



Amendment No. 2  
of  
Contract No. NA160000012  
For  
Trucking and Hauling Services  
between  
MG Limon Corporation Dba Limon Construction  
and the  
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective October 21, 2019 to October 20, 2020. One option remains.
- 2.0 The City hereby approves the 11.2% increase as requested by MG Limon Corporation Dba Limon Construction. The new price rates are listed in Attachment A. Effective date of this change is October 21, 2019.
- 3.0 The total contract amount is increased by \$503,342.00 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 10/21/2015 – 10/20/2018	\$1,510,026.00	\$1,510,026.00
Amendment No. 1: Option 1 10/21/2018 – 10/20/2019	\$503,342.00	\$2,013,368.00
Amendment No. 2: Option 2 10/21/2019 – 10/20/2020	\$503,342.00	\$2,516,710.00

- 4.0 MBE/WBE goals were not established for this contract.
- 5.0 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.
- 6.0 All other terms and conditions remain the same.

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

Signature & Date: Manthia Limon 9-29-19

Printed Name: Manthia Limon  
Authorized Representative

Signature & Date: Erin D'Vincent 10-11-19

Erin D'Vincent, Procurement Supervisor  
City of Austin  
Purchasing Office

MG Limon Corporation Dba Limon Construction  
124 Juarez Cove  
Del Valle, TX 78617  
glimonhaulingco@yahoo.com

**Attachment A**  
**Amendment #2 to Contract # MA 6200 NA160000012**  
**Unit Prices**  
**(Effective date for new pricing is October 21, 2019)**

<b>Bid Item</b>	<b>Bid Item Description</b>	<b>Unit Bid Price</b>	<b>Unit Price Increase (11.2%)</b>	<b>New Unit Price</b>
1	Drive Hourly Rate - Dump Truck (12 Yards) per specification 4.2	\$ 55.00	\$ 6.16	\$ 61.16
2	Driver Hourly Rate - Tri-Axle (18 Yards) per specification 4.2	\$ 65.00	\$ 7.28	\$ 72.28
3	Driver Hourly Rate - Belly-Dumps (24 Yards) per specification 4.2	\$ 85.00	\$ 9.52	\$ 94.52
4	Driver Hourly Rate - End-Dumps (24 Yards) per specification 4.2	\$ 85.00	\$ 9.52	\$ 94.52
5	Driver Hourly Rate - Centipede Truck (22 yards) per specification 4.2	\$ 85.00	\$ 9.52	\$ 94.52



Amendment No. 1  
of  
Contract No. NA160000012  
For  
Trucking and Hauling Services  
between  
MG Limon Corporation Dba Limon Construction  
and the  
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective October 21, 2018, to October 20, 2019. Two options remain.
- 2.0 The total contract amount is increased by \$503,342.00 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 10/21/2015 – 10/20/2018	\$1,510,026.00	\$1,510,026.00
Amendment No. 1: Option 1 10/21/2018 – 10/20/2019	\$503,342.00	\$2,013,368.00

- 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 & Date: Martha Limon  
Printed Name: Martha Limon  
Authorized Representative

Signature & Date: Matthew Duree 10-11-18 for  
Matthew Duree, Procurement Manager  
City of Austin  
Purchasing Office

MG Limon Corporation Dba Limon Construction  
124 Juarez Cove  
Del Valle, TX 78617  
glimonhaulingco@yahoo.com



# City of Austin

## Purchasing Office, Financial Services Department

P.O. Box 1088, Austin, TX 78767

October 21, 2015

MG Limon Corporation DbA Limon Construction

Martha Limon

Office Manager

124 Juarez Cove

Del Valle, TX 78617

[glimonhaulingco@yahoo.com](mailto:glimonhaulingco@yahoo.com)

Dear Martha Limon:

The Austin City Council approved the execution of a contract with your company for Trucking and Hauling Services in accordance with the referenced solicitation.

Responsible Department:	Street & Bridge Division
Department Contact Person:	Brenda Jimenez
Department Contact Email Address:	<a href="mailto:Brenda.jimenez@austintexas.gov">Brenda.jimenez@austintexas.gov</a>
Department Contact Telephone:	512-974-7955
Project Name:	Trucking and Hauling Services
Contractor Name:	MG Limon Corporation DbA Limon Construction
Contract Number:	MA 6200 NA1600000012
Contract Period:	10/21/15 – 10/20/2018
Dollar Amount	\$1,510,026
Extension Options:	3 x 12 months (\$503,342 per option)
Requisition Number:	RQM 15022400219
Solicitation Type & Number:	IFB GLB0023REBID2
Agenda Item Number:	22
Council Approval Date:	10/15/15

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.

Sincerely,

  
Georgia L. Billela

Buyer II

City of Austin

Purchasing Office

cc: Brenda Jimenez  
Donna Lee Bliss

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
MG Limon Corporation Dba Limon Construction ("Contractor")  
for  
Trucking and Hauling Services  
MA 6200 NA160000012**

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 MG Limon Corporation Dba Limon Construction having offices at Del Valle, TX 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 IFB GLB0023 REBID2.

**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), GLB0023REBID including all documents incorporated by reference

1.1.3 MG Limon Corporation Dba Limon Construction Offer, dated 8/19/2015

**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

**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 \$1,510,026 for the initial Contract term and \$503,342 for each extension option 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.

**MG Limon Corporation DbA Limon Construction**

Marthe Limon  
Printed Name of Authorized Person

Marthe Limon  
Signature

Office Manager  
Title:

10-21-15  
Date:

**CITY OF AUSTIN**

Georgia Billela  
Printed Name of Authorized Person

GBillela  
Signature

Buyer II  
Title:

10/21/15  
Date:

**CITY OF AUSTIN**

Teresa Reddy  
Printed Name of Authorized Person

Teresa Reddy  
Signature

Corp Purchasing Manager  
Title:

10/21/15  
Date:



**CITY OF AUSTIN, TEXAS**  
**Purchasing Office**  
**INVITATION FOR BID (IFB)**  
**OFFER SHEET**

**SOLICITATION NO:** GLB0023 REBID2

**DATE ISSUED:** August 3, 2015

**REQUISITION NO.:** RQM 6200 15022400219

**COMMODITY CODE:** 96239

**FOR CONTRACTUAL AND TECHNICAL  
ISSUES CONTACT THE FOLLOWING  
AUTHORIZED CONTACT PERSON:**

Georgia Billela  
Buyer II

**Phone:** (512) 974-2939

**E-Mail:** [georgia.billela@austintexas.gov](mailto:georgia.billela@austintexas.gov)

Terry Nicholson  
Senior Buyer Specialist

**Phone:** (512) 974-2995

**E-Mail:** [terry.nicholson@austintexas.gov](mailto:terry.nicholson@austintexas.gov)

**COMMODITY/SERVICE DESCRIPTION:** Trucking & Hauling  
Services

**PRE-BID CONFERENCE TIME AND DATE:** N/A

**LOCATION:** N/A

**BID DUE PRIOR TO:** August 19, 2015 @ 2:00 P.M.

**BID OPENING TIME AND DATE:** August 19, 2015 @ 2:15 P.M.

**LOCATION:** MUNICIPAL BUILDING, 124 W 8<sup>th</sup> STREET  
RM 308, AUSTIN, TEXAS 78701

**LIVE BID OPENING ONLINE:**

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

<http://www.austintexas.gov/department/bid-opening-webinars>

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

<b>Address for US Mail (Only)</b>	<b>Address for Fedex, UPS, Hand Delivery or Courier Service</b>
City of Austin	City of Austin, Municipal Building
Purchasing Office-Response Enclosed for Solicitation # GLB0023REBID2	Purchasing Office-Response Enclosed for Solicitation # GLB0023REBID2
P.O. Box 1088	124 W 8 <sup>th</sup> Street, Rm 308
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

**NOTE: Offers must be received and time stamped in the Purchasing Office prior to the Due Date and Time. It is the  
responsibility of the Offeror to ensure that their Offer arrives at the receptionist's desk in the Purchasing Office prior to  
the time and date indicated. Arrival at the City's mailroom, mail terminal, or post office box will not constitute the Offer  
arriving on time. See Section 0200 for additional solicitation instructions.**

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

**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.**

**SUBMIT 1 ORIGINAL AND 1 ELECTRONIC THUMB/FLASH DRIVE OF YOUR RESPONSE**

**The electronic PDF version shall be an exact duplicate of the original hard copy submittal, including all required signatures and  
sections. The City of Austin is not responsible for discrepancies between the contractor's electronic PDF version and the original  
hard copy submittal; the City may deem any discrepancy as a non-responsive offer.**

**\*\*\*SIGNATURE FOR SUBMITTAL REQUIRED ON PAGE 3 OF THIS DOCUMENT\*\*\***

**This solicitation is comprised of the following required sections. Please ensure to carefully read each section including those incorporated by reference. By signing this document, you are agreeing to all the items contained herein and will be bound to all terms.**

SECTION NO.	TITLE	PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200	STANDARD SOLICITATION INSTRUCTIONS	*
0300	STANDARD PURCHASE TERMS AND CONDITIONS	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	7
0500	SPECIFICATION	5
ATT	ATTACHMENT A – WASTE MANAGEMENT	1
0600	BID SHEET – Must be completed and returned with Offer	2
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return	2
0700	REFERENCE SHEET – Complete and return if required	3
0800	NON-DISCRIMINATION CERTIFICATION	*
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1
0900	MBE/WBE PROCUREMENT PROGRAM PACKAGE NO GOALS FORM – Complete & return	2

**\* Documents 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 located in the Municipal Building, 124 West 8<sup>th</sup> Street, Room #308 Austin, Texas 78701; phone (512) 974-2500. 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.**

**The undersigned, by his/her signature, represents that he/she is submitting a binding offer and is authorized to bind the respondent to fully comply with the solicitation document contained herein. The Respondent, by submitting and signing below, acknowledges that he/she has received and read the entire document packet sections defined above including all documents incorporated by reference, and agrees to be bound by the terms therein.**

Company Name: MG Limon Corporation DbA Limon Construction

Company Address: 124 Juarez Cove

City, State, Zip: Del Valle, Texas 78617

Federal Tax ID No. [REDACTED]

Printed Name of Officer or Authorized Representative: Martha Limon

Title: Office Manager

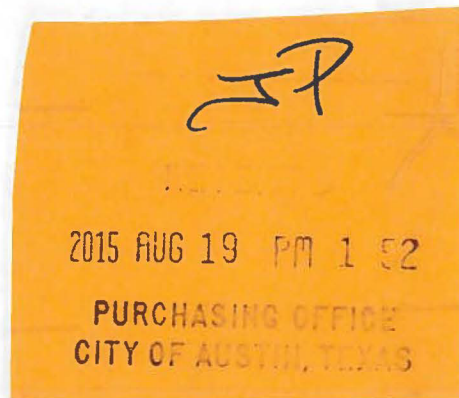
Signature of Officer or Authorized Representative: Martha Limon

Date: 08/19/2015

Email Address: glimonhaulingco@yahoo.com

Phone Number: 512-791-4369

**\* Completed Bid Sheet, section 0600 must be submitted with this Offer sheet to be considered for award**



**BID SHEET  
CITY OF AUSTIN  
TRUCKING AND HAULING SERVICES  
INVITATION FOR BID (IFB) GLB0023 REBID2**

**Contractor Single Point of Contact (SPOC) information as per paragraph 6.3 of the specification**

Contract SPOC ( Printed):Martha Limon

SPOC's Cell Phone:512-791-439

SPOC's Office Phone:512-791-4369-Fax 512-291-6132

SPOC's email address: glimonhaulingco@yahoo.com

**The following documents are required to be completed and submitted with the Offer.  
Please check the boxes below as confirmation.**

<input checked="" type="checkbox"/>	Offer Sheet
<input type="checkbox"/>	Bid Sheet (Section 0600)
<input checked="" type="checkbox"/>	Local Business Presence Identification Form (Section 0605)
<input type="checkbox"/>	Reference Sheet (Section 0700)
<input checked="" type="checkbox"/>	Living Wages Contractor Certification (Section 0815)
<input checked="" type="checkbox"/>	Nonresident Bidder Provisions (Section 0835)
<input type="checkbox"/>	MBE/WBE No Goal Form -- (Section 0900)
<input type="checkbox"/>	<b>MSDS for releasing agent that will be used during this contract.</b>
<input checked="" type="checkbox"/>	<b>Sample of Waste Management Report</b>
<input checked="" type="checkbox"/>	<b>I UNDERSTAND THAT FAILURE TO SUBMIT THE COMPLETED FORMS ABOVE MAY RESULT IN DISQUALIFICATION OF MY BID</b>
<input checked="" type="checkbox"/>	<b>I UNDERSTAND THAT SUBMITTING WITH MY BID ANY CLARIFICATION STATEMENTS, QUALIFYING STATEMENTS, AND/OR EXECPTIONS TO THE CITY'S TERMS AND CONDITIONS MAY RESULT IN DISQUALIFICATION OF MY BID</b>

COMPANY NAME: MG Limon Corporation DbA Limon Construction

PRINTED NAME: Martha Limon

EMAIL ADDRESS: glimonhaulingco@yahoo.com

**BID SHEET  
CITY OF AUSTIN  
TRUCKING AND HAULING SERVICES  
INVITATION FOR BID (IFB) GLB0023 REBID2**

**Bid Issued Date: August 3, 2015**

**Buyer: Georgia Billela**

**Copies of Bid: Bidder to submit Two copies of its signed bid - one original and 1 Thumb/Flash Drive or CD Electronic copy.**

**Special Instructions:** The City reserves the right to make multiple awards based on individual or groups of specific line items, cost, geographic location, convenience, or any criteria or any combination deemed most advantageous to the City. The Vendor may choose to submit pricing for all items listed on the bid sheet or only specific items on the bid sheet in consideration of this solicitation

Be advised that exceptions taken or qualifying statements made to any portion of the solicitations may jeopardize acceptance of the bid and may result in disqualification of the bid.

A bid of '0' (zero) will be interpreted by the City as a no-charge (free) item and the City will not expect to pay for that item. A bid of 'no bid' will be interpreted by the City that the responder does not wish to bid on that item.

The quantities noted below are annual estimates and not a guarantee of actual volume. The City does not guarantee the purchase of the quantities listed. Quantities are provided as a guide based on historical usage. Actual purchases may be more or less.

Failure to respond to each section of this bid sheet may result in disqualification of your bid.

ITEM NO.	ITEM DESCRIPTION	ESTIMATED ANNUAL QUANTITIES	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
1	Driver Hourly Rate - Dump Truck (12 Yards) per specification 4.2	1,050	Hour	55.00	57,750.00
2	Driver Hourly Rate - Tri-Axle (18 Yards) per specification 4.2	3,000	Hour	65.00	195,000.00
3	Driver Hourly Rate - Belly-Dumps (24 Yards) per specification 4.2	750	Hour	85.00	63,750.00
4	Driver Hourly Rate - End-Dumps (24 Yards) per specification 4.2	750	Hour	85.00	63,750.00
5	Driver Hourly Rate - Centipede Truck (22 Yards) per specification 4.2	750	Hour	85.00	63,750.00
<b>TOTAL</b>					<b>444,000.00</b>

**Contractor Dispatcher information as per paragraph 6.2 of the specification**

Dispatcher's (Office Phone): 512-791-4369- Fax 512-291-6132

Dispatcher's (Cell Phone): 512-791-4369

**CITY OF AUSTIN  
PURCHASING OFFICE  
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 email to [georgia.billela@austintexas.gov](mailto:georgia.billela@austintexas.gov) no later than close of business five business days before the bid due date.

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 \$500,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$500,000 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 WC420304, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Form WC420601, or equivalent coverage
- ii. **Commercial General Liability Insurance:** The minimum bodily injury and property damage per occurrence are \$1,000,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).
  - (1) The policy shall contain the following provisions:
    - (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.

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

- (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 \$1,000,000 per occurrence for bodily injury and property damage.
    - (1) The policy shall include these endorsements in favor of the City of Austin:
      - (a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
      - (b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage
      - (c) The City of Austin listed as an additional insured, Endorsement CA2048, 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 thirty-six (36) months and may be extended thereafter for up to three (3) additional twelve (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.
  - D. Prices are firm and fixed for the first twelve months. Thereafter, price changes are subject to the Economic Price Adjustment provisions of this Contract.

**This is a 36 month contract**

**Firm Fixed pricing the first 12 months**

4. **QUANTITIES:** The 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 needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.

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

5. **DELIVERY REQUIREMENTS:**

Location: TBD

Days: Monday through Saturday

- A. Delivery is to be made within 24 – 48 hours per specification after the order is placed (either verbally or in writing). All orders must be shipped complete unless arrangements for partial shipments are made in advance.
- 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 four (4) 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 51 in Section 0300).

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

- A. Invoices shall contain a unique 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 Division
Attn:	Brenda Jimenez
Address	4411-A Meinardus Drive
City, State Zip Code	Austin, Texas 78744

	City of Austin
Department	Watershed Protection Department
Attn:	Donna Lee Bliss
Address	505 Barton Springs Road, #1200
City, State Zip Code	Austin, Texas 78704

- 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.

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

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

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

- A. The minimum wage required for any Contractor employee directly assigned to this City Contract is \$11.39 per hour, 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. The City requires Contractors submitting Offers on this Contract to provide a certification (**see the Living Wages 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 \$11.39 per hour. 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.
- C. 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).
- D. The Contractor shall provide to the Department's Contract Manager with the first invoice, individual Employee Certifications for all employees directly assigned to the contract. The City reserves the right to request individual Employee Certifications at any time during the contract term. Employee Certifications shall be signed by each employee directly assigned to the contract. The Employee Certification form is available on-line at [https://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm](https://www.austintexas.gov/financeonline/vendor_connection/index.cfm).
- E. Contractor shall submit employee certifications annually on the anniversary date of contract award with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract. The Employee Certification Forms shall be submitted for employees added to the contract and/or to report any employee changes as they occur.
- F. 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 required in paragraph C 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.

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PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS**

- 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 Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. If an Offeror 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 Offeror is given written notice and a hearing in advance of the debarment.
- D. The City requires Offerors submitting Offers on this Solicitation to certify 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. **Price Adjustments:** Prices shown in this Contract shall remain firm for the first twelve (12) months 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 on the anniversary date of the Contract or as may otherwise be specified herein. The percentage change between the contract price and the requested price shall not exceed the percentage change between the specified index in effect on the date the solicitation closed and the most recent, non-preliminary data at the time the price adjustment is requested. The requested price adjustment 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 adjusted as a result of the change in one or more line items made pursuant to this provision. Prices for products or services unaffected by verifiable cost trends shall not be subject to adjustment.
- B. **Effective Date:** Approved price adjustments will go into effect on the first day of the upcoming renewal period or anniversary date of contract award and remain in effect until contract expiration unless changed by subsequent amendment.
- C. **Adjustments:** A request for price adjustment must be made in writing and submitted to the other Party prior to the yearly anniversary date of the Contract; adjustments may only be considered at that time unless otherwise specified herein. Requested adjustments must be solely for the purpose of accommodating changes in the Contractor's direct costs. Contractor shall provide an updated price listing once agreed to adjustment(s) have been approved by the parties.
- D. **Indexes:** In most cases an index from the Bureau of Labor Standards (BLS) will be utilized; however, if there is more appropriate, industry recognized standard then that index may be selected.
  - i. The following definitions apply:
    - (1) **Base Period:** Month and year of the original contracted price (the solicitation close date).
    - (2) **Base Price:** Initial price quoted, proposed and/or contracted per unit of measure.
    - (3) **Adjusted Price:** Base Price after it has been adjusted in accordance with the applicable index change and instructions provided.
    - (4) **Change Factor:** The multiplier utilized to adjust the Base Price to the Adjusted Price.
    - (5) **Weight %:** The percent of the Base Price subject to adjustment based on an index change.
  - ii. **Adjustment-Request Review:** Each adjustment-request received will be reviewed and compared to changes in the index(es) identified below. Where applicable:
    - (1) Utilize final Compilation data instead of Preliminary data
    - (2) If the referenced index is no longer available shift up to the next higher category index.

**CITY OF AUSTIN  
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SUPPLEMENTAL PURCHASE PROVISIONS**

- iii. **Index Identification:** Complete table as they may apply.

Weight % or \$ of Base Price: 50%	
Database Name: State and Area Employment, hours, and Earnings	
Series ID: SMU48124204300000001	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: Austin-Round Rock, TX	
Description of Series ID: Transportation and Utilities	
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: all	

Weight % or \$ of Base Price: 50%	
Database Name: Producer Price Index Industry Data	
Series ID: PCU3336183336185	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: All	
Description of Series ID: Diesel, Semi-diesel, and dual-fuel engines for automobiles, trucks, and buses	
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: all	

- E. **Calculation:** Price adjustment will be calculated as follows:

**Composite Indexes:** Based on one or more weighted indexes reflecting pricing elements of a good or service. The weighted percentage for each index is defined in D iii. above.

For Each Index: Index at the time of calculation
Divided by each Index on solicitation close date
Equals change factor for each index
Multiply each Base Price of relevant line items by the percentage of price attributed to each index = weighted price
Multiply weighted price by change factor for each index
Equals the Adjusted Price for the portion of the Base Price subject to each Index
Add all adjusted prices for each item together
Equals Adjusted Price for each item

- F. If the requested adjustment is not supported by the referenced index, the City, at its sole discretion, may consider approving an adjustment on fully documented market increases.

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SUPPLEMENTAL PURCHASE PROVISIONS**

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

Street & Bridge Division	Watershed Protection Department
Brenda Jimenez	Donna Lee Bliss
4411-A Meinardus Drive	505 Barton Springs Road, #1200
Austin, Texas 78744	Austin, Texas 78704

\*Note: The above listed Contract Manager is 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 Manager is prohibited during the no contact period.

**Section 0605: Local Business Presence Identification**

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, currently employs residents of the City of Austin, Texas, and will use employees that reside in the City of Austin, Texas, to support this Contract. 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) TO BE CONSIDERED FOR LOCAL PRESENCE.**

*NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN (REFERENCE SECTION 0900).*

**\*USE ADDITIONAL PAGES AS NECESSARY\***

**OFFEROR:**

Name of Local Firm	MG Limon Corporation DbA Limon Construction	
Physical Address	124 Juarez Cove Del Valle, Texas 78617	
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years?		
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

**SUBCONTRACTOR(S):**

Name of Local Firm		
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	Yes	No

Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

**SUBCONTRACTOR(S):**

Name of Local Firm		
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	Yes	No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

**Section 0700: Reference Sheet**

The Contractor shall provide five (5) descriptions of contracts performed by the Contractor within the last three (3) years which demonstrate their experience performing work of similar size and scope as the tasks described in this specification. Each description shall include project locations, project dates, description of work performed, and current contact names with phone numbers

Responding Company Name MG Limon Corporation DbA Limon Construction

1. Company's Name Fuentes Construction
- Name and Title of Contact Frank Fuenetes/Onwer
- Present Address \_\_\_\_\_
- City, State, Zip Code Austin, Texas
- Telephone Number (512-627-5444 Fax Number (\_\_\_\_)
- Email Address \_\_\_\_\_
- Description of project

Hundu Temple 2014

Haul in & out Material Base, Gravel, Spoils

2. Company's Name Jay Reese Contractors
- Name and Title of Contact Debbie/Office Manager
- Present Address 32780 Ranch Rd 12
- City, State, Zip Code Dripping Spring, Texas 78620
- Telephone Number (512) 829-5360 Fax Number (512) 829-5366
- Email Address \_\_\_\_\_
- Description of project

Sea Home Cesar Chavez 2014

Haul in & out Material Base, Gravel, Spoils, Milling, Concrete

3. Company's Name Journeyman Construction  
Name and Title of Contact Mike Montgomery/ Supervisor  
Present Address 7701 N. Lamar  
City, State, Zip Code Austin, Texas 78752  
Telephone Number (512) 657-7511 Fax Number ( )  
Email Address \_\_\_\_\_

Description of project

Camp Mabery 2014
Haul Material on and off Site Base, Concrete
Hot Mix, Milling

4. Company's Name Lone Star Paving  
Name and Title of Contact Robert V.  
Present Address 11675 Jolly Ville Rd.  
City, State, Zip Code Austin, Texas 78759  
Telephone Number (512) 801-8140 Fax Number ( )  
Email Address \_\_\_\_\_

Description of project

Austin Area 2014-2015
Hot Mix, Milling

5. Company's Name TRC Enviromental  
Name and Title of Contact Teal Glass/Project Coordinator  
Present Address 505 East Huntland Drive., Suite 250  
City, State, Zip Code Austin, texas 78752  
Telephone Number ( 512 ) 348-9058 Fax Number ( 512 ) 329-8750  
Email Address \_\_\_\_\_  
Description of project

Holly Power Plant 2011-2012-2013
Haul off, Metal, Spoil, Concrete, Hazardous Waste

**Section 0815: Living Wages Contractor Certification**

Company Name MG Limon Corporation DbA Limon Construction

Pursuant to the Living Wages 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 \$11.39 per hour.

The below listed employees of the Contractor who are directly assigned to this contract are compensated at wage rates equal to or greater than \$11.39 per hour.

Employee Name	Employee Job Title
Manuel Martinez	Driver

**\*USE ADDITIONAL PAGES AS NECESSARY\***

- (1) All future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.39 per hour
- (2) 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 affected employee the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision or fraudulent statements made on this certification may result in termination of this Contract for Cause and subject the firm to possible suspension or debarment, or result in legal action.

**Section 0835: Non-Resident Bidder Provisions**

Company Name MG Limon Corporation DbA Limon Construction

- 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"?

Answer: Resident Bidder

- (1) Texas Resident Bidder- A Bidder whose principle 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.  
(2) Nonresident Bidder- A Bidder who is not a Texas 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?

Answer: N/A Which State: \_\_\_\_\_

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: N/A

**BG CHEMICAL, LP**  
**BLACK MAGIC®**  
(U.S. Patent # 5,494,502)  
**Material Safety Data Sheet**

**SECTION I**

Manufacturer: BG Chemical, LP	Address: P.O. Box 720025
Telephone #: (214) 826-6822	Dallas, TX 75372
Products: <b>BLACK MAGIC RELEASE AGENT®</b>	Date Prepared: Oct 26, 2011

**SECTION II: Hazardous Ingredients/Identity Information**

Hazardous Components	CAS#	OSHA PEL	ACGIH TLV	Other
<b>None</b>				

**SECTION III: Physical/Chemical Characteristics**

Boiling Point: Approx. 190° to 195° F	Specific Gravity: 0.985 to 0.990
Vapor Pressure: N/A	Vapor Density: Heavier than air
Evaporation Rate: Slower than ether	Freezing Point: 32°F
Solubility in Water: See label instructions	
Appearance and Odor: White to yellow viscous liquid with slight odor	

**SECTION IV: Fire and Explosion Hazard Data**

Flash Point: N/A (liquid not flammable)	Flammable Limits: N/A
LEL: NI	UEL: NI
Extinguishing Media: CO <sub>2</sub> , dry chemical, foam, water, Class A, BC, or ABC extinguisher.	
Special Fire Fighting Procedures: Water can be used to cool containers adjacent to fire.	
Unusual Fire and Explosion Hazards: Pressures may develop in closed containers if temperatures over 195°F are achieved.	

NFPA Hazard Codes: Health-0 Fire-0 Reactivity-0 Special Hazard 0

**SECTION V: Reactivity Data**

Stability: Stable	Hazardous Decomposition: Carbon monoxide, carbon dioxide, smoke
Incompatibility: None	Conditions to Avoid: Avoid freezing suggested
Hazardous Polymerization: Will not occur	

**SECTION VI: Health Hazard Data**

Routes of Entry: Eye contact, skin contact, Inhalation and Ingestion	
Eyes: May be painful and irritating	Skin: Prolonged contact may cause irritation
Inhalation: May irritate nose, throat, chest	Ingestion: May cause nausea

**Emergency and First Aid Procedures**

Eyes: Flush with water for 15 minutes	Skin: Wash with mild soap, Flush with water
Inhalation: Remove to fresh air. If symptoms persist, contact a physician immediately.	
Ingestion: Contact a physician immediately.	

**SECTION VII: Precautions for Safe Handling and Use**

Steps to control Material Release or Spills: Minor spills soak up with sweeping compound and sand or transfer to a disposal container.

Waste Disposal Method: Use methods, which meet all federal, state, and local regulations.

Precautions for Safe Handling and Storing: Clear lines in temperatures below freezing point.

Other Precautions: Do not take internally or inhale vapors. Avoid eye contact.

**SECTION VIII: Control Measure**

Respiratory: Not normally necessary	Protective Gloves: Rubber gloves
Eye Protection: Chemical/Safety goggles. Eye wash baths optional.	
Ventilation: Local Exhaust: Preferable, Mechanical (General): Acceptable	
Other Protective Clothing or Equipment: Usually not needed unless splashing is excessive.	

**Prepared By: BG Chemical, LP**

Attachement A

Material Type	Tons Managed in calendar year 2013	Facility Receiving the waste / material	Tipping Fees and/or Resale revenues received
"Municipal Solid Waste" (e.g. residential, office, retail),	32,400.00	Sun Set Farms	
"Class 1" waste streams (e.g. construction, commercial, industrial, solidified sludge, manufacturer wastes),	32,400.00	Sun Set Farms	
"Class 2" (activated sludge, plant process waste, other special waste)		Sun Set Farms	
"Class 3" waste streams (e.g. inert waste streams such as glass, brick, concrete, rocks and minerals)	32,400.00	Sun Set Farms, Aaron Concrete	
"Hazardous Waste" (as defined by TCEQ and EPA).		Sun Set Farms	
Beneficial Reuse			
Recycled or Salvaged	32,400.00	Aaron Concrete 973 Pit	
Organic Composting			
Total Tons Managed	129,600.00		
Annual Diversion Rate	259.20		

**Section 0900: Minority- and Women-Owned Business Enterprise (MBE/WBE) Procurement Program No Goals Form**

SOLICITATION NUMBER: GLB0023 REBID 2

PROJECT NAME: Hauling & Trucking Services

**The City of Austin has determined that no goals are appropriate for this project.** Even though goals were not assigned 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

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, sub-consultant, or supplier. Return the completed Plan to the Project Manager or the Contract Manager.

I understand that even though goals were not assigned, 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.

MG Limon Corporation DbA Limon Construction

Company Name

Martha Limon

Name and Title of Authorized Representative (Print or Type)

*Martha Limon*

Signature

08/19/2015

Date

**Minority- and Women-Owned Business Enterprise (MBE/WBE) Procurement Program No Goals Utilization Plan**  
(Please duplicate as needed)

SOLICITATION NUMBER: GLB0023 REBID 2

PROJECT NAME: Hauling & Trucking Services

**PRIME CONTRACTOR / CONSULTANT COMPANY INFORMATION**

Name of Contractor/Consultant	MG Limon Corporation DbA Limon Construction		
Address	124 Juarez Cove		
City, State Zip	Del Valle, Texas 78617		
Phone Number	512-791-4369	Fax Number	512-291-6132
Name of Contact Person	Martha Limon		
Is Company City certified?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> MBE <input checked="" 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.

Martha Limon/ Office Manager

Name and Title of Authorized Representative (Print or Type)

*Martha Limon*  
Signature

08/19/2015

Date

Provide a list of all proposed subcontractors / sub-consultants / suppliers that will be used in the performance of this Contract. **Attach Good Faith Effort documentation if non MBE/WBE firms will be used.**

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

**Contract:** Limon Corporation

First year:	\$444,000.00		WPD	\$	Distribution	150,000.00
2nd year	\$466,200.00	5%	S&B	\$		353,342.00
3rd year	\$489,510.00	5%				
First Term:	<u>\$1,399,710.00</u>					
1st extension	\$513,986	5%		\$		503,342.00
2nd extension	\$539,685	5%				
3rd extension	\$566,669	5%				
Tot Extension	\$1,620,339					
Total Contract	\$3,020,049					
		\$503,342				
		\$1,510,025				

Month of RCA	Months remaining in FY	Amount for remaining FY
Oct	12 months	\$503,342
Nov	11 months	\$461,396
Dec	10 months	\$419,451
Jan	9 months	\$377,506
Feb	8 months	\$335,561
Mar	7 months	\$293,616
Apr	6 months	\$251,671
May	5 months	\$209,726
June	4 months	\$167,781
July	3 months	\$125,835
Aug	2 months	\$83,890
Sept	1 months	\$41,945



## CITY OF AUSTIN, TEXAS

### Purchasing Office INVITATION FOR BID (IFB) OFFER SHEET

**SOLICITATION NO:** GLB0023 REBID2

**DATE ISSUED:** August 3, 2015

**REQUISITION NO.:** RQM 6200 15022400219

**COMMODITY CODE:** 96239

**FOR CONTRACTUAL AND TECHNICAL  
ISSUES CONTACT THE FOLLOWING  
AUTHORIZED CONTACT PERSON:**

Georgia Billela  
Buyer II

**Phone:** (512) 974-2939

**E-Mail:** [georgia.billela@austintexas.gov](mailto:georgia.billela@austintexas.gov)

Terry Nicholson  
Senior Buyer Specialist

**Phone:** (512) 974-2995

**E-Mail:** [terry.nicholson@austintexas.gov](mailto:terry.nicholson@austintexas.gov)

**COMMODITY/SERVICE DESCRIPTION:** Trucking & Hauling  
Services

**PRE-BID CONFERENCE TIME AND DATE:** N/A

**LOCATION:** N/A

**BID DUE PRIOR TO:** August 19, 2015 @ 2:00 P.M.

**BID OPENING TIME AND DATE:** August 19, 2015 @ 2:15 P.M.

**LOCATION:** MUNICIPAL BUILDING, 124 W 8<sup>th</sup> STREET  
RM 308, AUSTIN, TEXAS 78701

**LIVE BID OPENING ONLINE:**

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

<http://www.austintexas.gov/department/bid-opening-webinars>

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

Address for US Mail (Only)	Address for Fedex, UPS, Hand Delivery or Courier Service
City of Austin	City of Austin, Municipal Building
Purchasing Office-Response Enclosed for Solicitation # GLB0023REBID2	Purchasing Office-Response Enclosed for Solicitation # GLB0023REBID2
P.O. Box 1088	124 W 8 <sup>th</sup> Street, Rm 308
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

**NOTE: Offers must be received and time stamped in the Purchasing Office prior to the Due Date and Time. It is the  
responsibility of the Offeror to ensure that their Offer arrives at the receptionist's desk in the Purchasing Office prior to  
the time and date indicated. Arrival at the City's mailroom, mail terminal, or post office box will not constitute the Offer  
arriving on time. See Section 0200 for additional solicitation instructions.**

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

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.

### SUBMIT 1 ORIGINAL AND 1 ELECTRONIC THUMB/FLASH DRIVE OF YOUR RESPONSE

The electronic PDF version shall be an exact duplicate of the original hard copy submittal, including all required signatures and  
sections. The City of Austin is not responsible for discrepancies between the contractor's electronic PDF version and the original  
hard copy submittal; the City may deem any discrepancy as a non-responsive offer.

**\*\*\*SIGNATURE FOR SUBMITTAL REQUIRED ON PAGE 3 OF THIS DOCUMENT\*\*\***

**This solicitation is comprised of the following required sections. Please ensure to carefully read each section including those incorporated by reference. By signing this document, you are agreeing to all the items contained herein and will be bound to all terms.**

SECTION NO.	TITLE	PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200	STANDARD SOLICITATION INSTRUCTIONS	*
0300	STANDARD PURCHASE TERMS AND CONDITIONS	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	7
0500	SPECIFICATION	5
ATT	ATTACHMENT A – WASTE MANAGEMENT	1
0600	BID SHEET – Must be completed and returned with Offer	2
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return	2
0700	REFERENCE SHEET – Complete and return if required	3
0800	NON-DISCRIMINATION CERTIFICATION	*
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1
0900	MBE/WBE PROCUREMENT PROGRAM PACKAGE NO GOALS FORM – Complete & return	2

**\* Documents 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 located in the Municipal Building, 124 West 8<sup>th</sup> Street, Room #308 Austin, Texas 78701; phone (512) 974-2500. 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.**

**The undersigned, by his/her signature, represents that he/she is submitting a binding offer and is authorized to bind the respondent to fully comply with the solicitation document contained herein. The Respondent, by submitting and signing below, acknowledges that he/she has received and read the entire document packet sections defined above including all documents incorporated by reference, and agrees to be bound by the terms therein.**

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Federal Tax ID No. \_\_\_\_\_

Printed Name of Officer or Authorized Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Signature of Officer or Authorized Representative: \_\_\_\_\_

Date: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**\* Completed Bid Sheet, section 0600 must be submitted with this Offer sheet to be considered for award**

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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 could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby

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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 by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic 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:

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

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

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- 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 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.

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- 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 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

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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 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

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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 March 2013).**

**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.
- 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 City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

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- 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.
- 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. Self-insured retentions shall be disclosed on the Certificate of Insurance.
- xii. The Contractor shall 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, 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

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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. **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.
39. **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.
40. **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.

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41. **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 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.
42. **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.
43. **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.
44. **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.
45. **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.
46. **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.
47. **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.
48. **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

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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.

- 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.
49. **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.
50. **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.
51. **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.

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52. **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.

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

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

54. **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.

55. **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.

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- 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.
- 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 email to [georgia.billela@austintexas.gov](mailto:georgia.billela@austintexas.gov) no later than close of business five business days before the bid due date.

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 \$500,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$500,000 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 WC420304, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Form WC420601, or equivalent coverage
- ii. **Commercial General Liability Insurance:** The minimum bodily injury and property damage per occurrence are \$1,000,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).
  - (1) The policy shall contain the following provisions:
    - (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.

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- (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 \$1,000,000 per occurrence for bodily injury and property damage.
      - (1) The policy shall include these endorsements in favor of the City of Austin:
        - (a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
        - (b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverage
        - (c) The City of Austin listed as an additional insured, Endorsement CA2048, 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 thirty-six (36) months and may be extended thereafter for up to three (3) additional twelve (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.
  - D. Prices are firm and fixed for the first twelve months. Thereafter, price changes are subject to the Economic Price Adjustment provisions of this Contract.
- This is a 36 month contract**
- Firm Fixed pricing the first 12 months**
4. **QUANTITIES:** The 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 needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.

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5. **DELIVERY REQUIREMENTS:**

Location: TBD

Days: Monday through Saturday

- A. Delivery is to be made within 24 – 48 hours per specification after the order is placed (either verbally or in writing). All orders must be shipped complete unless arrangements for partial shipments are made in advance.
- 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 four (4) 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 51 in Section 0300).

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

- A. Invoices shall contain a unique 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 Division
Attn:	Brenda Jimenez
Address	4411-A Meinardus Drive
City, State Zip Code	Austin, Texas 78744

	City of Austin
Department	Watershed Protection Department
Attn:	Donna Lee Bliss
Address	505 Barton Springs Road, #1200
City, State Zip Code	Austin, Texas 78704

- 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.

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

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

- A. The minimum wage required for any Contractor employee directly assigned to this City Contract is \$11.39 per hour, 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. The City requires Contractors submitting Offers on this Contract to provide a certification (**see the Living Wages 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 \$11.39 per hour. 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.
- C. 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).
- D. The Contractor shall provide to the Department's Contract Manager with the first invoice, individual Employee Certifications for all employees directly assigned to the contract. The City reserves the right to request individual Employee Certifications at any time during the contract term. Employee Certifications shall be signed by each employee directly assigned to the contract. The Employee Certification form is available on-line at [https://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm](https://www.austintexas.gov/financeonline/vendor_connection/index.cfm).
- E. Contractor shall submit employee certifications annually on the anniversary date of contract award with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract. The Employee Certification Forms shall be submitted for employees added to the contract and/or to report any employee changes as they occur.
- F. 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 required in paragraph C 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.

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- 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 Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. If an Offeror 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 Offeror is given written notice and a hearing in advance of the debarment.
- D. The City requires Offerors submitting Offers on this Solicitation to certify 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. **Price Adjustments:** Prices shown in this Contract shall remain firm for the first twelve (12) months 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 on the anniversary date of the Contract or as may otherwise be specified herein. The percentage change between the contract price and the requested price shall not exceed the percentage change between the specified index in effect on the date the solicitation closed and the most recent, non-preliminary data at the time the price adjustment is requested. The requested price adjustment 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 adjusted as a result of the change in one or more line items made pursuant to this provision. Prices for products or services unaffected by verifiable cost trends shall not be subject to adjustment.
- B. **Effective Date:** Approved price adjustments will go into effect on the first day of the upcoming renewal period or anniversary date of contract award and remain in effect until contract expiration unless changed by subsequent amendment.
- C. **Adjustments:** A request for price adjustment must be made in writing and submitted to the other Party prior to the yearly anniversary date of the Contract; adjustments may only be considered at that time unless otherwise specified herein. Requested adjustments must be solely for the purpose of accommodating changes in the Contractor's direct costs. Contractor shall provide an updated price listing once agreed to adjustment(s) have been approved by the parties.
- D. **Indexes:** In most cases an index from the Bureau of Labor Standards (BLS) will be utilized; however, if there is more appropriate, industry recognized standard then that index may be selected.
  - i. The following definitions apply:
    - (1) **Base Period:** Month and year of the original contracted price (the solicitation close date).
    - (2) **Base Price:** Initial price quoted, proposed and/or contracted per unit of measure.
    - (3) **Adjusted Price:** Base Price after it has been adjusted in accordance with the applicable index change and instructions provided.
    - (4) **Change Factor:** The multiplier utilized to adjust the Base Price to the Adjusted Price.
    - (5) **Weight %:** The percent of the Base Price subject to adjustment based on an index change.
  - ii. **Adjustment-Request Review:** Each adjustment-request received will be reviewed and compared to changes in the index(es) identified below. Where applicable:
    - (1) Utilize final Compilation data instead of Preliminary data
    - (2) If the referenced index is no longer available shift up to the next higher category index.

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PURCHASING OFFICE  
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- iii. **Index Identification:** Complete table as they may apply.

Weight % or \$ of Base Price: 50%	
Database Name: State and Area Employment, hours, and Earnings	
Series ID: SMU48124204300000001	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: Austin-Round Rock, TX	
Description of Series ID: Transportation and Utilities	
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: all	

Weight % or \$ of Base Price: 50%	
Database Name: Producer Price Index Industry Data	
Series ID: PCU3336183336185	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: All	
Description of Series ID: Diesel, Semi-diesel, and dual-fuel engines for automobiles, trucks, and buses	
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: all	

- E. **Calculation:** Price adjustment will be calculated as follows:

**Composite Indexes:** Based on one or more weighted indexes reflecting pricing elements of a good or service. The weighted percentage for each index is defined in D iii. above.

For Each Index: Index at the time of calculation
Divided by each Index on solicitation close date
Equals change factor for each index
Multiply each Base Price of relevant line items by the percentage of price attributed to each index = weighted price
Multiply weighted price by change factor for each index
Equals the Adjusted Price for the portion of the Base Price subject to each Index
Add all adjusted prices for each item together
Equals Adjusted Price for each item

- F. If the requested adjustment is not supported by the referenced index, the City, at its sole discretion, may consider approving an adjustment on fully documented market increases.

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

Street & Bridge Division	Watershed Protection Department
Brenda Jimenez	Donna Lee Bliss
4411-A Meinardus Drive	505 Barton Springs Road, #1200
Austin, Texas 78744	Austin, Texas 78704

\*Note: The above listed Contract Manager is 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 Manager is prohibited during the no contact period.

**Section 0605: Local Business Presence Identification**

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, currently employs residents of the City of Austin, Texas, and will use employees that reside in the City of Austin, Texas, to support this Contract. 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) TO BE CONSIDERED FOR LOCAL PRESENCE.**

*NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN (REFERENCE SECTION 0900).*

**\*USE ADDITIONAL PAGES AS NECESSARY\***

**OFFEROR:**

Name of Local Firm		
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years?		
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

**SUBCONTRACTOR(S):**

Name of Local Firm		
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	Yes	No

Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

**SUBCONTRACTOR(S):**

Name of Local Firm		
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	Yes	No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

**Section 0700: Reference Sheet**

The Contractor shall provide five (5) descriptions of contracts performed by the Contractor within the last three (3) years which demonstrate their experience performing work of similar size and scope as the tasks described in this specification. Each description shall include project locations, project dates, description of work performed, and current contact names with phone numbers

Responding Company Name \_\_\_\_\_

1. Company's Name \_\_\_\_\_

Name and Title of Contact \_\_\_\_\_

Present Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_ Fax Number (\_\_\_\_) \_\_\_\_\_

Email Address \_\_\_\_\_

Description of project


2. Company's Name \_\_\_\_\_

Name and Title of Contact \_\_\_\_\_

Present Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_ Fax Number (\_\_\_\_) \_\_\_\_\_

Email Address \_\_\_\_\_

Description of project


3. Company's Name \_\_\_\_\_  
Name and Title of Contact \_\_\_\_\_  
Present Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone Number (\_\_\_\_)\_\_\_\_\_ Fax Number (\_\_\_\_)\_\_\_\_\_  
Email Address \_\_\_\_\_

Description of project


4. Company's Name \_\_\_\_\_  
Name and Title of Contact \_\_\_\_\_  
Present Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone Number (\_\_\_\_)\_\_\_\_\_ Fax Number (\_\_\_\_)\_\_\_\_\_  
Email Address \_\_\_\_\_

Description of project


5. Company's Name \_\_\_\_\_

Name and Title of Contact \_\_\_\_\_

Present Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number (\_\_\_\_)\_\_\_\_\_ Fax Number (\_\_\_\_)\_\_\_\_\_

Email Address \_\_\_\_\_

Description of project


**Section 0815: Living Wages Contractor Certification**

Company Name \_\_\_\_\_

Pursuant to the Living Wages 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 \$11.39 per hour.

The below listed employees of the Contractor who are directly assigned to this contract are compensated at wage rates equal to or greater than \$11.39 per hour.

Employee Name	Employee Job Title

**\*USE ADDITIONAL PAGES AS NECESSARY\***

- (1) All future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.39 per hour
- (2) 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 affected employee the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision or fraudulent statements made on this certification may result in termination of this Contract for Cause and subject the firm to possible suspension or debarment, or result in legal action.

**Section 0835: Non-Resident Bidder Provisions**

Company Name \_\_\_\_\_

- 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"?

Answer: \_\_\_\_\_

- (1) Texas Resident Bidder- A Bidder whose principle 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.  
(2) Nonresident Bidder- A Bidder who is not a Texas 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?

Answer: \_\_\_\_\_ Which State: \_\_\_\_\_

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: \_\_\_\_\_

**Section 0900: Minority- and Women-Owned Business Enterprise (MBE/WBE) Procurement Program No Goals Form**

SOLICITATION NUMBER:

PROJECT NAME:

**The City of Austin has determined that no goals are appropriate for this project.** Even though goals were not assigned 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, sub-consultant, or supplier. Return the completed Plan to the Project Manager or the Contract Manager.**

**I understand that even though goals were not assigned, 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.**

\_\_\_\_\_  
**Company Name**

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

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**Minority- and Women-Owned Business Enterprise (MBE/WBE) Procurement Program No Goals Utilization Plan**  
*(Please duplicate as needed)*

SOLICITATION NUMBER:

PROJECT NAME:

**PRIME CONTRACTOR / CONSULTANT COMPANY INFORMATION**

Name of Contractor/Consultant			
Address			
City, State Zip			
Phone Number		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 / sub-consultants / suppliers that will be used in the performance of this Contract. **Attach Good Faith Effort documentation if non MBE/WBE firms will be used.**

<b>Sub-Contractor / Sub-Consultant</b>			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/> Ethics / 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 / Sub-Consultant</b>			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/> Ethics / 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** \_\_\_\_\_

CITY OF AUSTIN  
PURCHASING OFFICE  
SOLICITATION IFB GLB0023 REBID2  
DESCRIPTION: TRUCKING AND HAULING SERVICES

**1.0 SCOPE AND CLASSIFICATION**

- 1.1. **SCOPE** – This specification covers the requirements for trucking services, which comprise hauling and disposal of construction and excess materials for the City of Austin, Street & Bridge Division of Public Works and Watershed Protection Departments. The City reserves the right to make multiple awards based on individual or groups of specific line items, cost, geographic location, convenience, or any criteria or any combination deemed most advantageous to the City.
- 1.2. **CLASSIFICATION** - The City requires trucking services to supplement the existing fleet of trucks. The services will be utilized on various rehabilitation and reconstruction projects to haul construction materials (e.g., hot mix asphalt concrete, asphalt millings, rock, excess materials produced) within the limits of the City, and nearby areas. The City reserves the right to add or delete other departments as necessary during the term of the contract.

**2.0 APPLICABLE SPECIFICATIONS**

- 2.1. The trucks shall be licensed in accordance with all Federal and state requirements. The vehicles shall be operated in accordance with all state of Texas requirements for the operation of commercial vehicles. The City may request a list of the licenses at any time during the term of the contract.
- 2.2. The drivers shall be licensed in accordance with State of Texas requirements. The Contractor shall comply with all Federal requirements for drug and alcohol testing for the operation of commercial vehicles.
- 2.3. The Contractor shall comply with all laws, ordinances, specifications, rules and regulations, for this service as established by the City of Austin, State of Texas, Texas Commission on Environmental Quality, Texas State Board of Health, U.S Environmental Protection Agency, and any other applicable federal, state, or local governmental provisions prevailing during the term of this agreement. Contractor shall comply with all applicable provisions of the City of Austin Universal Recycling Ordinance (URO) and any future amendments to the URO.
- 2.4. It shall be the Contractor's responsibility to dispose of all **remaining spoils** in accordance with all Federal, state and City requirements.
  - 2.4.1. **Diversion Requirement:** The Contractor shall recycle, compost or reuse **remaining spoils** when local recycling opportunities are available.
  - 2.4.2. **Waste Management Reports:** The Contractor shall prepare and maintain a record of proper diversion of remaining spoils (see Attachment A for sample of report). The Contractor shall report the following based on calendar year of **remaining spoils** managed:
    - 2.4.2.1. Waste sent to municipal solid waste landfills
    - 2.4.2.2. Material sent to recycling facilities
    - 2.4.2.3. Material sent to reuse/salvage facilities
    - 2.4.2.4. The total diversion rate, calculated as diverted material (recycled, reused) divided by total waste hauled (landfilled, recycled, reused)

CITY OF AUSTIN  
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SOLICITATION IFB GLB0023 REBID2  
DESCRIPTION: TRUCKING AND HAULING SERVICES

2.4.2.5. The Contractor shall provide annual waste management reports to the designated Contract Manager by January 31st of each year.

2.4.2.6. The Contractor shall provide a sample of report with bid submission

- 2.5. The trucks shall be free of foreign debris. Release agents and procedures for cleaning trucks shall be in accordance with all Federal, state, and City requirements. The Contractor shall provide the City with the Material Safety Data Sheet (MSDS) of all releasing agents used prior to start of contract, and to promptly update the City with any changes or additions.

**3.0 SAFETY**

- 3.1. The Contractor shall be responsible for initiating and maintaining all safety precautions and programs in connection with the work. The Contractor shall take all necessary precautions for safety and shall provide the necessary protection to prevent damage, injury or loss to all persons and property that may be affected by the work.
- 3.2. The Contractor shall comply with all applicable Federal, state and local laws and regulations intended to protect the safety of persons or property, including but not limited to all applicable OSHA and ANSI Z133 standards, rules and regulations.
- 3.3. The Contractor shall notify the City within two (2) hours by phone or radio of accidents involving damage to City and private property and injury to any individual on or near the work. The Contractor shall be responsible for recording the location of the event and the circumstances surrounding the event through photographs, interviewing witnesses, and obtain medical reports and other documentation of their employees that describes the event. The copies of such documentation shall be provided to the City within forty-eight (48) hours of the event.

**4.0 EQUIPMENT REQUIREMENTS**

- 4.1. The Contractor equipment utilized to perform all work shall be maintained in good operating condition at all times. All safety devices required by OSHA, Federal, state, or local guidelines shall be in place and in proper operating condition.
- 4.2. The Contractor shall provide the following trucks with qualified drivers:
- 4.2.1. Dump Truck (12 yards)
  - 4.2.2. Tri-Axles (18 yards)
  - 4.2.3. Belly Dumps (24 yards)
  - 4.2.4. End Dumps (24 yards)
  - 4.2.5. Centipede Trucks (22 yards)
- 4.3. The trucks shall be equipped with cargo tarps that are in good condition, free of tears and holes.
- 4.4. The trucks shall tolerate truck hitch rear wheel grab arm rollers to attach to the paver.

CITY OF AUSTIN  
PURCHASING OFFICE  
SOLICITATION IFB GLB0023 REBID2  
DESCRIPTION: TRUCKING AND HAULING SERVICES

- 4.5. The trucks shall be adequately equipped with chutes for unloading hot mix asphalt concrete into a paver hopper.

**5.0 CONTRACTOR'S PERSONNEL**

- 5.1. The Contractor employees shall be clearly identified on outer garment with proper identification giving both names of the Contractor and the employee.
- 5.2. The Contractor employees shall wear safety vests, protective glasses, and any other OSHA required safety equipment.

**6.0 PERFORMANCE REQUIREMENTS**

- 6.1. The Contractor shall be able to provide a minimum of four (4) trucks and up to a maximum of fifteen (15) trucks, with drivers, per full working day, as required by the City. The number of trucks required will be determined by Street and Bridge Operations or a Watershed Protection representative. A full working day consists of a minimum of four (4) hours to a maximum of ten (10) hours, Monday through Saturday.
- 6.2. The Contractor shall provide the dispatcher's phone number on the space provided on the Bid Sheet and keep the information updated as the need arises.
- 6.3. The Contractor shall designate one (1) person within the firm as a single point of contact, with office phone and cell or pager number for accessibility during business hours. Use the space provided on the Bid Sheet. The Contractor shall notify the Contract Manager in a reasonable amount of time in writing of any changes, temporary or permanent, in either of the contact numbers as soon as they occur.
- 6.4. The Contractor shall pay the fees at landfills and provide the City the pay tickets for reimbursement of those fees at the time of Invoice.
- 6.5. The Contractor shall use the most direct route to location. The City will not pay a mobilization charge to the pick-up site or to return to the Contractor's site.

**7.0 CITY RESPONSIBILITIES**

- 7.1. The City will notify the Contractor by phone, fax, or email at least one (1) business day in advance of scheduled arrival time. If notified by email, Contractor shall reply to City within four (4) hour of email receipt to Contractor's mailbox.
- 7.1.1. The notification shall include a description and estimated quantity of the material to be picked up, location of pick up site, delivery destination, size and number of trucks required, schedule of pick-up and delivery, any information (account number, or purchase order number, etc.) to give at the pick-up location.
- 7.2. The City reserves the right to dismiss any of Contractor's driver(s) for misconduct or damage to City Property. This driver shall not work on any resulting contract without written approval by the City.
- 7.3. The City is responsible for loading the Contractor's vehicles.

CITY OF AUSTIN  
PURCHASING OFFICE  
SOLICITATION IFB GLB0023 REBID2  
DESCRIPTION: TRUCKING AND HAULING SERVICES

**8.0 PAYMENT REQUIREMENTS**

- 8.1.** The Contractor shall be paid for actual hours worked. If the City cancels services more than 24 hours prior to service, no compensation will be rendered.
- 8.2.** If the City cancels services within 24 hours, Contractor will be paid two (2) hours for each truck ordered and verified by the City.
- 8.3.** There will be no compensation for, but not limited to, the following scenarios. In the event any of these scenarios occurs, the Contractor shall notify the City immediately upon discovery of delay. The Contractor shall dispatch another truck within one (1) hour of discovery of delay.
- 8.3.1.** Contractor's truck is involved in a traffic accident.
- 8.3.2.** Contractor's truck has a mechanical breakdown.
- 8.3.3.** Contractor's truck is detained by a law enforcement officer for any reason.
- 8.4.** Services will be paid as follows:
- 8.4.1.** Hours actually worked as measured by the time on the a City-specified Materials Vendor's printed ticket of the first load of the day until the ending time documented by the City after final load of the day is dumped.
- 8.4.2.** Hours actually worked as measured by the initial arrival of Contractor's truck at the City specified site, until the last load has been dumped as documented by the City or by a landfill ticket.

**9.0 INVOICING**

- 9.1.** With each delivery of material from a City-specified Materials Vendor, Contractor shall furnish a copy of that Vendor's printed shipping ticket.
- 9.2.** All Invoices shall include the following information
- Unique Invoice Number
  - Invoice Date
  - Order release number (DO number)
  - Delivery Ticket number(s), as appropriate
  - Description of Item
  - Unit Price (per hour)
  - Total Price
  - Current remit to address that matches the remit to address on the City's vendor registration for the Contractor.

CITY OF AUSTIN  
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SOLICITATION IFB GLB0023 REBID2  
DESCRIPTION: TRUCKING AND HAULING SERVICES

- 9.3.** Invoices specifying units of measure other than tons are subject to rejection by the City.
- 9.4.** Landfill ticket shall be attached to the appropriate invoice for reimbursement by the City for dump fees. If Contractor fails to provide ticket at time of invoice then no reimbursement will be made.
- 9.5.** The Contractor shall send all invoices for trucking services to the appropriate department for service rendered:

City of Austin – Street & Bridge  
Attn: Brenda Jimenez  
4411-A Meinardus Dr.  
Austin, TX 78744

City of Austin – Watershed Protection  
Attn: Donna Lee Bliss  
505 Barton Springs Road, #1200  
Austin, TX 78704

<b>Material Type</b>	<b>Tons Managed in calendar year 2013</b>	<b>Facility Receiving the waste / material</b>	<b>Tipping Fees and/or Resale revenues received</b>
"Municipal Solid Waste" (e.g. residential, office, retail),			
"Class 1" waste streams (e.g. construction, commercial, industrial, solidified sludge, manufacturer wastes),			
"Class 2" (activated sludge, plant process waste, other special waste)			
"Class 3" waste streams (e.g. inert waste streams such as glass, brick, concrete, rocks and minerals)			
"Hazardous Waste" (as defined by TCEQ and EPA).			
Beneficial Reuse			
Recycled or Salvaged			
Organic Composting			
<b>Total Tons Managed</b>			
<b>Annual Diversion Rate</b>			

**BID SHEET  
CITY OF AUSTIN  
TRUCKING AND HAULING SERVICES  
INVITATION FOR BID (IFB) GLB0023 REBID2**

**Bid Issued Date: August 3, 2015**

**Buyer: Georgia Billela**

**Copies of Bid: Bidder to submit Two copies of its signed bid - one original and 1 Thumb/Flash Drive or CD Electronic copy.**

**Special Instructions:** The City reserves the right to make multiple awards based on individual or groups of specific line items, cost, geographic location, convenience, or any criteria or any combination deemed most advantageous to the City. The Vendor may choose to submit pricing for all items listed on the bid sheet or only specific items on the bid sheet in consideration of this solicitation

Be advised that exceptions taken or qualifying statements made to any portion of the solicitations may jeopardize acceptance of the bid and may result in disqualification of the bid.

A bid of '0' (zero) will be interpreted by the City as a no-charge (free) item and the City will not expect to pay for that item. A bid of 'no bid' will be interpreted by the City that the responder does not wish to bid on that item.

The quantities noted below are annual estimates and not a guarantee of actual volume. The City does not guarantee the purchase of the quantities listed. Quantities are provided as a guide based on historical usage. Actual purchases may be more or less.

Failure to respond to each section of this bid sheet may result in disqualification of your bid.

ITEM NO.	ITEM DESCRIPTION	ESTIMATED ANNUAL QUANTITIES	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
1	Driver Hourly Rate - Dump Truck (12 Yards) per specification 4.2	1,050	Hour	\$	\$
2	Driver Hourly Rate - Tri-Axle (18 Yards) per specification 4.2	3,000	Hour	\$	\$
3	Driver Hourly Rate - Belly-Dumps (24 Yards) per specification 4.2	750	Hour	\$	\$
4	Driver Hourly Rate - End-Dumps (24 Yards) per specification 4.2	750	Hour	\$	\$
5	Driver Hourly Rate - Centipede Truck (22 Yards) per specification 4.2	750	Hour	\$	\$
<b>TOTAL</b>					<b>\$</b>

**Contractor Dispatcher information as per paragraph 6.2 of the specification**

Dispatcher's (Office Phone): \_\_\_\_\_

Dispatcher's (Cell Phone): \_\_\_\_\_

**BID SHEET  
CITY OF AUSTIN  
TRUCKING AND HAULING SERVICES  
INVITATION FOR BID (IFB) GLB0023 REBID2**

**Contractor Single Point of Contact (SPOC) information as per paragraph 6.3 of the specification**

Contract SPOC ( Printed): \_\_\_\_\_

SPOC's Cell Phone: \_\_\_\_\_

SPOC's Office Phone: \_\_\_\_\_

SPOC's email address: \_\_\_\_\_

**The following documents are required to be completed and submitted with the Offer.  
Please check the boxes below as confirmation.**

<input type="checkbox"/>	Offer Sheet
<input type="checkbox"/>	Bid Sheet (Section 0600)
<input type="checkbox"/>	Local Business Presence Identification Form (Section 0605)
<input type="checkbox"/>	Reference Sheet (Section 0700)
<input type="checkbox"/>	Living Wages Contractor Certification (Section 0815)
<input type="checkbox"/>	Nonresident Bidder Provisions (Section 0835)
<input type="checkbox"/>	MBE/WBE No Goal Form – (Section 0900)
<input type="checkbox"/>	<b>MSDS for releasing agent that will be used during this contract.</b>
<input type="checkbox"/>	<b>Sample of Waste Management Report</b>
<input type="checkbox"/>	<b>I UNDERSTAND THAT FAILURE TO SUBMIT THE COMPLETED FORMS ABOVE MAY RESULT IN DISQUALIFICATION OF MY BID</b>
<input type="checkbox"/>	<b>I UNDERSTAND THAT SUBMITTING WITH MY BID ANY CLARIFICATION STATEMENTS, QUALIFYING STATEMENTS, AND/OR EXECPTIONS TO THE CITY'S TERMS AND CONDITIONS MAY RESULT IN DISQUALIFICATION OF MY BID</b>

COMPANY NAME: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_



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

**FROM:** Georgia L. Billela  
**DATE:** June 2, 2015

**SUBJECT:** Request for Determination of Goals for Solicitation No. IFB GLB0023 REBID  
Project Name: Trucking and Hauling Services  
Commodity  
Code(s): 96239  
Estimated Value: \$ 2,820,000

**Below are scopes of work for this project as determined by the Purchasing Office and Department that are contained in this solicitation.**

The City requires trucking services to supplement the existing fleet of trucks. The services will be utilized on various rehabilitation and reconstruction projects to haul construction materials (e.g., hot mix asphalt concrete, asphalt millings, rock, excess materials produced) within the limits of the City, and nearby areas.

This is to replace contract NA120000136 which resulted SMBR had no goals at that time.

The Departmental Point of Contact is: Brenda Jimenez at Phone: 512.974.7955

Per paragraph 8.2.1 of the Rules Governing the Minority and Women Owned Business Enterprise Procurement Program, please determine the use of goals by completing and returning the below endorsement. If you have questions, please call me at 512-974-2939

☐ **Approved w/ Goals**

☒ **Approved, w/out Goals**

Recommend the use of the following goals based on the below reasons:

a. Goals: \_\_\_\_\_% MBE \_\_\_\_\_% WBE

b. Subgoals \_\_\_\_\_% African American \_\_\_\_\_% Hispanic

\_\_\_\_\_% Native/Asian American \_\_\_\_\_% WBE

This determination is based on the following reasons:

*Based on this solicitation being awarded to multiple firms potentially.*

*[Signature]*  
Veronica Lara, Director

Date: 6-24-15

cc: Lorena Resendiz