7) – greater than 0.1% by weight  
ACGIH TLV-TWA (2000) = 0.05 mg respirable quartz dust/m<sup>3</sup>  
OSHA PEL (8-hour TWA) = (10 mg respirable dust/m<sup>3</sup>)/(percent silica + 2)

### Trace Ingredients

Trace amounts of naturally occurring chemicals might be detected during chemical analysis. Trace constituents may include up to 0.75% insoluble residue, some of which may be free crystalline silica, calcium oxide (Also known as lime or quick lime), magnesium oxide, potassium sulfate, sodium sulfate, chromium compounds, and nickel compounds.

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## Section 3 - HAZARD IDENTIFICATION

### Emergency Overview

Portland cement is a light gray powder that poses little immediate hazard. A single short-term exposure to the dry powder is not likely to cause serious harm. However, exposure of sufficient duration to wet portland cement can cause serious, potentially irreversible tissue (skin or eye) destruction in the form of chemical (caustic) burns. The same type of tissue destruction can occur if wet or moist areas of the body are exposed for sufficient duration to dry portland cement.

### Potential Health Effects

#### **Relevant Routes of Exposure:**

Eye contact, skin contact, inhalation, and ingestion.

#### **Effects Resulting from Eye Contact:**

Exposure to airborne dust may cause immediate or delayed irritation or inflammation. Eye contact by large amounts of dry powder or splashes of wet portland cement may cause effects ranging from moderate eye irritation to chemical burns or blindness. Such exposures require immediate first aid (see Section 4) and medical attention to prevent significant damage to the eye.

#### **Effects Resulting from Skin Contact:**

Discomfort or pain cannot be relied upon to alert a person to hazardous skin exposure. Consequently, the only effective means of avoiding skin injury or illness involves minimizing skin contact, particularly with wet cement. Exposed persons may not feel discomfort until hours after the exposure has ended and significant injury has occurred.

Dry portland cement contacting wet skin or exposure to moist or wet portland cement may cause more severe skin effects including thickening, cracking or fissuring of the skin. Prolonged exposure can cause severe skin damage in the form of (alkali) chemical burns.

Some individuals may exhibit an allergic response upon exposure to portland cement, possibly due to trace elements of chromium. The response may appear in a variety of forms ranging from a mild rash to severe skin ulcers. Persons already sensitized may react to their first contact with the product. Other persons may first experience this effect after years of contact with portland cement products.

#### **Effects Resulting from Inhalation:**

Portland cement may contain trace amounts of free crystalline silica. Prolonged exposure to respirable free silica can aggravate other lung conditions and cause silicosis, a disabling and potentially fatal lung disease.

Exposure to portland cement may cause irritation to the moist mucous membranes of the nose, throat, and upper respiratory system. It may also leave unpleasant deposits in the nose.

#### **Effects Resulting from Ingestion:**

Although small quantities of dust are not known to be harmful, ill effects are possible if larger quantities are consumed. Portland cement should not be eaten.

#### **Carcinogenic potential:**

Portland cement is **not** listed as a carcinogen by NTP, OSHA, or IARC. It may however, contain trace amounts of substances listed as carcinogens by these organizations.

Crystalline silica, a potential trace level contaminate in Portland cement, is now classified by IARC as known human carcinogen (Group I). NTP has characterized respirable silica as "reasonably anticipated to be [a] carcinogen".

#### **Medical conditions which may be aggravated by, inhalation or dermal exposure:**

Pre-existing upper respiratory and lung diseases.

Unusual (hyper) sensitivity to hexavalent chromium (chromium<sup>6+</sup>) salts.

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## Section 4 - FIRST AID

#### Eyes

Immediately flush eyes thoroughly with water. Continue flushing eye for at least 15 minutes, including under lids, to remove all particles. Call physician immediately.

#### Skin

Wash skin with cool water and pH-neutral soap or a mild detergent. Seek medical treatment in all cases of prolonged exposure to wet cement, cement mixtures, liquids from fresh cement products, or prolonged wet skin exposure to dry cement.

#### Inhalation of Airborne Dust

Remove to fresh air. Seek medical help if coughing and other symptoms do not subside.

#### Ingestion

Do not induce vomiting. If conscious, have the victim drink plenty of water and call a physician immediately.

---

### **Section 5 - FIRE AND EXPLOSION DATA**

Flash point .....	None	Lower Explosive Limit.....	None
Upper Explosive Limit.....	None	Auto ignition temperature.....	Not Combustible
Extinguishing media.....	Not Combustible	Special fire fighting Procedures.....	None
Hazardous combustion products.....	None	Unusual fire and explosion hazards...	None

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### **Section 6 - ACCIDENTAL RELEASE MEASURES**

Collect dry material using a scoop. Avoid actions that cause dust to become airborne. Avoid inhalation of dust and contact with skin. Wear appropriate personal protective equipment as described in Section 8.

Scrape up wet material and place in an appropriate container. Allow the material to "dry" before disposal. Do not attempt to wash portland cement down drains.

Dispose of waste material according to local, state and federal regulations.

---

### **Section 7 - HANDLING AND STORAGE**

Keep portland cement dry until used. Normal temperatures and pressures do not affect the material.

Promptly remove dusty clothing or clothing which is wet with cement fluids and launder before reuse. Wash thoroughly after exposure to dust or wet cement mixtures or fluids.

---

### **Section 8 - EXPOSURE CONTROLS/PERSONAL PROTECTION**

#### Skin Protection

Prevention is essential to avoiding potentially severe skin injury. Avoid contact with unhardened portland cement. If contact occurs, promptly wash affected area with soap and water. Where prolonged exposure to unhardened portland cement products might occur, wear impervious clothing and gloves to eliminate skin contact. Wear sturdy boots that are impervious to water to eliminate foot and ankle exposure.

Do not rely on barrier creams: barrier creams should not be used in place of gloves.

Periodically wash areas contacted by dry portland cement or by wet cement or concrete fluids with a pH neutral soap. Wash again at the end of work. If irritation occurs, immediately wash the affected area and seek treatment. If clothing becomes saturated with wet concrete, it should be removed and replaced with clean dry clothing.

### Respiratory Protection

Avoid actions that cause dust to become airborne. Use local or general exhaust ventilation to control exposures below applicable exposure limits.

Use NIOSH/MSHA approved (under 30 CFR 11) or NIOSH approved (under 42 CFR 84) respirators in poorly ventilated areas, if an applicable exposure limit is exceeded, or when dust causes discomfort or irritation. (Advisory: Respirators and filters purchased after June 10, 1998 must be certified under 42 CFR 84.)

### Ventilation

Use local exhaust or general dilution ventilation to control exposure within applicable limits.

### Eye Protection

Where potentially subject to splashes or puffs of cement, wear safety glasses with side shields or goggles. In extremely dusty environments and unpredictable environments wear unvented or indirectly vented goggles to avoid eye irritation or injury. Contact lenses should not be worn when working with portland cement or fresh cement products.

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## **Section 9 - PHYSICAL AND CHEMICAL, PROPERTIES**

Appearance.....	Gray Powder	Odor.....	No distinct odor
Physical state.....	Solid (powder)	pH (in water).....	12 to 13
Solubility in water...	Slightly soluble (0.1 to 1.0%)	Vapor pressure.....	Not applicable
Vapor density.....	Not applicable	Boiling point.....	Not applicable (i.e., > 1000 C)
Melting point.....	Not applicable	Specific gravity (H2O = 1.0).....	3.15
Evaporation rate.....	Not applicable		

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## **Section 10 - STABILITY AND REACTIVITY**

### Stability

Stable.

### Conditions to avoid

Unintentional contact with water.

### Incompatibility

Wet Portland cement is alkaline. As such it is incompatible with acids, ammonium salts and phosphorous.

### Hazardous decomposition

Will not spontaneously occur. Adding water produces (caustic) calcium hydroxide

### Hazardous Polymerization

Will not occur.

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## **Section 11 - TOXICOLOGICAL INFORMATION**

For a description of available, more detailed toxicological information contact the supplier or manufacturer.

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## **Section 12 - ECOLOGICAL INFORMATION**

### Ecotoxicity

No recognized unusual toxicity to plants or animals

### Relevant physical and chemical properties

(See Sections 9 and 10.)

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## **Section 13 - DISPOSAL**

Dispose of waste material according to local, state and federal regulations. (Since portland cement is stable, uncontaminated material may be saved for future use.

Dispose of bags in an approved landfill or incinerator.

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## Section 14 - TRANSPORTATION DATA

### Hazardous materials description/proper shipping name

Portland cement is not hazardous under U.S. Department of Transportation (DOT) regulations.

### Hazard class

Not applicable

### Identification number

Not applicable.

### Required label text

Not applicable.

### Hazardous substances/reportable quantities (RQ)

Not applicable.

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## Section 15 - OTHER REGULATORY INFORMATION

### Status under USDOL-OSHA Hazard Communication Rule, 29 CFR 1910.1200

Portland cement is considered a "hazardous chemical" under this regulation, and should be part of any hazard communication program.

### Status under CERCLA/SUPERFUND 40 CFR 117 and 302

Not listed.

### Hazard Category under SARA (Title III), Sections 311 and 312

Portland cement qualifies as a "hazardous substance" with delayed health effects.

### Status under SARA (Title III), Section 313

Not subject to reporting requirements under Section 313.

### Status under TSCA (as of May 1997)

Some substances in portland cement are on the TSCA inventory list.

### Status under the Federal Hazardous Substances Act

Portland cement is a "hazardous substance" subject to statutes promulgated under the subject act.

### Status under California Proposition 65

This product contains up to 0.05 percent of chemicals (trace elements) known to the State of California to cause cancer, birth defects or other reproductive harm. California law requires the manufacturer to give the above warning in the absence of definitive testing to prove that the defined risks do not exist.

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## Section 16 - OTHER INFORMATION

### Prepared by

Kevin Keegan  
Director - Health and Safety  
CEMEX, Inc.  
Houston, Texas

### Approval date or Revision date

Approved: August, 1997  
Revised: March, 2001

### Other important information



Portland cement should only be used by knowledgeable persons. A key to using the product safely requires the user to recognize that portland cement chemically reacts with water, and that some of the intermediate products of this reaction (that is those present while a portland cement product is "setting") pose a more severe hazard than does dry portland cement itself.

While the information provided in this material safety data sheet is believed to provide a useful summary of the hazards of portland cement as it is commonly used, the sheet cannot anticipate and provide the all of the information that might be needed in every situation. Inexperienced product users should obtain proper training before using this product.

SELLER MAKES NO WARRANTY, EXPRESSED OR IMPLIED, CONCERNING THE PRODUCT OR THE MERCHANTABILITY OR FITNESS THEREOF FOR ANY PURPOSE OR CONCERNING THE ACCURACY OF ANY INFORMATION PROVIDED BY CEMEX, Inc. except that the product shall conform to contracted specifications. The information provided herein was believed by CEMEX, Inc. to be accurate at the time of preparation or prepared from sources believed to be reliable, but it is the responsibility of the user to investigate and understand other pertinent sources of information to comply with all laws and procedures applicable to the safe handling and use of product and to determine the suitability of the product for its intended use. Buyer's exclusive remedy shall be for damages and no claim of any kind, whether as to product delivered or for non-delivery of product, and whether based on contract, breach of warranty, negligence, or otherwise shall be greater in amount than the purchase price of the quantity of product in respect of which damages are claimed. In no event shall Seller be liable for incidental or consequential damages, whether Buyer's claim is based on contract, breach of warranty, negligence or otherwise.

In particular, the data furnished in this sheet do not address hazards that may be posed by other materials mixed with portland cement to produce portland cement products. Users should review other relevant material safety data sheets before working with this portland cement or working on portland cement products, for example, portland cement concrete.



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### Employee Notice

RE: Health Insurance

Date: May 21<sup>st</sup> 2013

---

CRC has decided to offer a health insurance for employees. The plan would be available for each employee and provide the option for the employee to add immediate family members to the plan.

In order for the plan to be implemented we would need at least 3 employees to participate in the plan at all times.

CRC will contribute 50% of monthly cost for each employee and the employee must pay 100% of the cost for any additional family members added to the plan.

The employee (and optional family) portion of the plan will be deducted each week on a pro-rated basis

The plan to be offered is as follows:

Plan Name:	TX Simplicity PPO 12 OPT 1
Plan Vendor:	Humana
Monthly Cost Per Employee	\$262.83

Please refer to the Enclosed Plan Summary for benefit and plan details. Additional information on the plan and benefits are available on request.

Contact me for further details

Regards

Neale Van Streepen

General Manager

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**Medical Proposal**

Proposal for: Concrete Raising Of Austi

State/county: TX - Travis  
SIC: 1771 - Concrete Work  
Location type: Single Site

Quote #: 058397501-002

Reference #: 1

Effective: 7/1/2013

Health risk adjust: TBD

Agent/agency: Geri L Blancken

Prepared: 5/22/2013

**Medical Plan: TX Simplicity PPO 12 OPT 1**

Network: CHC  
Coinsurance % (In/out): 100/50  
Deductible single (In/out): 0/5000  
Out of pocket (In/out): 5000/15000  
Office copay PCP/Specialist: \$40/65  
Pharmacy: Walmart \$10/40/70/25%  
Association: TX Assoc  
24 Hour coverage: No

Employee age / gender	Coverage type	Employee	Dependent	Total
21 M	Employee	\$157.32		\$157.32
40 M	Employee	\$325.89		\$325.89
60 M	Employee	\$977.65		\$977.65
52 M	Employee	\$621.80		\$621.80

Subtotal: \$2,082.66  
Monthly admin fee: \$20.00  
Total monthly premium: \$2,102.66

**Options included in monthly total**

	Employee	Employee/ spouse	Employee/ child	Family	Total

**Options not included in monthly total**

	Employee	Employee/ spouse	Employee/ child	Family	Total
TX In vitro		(Rate reflected as a monthly total only)			\$1,609.91
TX SMI Offer 2-50		(Rate reflected as a monthly total only)			\$35.56

**Composite Rates**

	Employee (4)	Employee/ spouse (0)	Employee/ child (0)	Family (0)	Total **
	\$520.67	\$1,145.47	\$989.27	\$1,666.14	\$2,082.68

Composite rates shown above are approximate due to rounding.

\*\*A monthly admin fee of \$20.00 is not included in the total monthly premium shown.



TO: Veronica Lara, Director  
Department of Small and Minority Business Resources

FROM: Eriti D'Vincent, Buyer II

DATE: 4/17/13

SUBJECT: Request for Determination of Goals for Solicitation No.: EAD0222  
Project Name: Sidewalk Maintenance and Trip Hazard Removal  
Commodity Code(s): 9139671  
Estimate: \$200,000/year 1  
Advertisement Dates: 4/29/13 & 5/6/13

\_\_\_\_\_ The Purchasing Office has determined that Goals may be appropriate for this solicitation.

This determination is based on the following reasons:

The Department Point of Contact is: \_\_\_\_\_ Phone: \_\_\_\_\_

☒ The Purchasing Office has determined that Goals are not appropriate for this solicitation.

This determination is based on the following reason:

ONE SCOPE FOR SIDEWALK & TRIP HAZARD REMOVAL

Per paragraph 8.2.1 of the Rules Governing the Minority and Women Owned Business Enterprise Procurement, I approve the use of the above goal by completing and returning the below endorsement. If you have any questions, call 972-4017.



Approved

Not Approved

- a. Goals: \_\_\_\_\_ % MBE \_\_\_\_\_ % WBE
- b. Subgoals \_\_\_\_\_ % African American \_\_\_\_\_ % Hispanic  
\_\_\_\_\_ % Native/Asian American \_\_\_\_\_ % WBE

This determination is based on the following reasons: There were no subcontract opportunities identified; however, there are several firms available to bid as a prime.

Veronica Lara  
Veronica Lara, Director

Date: 4/19/13

cc: Lorena Resendiz