



Amendment No. 1  
to  
Contract No. NA190000025  
for  
Beneficial Reuse of Biosolids  
between  
Synagro of Texas - CDR, Inc.  
and the  
City of Austin, Texas

- 12/31/20  
November 2019
- 1.0 The City hereby partially accepts the Contractor's requested price adjustment, effective ~~January 1, 2020~~. The City has reviewed the justification and documentation provided by the Contractor on the average monthly biosolids production volume variations and although production volumes were stated in the Contract as estimates projecting up to 110,000 wet tons, the data supports a minor price increase reflected in the table below (the City will pay the price indicated in the last column to the right):

Description	Original Price	PPI Allowable Increase	Volume Variations Allowable Increase	New Price Effective <del>01/01/20</del> 11/1/19
Composting and marketing of biosolids	\$13.93	3.26%	4.74%	\$15.04

- 2.0 The City hereby amends the above referenced Contract to clarify the Scope of Work (SOW):

- Section 4.4 is hereby changed as follows:

The Contractor shall: "Produce a compost product that meets or exceeds the United States Compost Council Seal of Testing Assurance Standards (STA). Only compost that is stable and mature shall be marketed and distributed or any variation must be approved in writing by the AW Site Contact."

- Section 10.1.1 is hereby changed as follows:

The Contractor shall: "Have approximately 10,000 cubic yards of Dillo Dirt available (with variations in on-site storage based on health and safety concerns, which must be approved by the AW Site Contact) every

calendar year to sell to the local vendors; 3,000 cubic yards shall be made available to donate to charitable organizations and other City Departments. The charitable organization shall be approved by the AW Site Contact. The amount of Dillo Dirt sold over the last four years is available in "Dillo Dirt Sales". See attachment."

- Section 10.1.2 is hereby changed as follows:

"Dillo Dirt is a 100% compost product. Blended products containing Dillo Dirt shall not be marketed and distributed as Dillo Dirt. Dillo Dirt and blended products containing Dillo Dirt shall follow the labeling requirements for biosolids derived products. *Only green waste bulking agents shall be utilized for Dillo Dirt products.*"

- Section 14.1 is hereby changed as follows:

The Contractor shall: "Follow the City's Control and Sampling Plans available at:

. These plans include but are not limited to: Odor Control, Dust Control, Spill Response, Fire Control, Compost Sampling Plans, and *Inventory Control Plan*. The City may, at its sole discretion and according to policy and/or regulation, and may modify any of the various City Control and/or Sampling Plans as needed to comply with new requirements or concerns not covered in the existing plans as needed throughout the Contract term to achieve the following results:

Odor Control Plan - 2 or less odor complaints a calendar year that can be directly attributed to the actions on Hornsby Bend Property

Fire Control Plan – No fires

Spill Response Plan – No spills, or if there were spills, the spills were cleaned up promptly and timely

Dust Control Plan – 2 or less complaints a calendar year from the public regarding dust onsite

Sampling Plan – Incorporate new approved methods for sampling and/or analysis

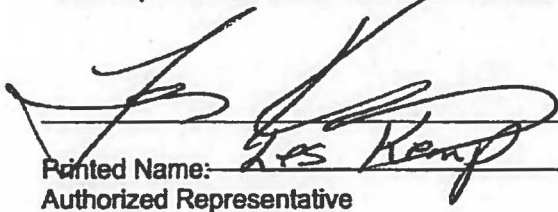
*Inventory Control Plan – 2 or less consecutive failures of process control or volume control a calendar year*

3.0 The total Contract amount is recapped below:

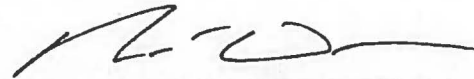
Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 11/01/18 – 10/31/23	\$9,650,000	\$9,650,000
Amendment No. 1: Effective 01/01/20 12/11/19	\$0.00	\$9,650,000

- 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 SIGNATURE(S) affixed below, this Amendment is hereby Incorporated and made a part of the above referenced Contract.

  
Printed Name: Eric Kemp  
Authorized Representative

Synagro of Texas-CDR, Inc.  
435 Williams Ct, Suite 100  
Baltimore, MD 21220

 1-28-20  
Matthew Duree, Procurement Manager  
City of Austin Purchasing Office



Bid to Provide

Beneficial Reuse of Biosolids  
Solicitation #CDL2003REBID2

to the



City of Austin, Texas

September 4, 2018

**SYNAGRO**



# CITY OF AUSTIN, TEXAS

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

Version 1.2 8/24/2018

**SOLICITATION NO.:**  
IFB CDL2003REBID2

**COMMODITY/SERVICE DESCRIPTION:**  
Beneficial Reuse of Biosolids

**DATE ISSUED:**  
August 13, 2018

**PRE-BID CONFERENCE TIME AND DATE:**  
August 15, 2018 at 10:30AM CT

**REQUISITION NO.:**  
2200 18080100651

**PRE-BID CONFERENCE LOCATION:**  
Hornsby Bend Biosolids Management Plant  
Room: Auditorium  
2210 FM 973  
Austin, TX 78725

**COMMODITY CODE:**  
95812

### FOR CONTRACTUAL AND TECHNICAL ISSUES CONTACT THE FOLLOWING AUTHORIZED CONTACTS:

**BID DUE PRIOR TO:**  
August 28, 2018 at 2:00PM CT

**BID OPENING TIME AND DATE:**  
August 28, 2018 at 3:00PM CT

#### Primary Point of Contact

Danielle Lord  
Procurement Manager  
Phone: (512) 974-2298  
E-Mail: Danielle.Lord@austintexas.gov

**LOCATION:**  
Municipal Building, 124 W 8<sup>th</sup> Street, Room 308  
Austin, TX 78701

#### Secondary Point of Contact:

Matthew Duree  
Procurement Supervisor  
Phone: (512) 974-6346

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

**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 # CDL2003REBID2	Purchasing Office-Response Enclosed for Solicitation # CDL2003REBID2
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 180 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 COPY (USB FLASH DRIVE ONLY) OF YOUR RESPONSE  
\*\*\*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	# OF PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200 V2	STANDARD SOLICITATION INSTRUCTIONS, UPDATED JUNE 26, 2018	*
0300	STANDARD PURCHASE TERMS AND CONDITIONS	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	8
0500	SCOPE OF WORK	18
0600	PRICE SHEET – Complete and Return	**
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return	2
0700	REFERENCE SHEET – Complete and return	1
0800	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION–Complete and return	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810 V2	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION, UPDATED JUNE 26, 2018	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1
0900	SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM – Complete & return	1
0905	SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN – Complete and return, <b>if subcontracting</b>	3
ATT	ATTACHMENT A – TRANSITION PLAN TEMPLATE	**
ATT	ATTACHMENTS PACKAGE (B-K)	**

\* 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 the \* 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)

**\*\* Documents are hereby incorporated into this solicitation as attached documents with the same force and effect as if they were incorporated in full text.**

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: Synagro of Texas-CDR, Inc.

Company Address: 435 Williams Court, Suite 100

City, State, Zip: Baltimore, MD 21220

Vendor Reg. No. \_\_\_\_\_

Printed Name of Officer or Authorized Representative: Michelle Hamann

Title: Assistant Secretary

Signature of Officer or Authorized Representative: Michelle Hamann

Date: August 27, 2018

Email Address: abosinger@synagro.com

Phone Number: (410) 271-1020

**\*Completed Price Sheet, section 0600 must be submitted with this signed Offer Sheet (pages 1-3) to be considered for award.**

**Tentative Solicitation Schedule Summary (subject to change):**

Milestone	Date or Timeframe
1. Solicitation Issued (IFB)	August 13, 2018
2. Pre-Bid Meeting & Optional Site Tour	August 15, 2018 at 10:30AM CT Hornsby Bend Biosolids Management Plant Room: Auditorium 2210 FM 973 Austin, TX 78725
3. Bids Due	Prior to: August 28, 2018 at 2:00 PM CST
4. Deadline for Questions	August 21, 2018 at 2:00PM CT
5. Boards & Commissions	October 10, 2018
6. Recommendation for Council for Approval	November 1, 2018

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

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

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all Deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.
3. **CONTRACTOR TO PACKAGE DELIVERABLES**: The Contractor will package Deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the Deliverables under reservation and no tender of a bill of lading will operate as a tender of Deliverables.
5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the Deliverables shall pass to the City only when the City actually receives and accepts the Deliverables.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the Deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the Deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of Deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.
9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City

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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. AUDITS and RECORDS:**

- 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. Records Retention:
  - i. Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.
  - ii. All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City
  - iii. The Contractor shall retain all 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.
- C. The Contractor shall include sections A and B above in all subcontractor agreements entered into in connection with this Contract.

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**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.
- 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.

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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.
  - 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

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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 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.

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**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 48. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
- B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

**31. INDEMNITY:**

- A. Definitions:
  - i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:
    - (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or
    - (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),
  - ii. "Fault" shall include the sale of defective or non-conforming Deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.
- B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

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

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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.
- 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

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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 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.

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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.
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.

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**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 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

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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.

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 Contractor, or Contractor'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 Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

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.

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- iii. "Domestic end product" means-
  - (1) An unmanufactured end product mined or produced in the United States; or
  - (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
- iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
- v. "Foreign end product" means an end product other than a domestic end product.
- vi. "United States" means the 50 States, the District of Columbia, and outlying areas.
- 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".

## **Section 0400: Supplemental Purchase Provisions**

The following Supplemental Purchasing Provisions apply to this solicitation:

1. **EXPLANATIONS OR CLARIFICATIONS:** (reference paragraph 5 in Section 0200, Solicitation Instructions)

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office no later than 2PM CT, one (1) week prior to the solicitation closing date. Questions may be made via email to [Danielle.Lord@austintexas.gov](mailto:Danielle.Lord@austintexas.gov) or [Matt.Duree@austintexas.gov](mailto:Matt.Duree@austintexas.gov).

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

**OR**

[PURInsuranceCompliance@austintexas.gov](mailto:PURInsuranceCompliance@austintexas.gov)

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

- i. **Worker's Compensation and Employers' Liability Insurance:** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
  - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Form 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 \$500,000 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.
  - (2) The policy shall also include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage

- (b) Thirty (30) days' Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
  - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
- iii. **Business Automobile Liability Insurance:** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
  - (1) The policy shall include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Endorsement 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.
- iv. **Environmental Impairment Liability Insurance:** With a minimum of \$1,000,000 per claim to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of sudden and accidental or non-sudden and accidental pollution arising out of the excavation, transportation, storage, or permanent disposal of hazardous and non-hazardous waste.

With respect to sudden and accidental occurrences, all Contractors and/or Subcontractors who own or operate a treatment, storage and disposal facility must demonstrate financial responsibility for bodily injury and property damage to third parties of at least \$5,000,000 per occurrence.

With respect to non-sudden and accidental occurrences, all Contractors and/or Subcontractors who own or operate a surface impoundment, landfill or land treatment facility that is used to manage hazardous wastes must demonstrate financial responsibility for bodily injury and property damage to third parties of at least \$5,000,000 per occurrence. The amounts of coverage must be exclusive of legal defense costs.

- 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 commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 60-months. The Contract may be extended automatically beyond the initial term for up to 5 additional 12-month periods at the City's sole option unless the Contractor is notified in writing no less than 30 days prior to the Contract's expiration. If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.
- B. Upon expiration of the initial term or any period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract. Any hold over period will not exceed 120 calendar days unless mutually agreed on by both parties 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 (12) months. Thereafter, price changes are subject to the Economic Price Adjustment provisions of this Contract.

- 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.

5. **AUTHORIZED CHANGES:** The City reserves the right at any time to make changes in any one or more of the following: (a) Scope of Work; (b) quantities, and/or (c) additions or substitutions of similar products and/or services within the Scope of Work. If the change causes an increase or decrease in the cost or time, an equitable adjustment may be made in the price or schedule. Any claim for adjustment shall be deemed waived unless submitted in writing within thirty (30) days from the receipt of the change, and approved in writing by the City. Price increases or extensions of time shall not be binding on the City unless approved in writing by the Purchasing Office prior to making the change. Additional and substitution of similar products and/or services shall be firm/fixed for the time specified in the Economic Price Adjustment section and are subject to the potential fluctuations according to the index indicated in the Contract; if the index is not applicable, the City may identify and add an additional index to the Contract if deemed necessary.
6. **INVOICES and PAYMENT:** (reference paragraphs 12 and 13 in Section 0300, Standard Purchase Terms and Conditions)
- A. Invoices shall contain a unique invoice number, the information required below, and as referenced in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.
- B. The City will pay for wet tons of biosolids leaving the belt press. These wet tons will be paid at one unit price. Emergency onsite land application, emergency offsite land application, and emergency disposal in a landfill are separate items; these items will be used only if necessary, and if approved by the City.
- C. The Contractor shall submit invoices by the 15<sup>th</sup> day of each month for the work done in the previous month. Invoices shall include, but are not limited to the following:

#### COMPOST INVOICING

- Contractor's name, on a professionally pre-printed form
- Contractor's address and phone number
- City's Contract number/purchase order number
- Invoice number and date
- Date(s) of service
- Location(s) of service
- Itemized description and pricing
- Compost batch number
- Measurement records of biosolids and bulking agents used in compost batch
- Daily volume of biosolids used in compost batch in cubic yards
- Monthly compost reports in accordance with 30 TAC §312.48 and permit requirements

#### LAND APPLICATION INVOICING (When approved by the City)

- Contractor's name, on a professionally pre-printed form
- Contractor's address and phone number
- City's Contract number/purchase order number
- TCEQ permitted site number (not for onsite land application)
- Invoice number and date
- Date(s) of service
- Location(s) of service
- Itemized description and pricing
- Daily truck report/manifest(s) (not necessary for onsite land application)
- Daily volume of biosolids used for land application in cubic yards
- Monthly land application report in accordance with 30 TAC §312.48 and Hornsby permit requirements

LANDFILL APPLICATION INVOICING (When approved by the City)

- Contractor's name, on a professionally pre-printed form
- Contractor's address and phone number
- City's Contract number/purchase order number
- Proof the Landfill is in compliance with TCEQ and EPA requirements for a Special Waste Landfill
- Invoice number and date
- Date(s) of service
- Location(s) of service
- Itemized description and pricing
- Landfill Ticket receipts and monthly report
- Daily volume of biosolids taken to the landfill in dry tons

D. Invoices shall be mailed to the Austin Water Site Contact at the below address:

	City of Austin
Department	Austin Water, Hornsby Bend BMP
Attn:	Ian Moede
Address	2210 South FM 973
City, State Zip Code	Austin, TX 78725

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

7. **DAMAGES:** Time and the performance of the Contract is essential; therefore, the Contractor shall strictly adhere to the Contract requirements listed within the Contract. No changes in the services or requirements shall be effective unless in writing executed by both the City and the Contractor. The parties agree that if, due to no fault of the City, performance of any service is delayed or not in accordance with the requirements in the Contract, the City is entitled to recover all actual damages, costs, losses and expenses incurred by the City because of the Contractor's nonperformance and/or default. The City is entitled to engage outside parties not named in this Contract for any occasions when the Contractor fails to provide the services that are required within the Contract or within the timeframe agreed upon within the Contract. For these instances, the Contractor shall absorb any differences in cost if the City engages another party and provide a detailed credit on the next outstanding invoice or provide payment in full for the difference.

8. **LIVING WAGES:**

The City's Living Wage Program, Rule R161-17.14, is located at:

<http://www.austintexas.gov/edims/document.cfm?id=277854>

- A. The minimum wage required for all Contractor employees (and all tiers of Subcontracting) directly assigned to this City Contract is \$14.00 per hour, unless Published Wage Rates are included in this solicitation. Directly assigned is defined as Contractor employees that are named or identifiable in the Contract, named or identifiable in the order, named identifiable in the invoice, or named or identifiable in some other deliverable. 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 Section 0815, Living Wages Contractor Certification included in the solicitation) with their Offer certifying that all Contractor Employees (and all tiers of Subcontracting) directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$14.00 per hour. The certification shall include a list of all Contractor Employees (and all tiers of Subcontracting) directly assigned to

providing services under the resultant Contract including their name and job title. If no Contractor employees will be directly assigned to the resulting Contract, the Contractor shall indicate "none directly assigned" on the Living Wage Contractor Certification. 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 City's Contract Manager with the first invoice, individual Employee Certifications for all Contractor employees (and all tiers of Subcontracting) directly assigned to the Contract (Section 0820). The City reserves the right to request individual Employee Certifications at any time during the Contract term. The Living Wage Employee Certifications shall be signed by each Contractor Employee (and all tiers of Subcontracting) directly assigned to the Contract. The Living Wage Employee Certification Form (Section 0820) is available on-line at:  
[https://assets.austintexas.gov/purchase/living\\_wages\\_employee\\_certification.pdf](https://assets.austintexas.gov/purchase/living_wages_employee_certification.pdf).
- E. The Contractor shall submit employee certifications for Contractor employees (and all tiers of Subcontracting) 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 Living Wage Employee Certification Forms shall be submitted for Contractor Employees (and all tiers of Subcontracting) added to the Contract and/or to report any employee changes as they occur.
- F. The City'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 June 14, 2018, the Austin City Council adopted Ordinance No. 20180614-056 replacing 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). The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly had communication restricted in the ordinance section 2-7-104 during the No-Lobbying Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at:  
[https://assets.austintexas.gov/purchase/downloads/New\\_ALO\\_Ordinance\\_No\\_20180614-056.pdf](https://assets.austintexas.gov/purchase/downloads/New_ALO_Ordinance_No_20180614-056.pdf)  
and is also included in the Solicitation, [Section 0200 V2, Solicitation Instructions June 26, 2018](#).

10. **WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID):**

- A. Access to the Austin Water Department facility by the Contractor, all subcontractors and their employees will be strictly controlled at all times by the City.
- B. The Contractor shall comply with all security requirements imposed by the City and shall ensure that all employees and subcontractors are kept fully informed as to these requirements. A listing of the current requirements for Austin Water's Hornby Bend Management Plant are outlined below:
  - i. **AWU Site Security & Badging Requirements**
    - a. The basic security functions of Contractors and Subcontractors shall center on the protection of personnel and the Utility's, and Contractors' property. These basic functions will involve monitoring the project site, controlling access, preventing unlawful entry, unlocking and locking buildings, and enforcing Utility rules, policies, procedures and directives.
    - b. Contractors and Subcontractors shall provide deterrence against fire, theft, vandalism, and trespass and shall assist in the elimination of safety hazards and security breaches. In some cases, Contractors and Subcontractors will be called upon to assist in the detection and detention of persons guilty of trespassing on or committing offenses on Utility property. Uniformed officers from the Austin Police Department and local Sheriffs' Departments shall provide the enforcement support for criminal acts committed on Utility property.

ii. **Background Security Checks**

- a. The Contractor shall submit a "Criminal History Records Check Disqualifying Criminal Offenses" and provide a current background security check for each of their employees and their Subcontractors' employees. The background check must be performed by either the United States Federal Government (FBI) or the Department of Public Safety from the employee's home state (the state in which the employee resides and from whom they obtained their driver's license or identification card). The background security check for a non-US citizen shall be performed by their native country's national law-enforcement.
- b. Contractors and Subcontractors shall accurately report and record all transgressions and incidents.
- c. Unescorted access is granted to those individuals that have cleared the background security check. An Austin Water Utility badge decal will be issued.

iii. **AWU Badge Decal + Contract Company Supplied ID Badge**

- a. Security Identification Badges for employees of Contractors and Subcontractors shall be picture badges as approved by Facility or Treatment Program Division Managers and authorized by the Security Manager. Contractors shall provide a Security ID Badge for each of their employees and their Subcontractors' employees who require access to Utility facilities to perform their work. The facilities they may access shall be limited to those locations necessary for the performance of their Contract. Contractors shall provide clear, plastic badge holders with an appropriate clip or lanyard that will protect the badge and allow it to be worn and displayed safely by employees on the outside of their clothing.
- b. The Security ID Badge shall be made of durable plastic material with minimum dimensions of 2 1/8 inches by 3 3/8 inches, and shall show a clear, photographic image of the bearer, with a vertical facial image no less than 3/4 inches high. Each badge shall clearly display the first and last name of the employee and the Company he/she works for. A space at least 3/4 inch high and one inch wide shall be kept free of information and shall be reserved for the Utility to apply a permanent, access authorization decal.
- c. All personnel on the job site shall wear the Security Identification Badge on the outside of their clothing, in the front, at or above their waist. Arm band ID holders are acceptable. Security Identification Badge holders will take reasonable care to protect their badge from unauthorized use. ID badge holders will not allow others to use their badge. In the event that a Security Identification Badge holder discovers that their badge has been lost, the badge holder shall immediately report the loss to the Contractor's Site Superintendent, who will immediately report the loss to the AWU Contract Manager, and to the AWU Plant Superintendent.

iv. **Revoking Access Authorization**

- a. Authorization to enter and/or work on any Austin Water Utility site is at the sole discretion of the Utility and may be revoked at any time.
- b. Authorization to enter Utility sites shall be revoked immediately for the following reasons:
  - The badge holder ends their employment with the Contractor or Subcontractor
  - The badge holder allows another person to use their badge, or the badge holder permits, or allows another person without a badge to enter a secured site.
  - The badge holder acts without authorization to defeat any security device at any secured site.
  - The badge holder's actions (or inaction) result(s) in damage to Utility facilities
  - The badge holder has been involved in a criminal action on site and has been determined as a threat to any persons or property at this site.
- c. Personnel in the following positions may revoke Access Authorization:

- AWU Director and Assistant Directors for Treatment and for Engineering
- AWU Division Heads, Plant Superintendents, and Supervisors in the Treatment Program Area
- AWU Security Manager
- AWU Site Contact
- AWU Contract Manager

11. **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.
- iii. **Index Identification:** Complete table as they may apply.

Weight % or \$ of Base Price: 50%	
Database Name: Producer Price Index	
Series ID: pcu562111562111	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: United States	
Description of Series ID: Solid waste collection	
This Index shall apply to the following items of the Cost Proposal Form: 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.
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:
- Darrell Richmond
- 
- [Darrell.Richmond@austintexas.gov](mailto:Darrell.Richmond@austintexas.gov)
- 
- (512) 972-0313
- 
13. **SITE CONTACT:** The following person is designated as Site Contact, and will act as the contact point between Site Management and the Contractor during the term of the Contract:
- Ian Moede
- 
- [Ian.Moede@austintexas.gov](mailto:Ian.Moede@austintexas.gov)
- 
- (512) 972-1956
- 
14. **CONTRACT CLOSE OUT & TRANSITION PLAN:**
- A. 90 days prior to the close of the Contract and transition to a new Contractor, the Contractor shall work with Austin Water and the new Contractor to address the scheduling, equipment removals, service expectations, and transition to the newly awarded Contractor. The transition plan and schedule shall address any outstanding obligations and what steps will be taken to ensure that Austin Water is fully functional until the Contract close out is complete. A template for the transition plan is detailed in "Transition Plan Template". See attachment.
- B. The Contractor shall not leave any invoiced biosolids onsite after close of the Contract.

## **Section 0500: Scope of Work**

### **1. BACKGROUND**

The City of Austin (City) seeks to establish a Contract for the composting of biosolids at the Austin Water (AW) Hornsby Bend Biosolids Management Plant (Hornsby), hereafter referred to as "Hornsby" or "site" or "onsite". Hornsby is located at 2210 South FM 973, Austin, Texas 78725. The biosolids are in drying basins and in the belt press area at the site. The Hornsby site is composed of approximately 1200 acres, 540 of which are under Contract for the growing, cutting and baling of hay and the harvest of pecans.

Hornsby is expected to receive approximately 110,000 wet tons of biosolids over the next year. The Class B production in wet tons for the last three years is listed in the "Belt Press Production". See attachment. The City will provide the Contractor green waste (brush, yard and tree trimmings) brought to the site by other City departments and Contractors. Austin Resource Recovery (ARR) utilizes one of the basins for grinding the green waste.

For informational purposes only: 35,800 tons of green waste was brought to Hornsby by ARR from July 2016 – June 2017, and 28,300 tons brought to Hornsby from July 2017 – June 2018.

At this time there is approximately 7,000 cubic yards of screened Dillo Dirt stored onsite. There are currently three batches of Dillo Dirt in process. After screening, an additional 7,500 cubic yards of Dillo Dirt will be produced from these three batches, which is what the City will be selling between now and when the Contactor takes over Dillo Dirt sales.

The City of Austin issued a Request for Information (RFI) CDL6000 to obtain comments on the Beneficial Reuse of Biosolids Scope of Work on July 18, 2018-August 8, 2018. A summary of the RFI comments that were submitted and reviewed by the City are available in Section 15 "RFI Comments" of this Scope of Work.

### **2. PURPOSE**

The Contractor shall treat, market and distribute all Class B biosolids produced annually at Hornsby. Biosolids shall be treated to meet Class A pathogen reduction requirements through the composting process.

### **3. CONTRACTOR REQUIREMENTS – GENERAL**

- 3.1. The Contractor shall have a minimum of 5 continuous years of biosolids composting operations experience. This experience shall include management and operations of biosolids composting marketing, and sale of the biosolids compost under similar regulatory requirements as the City.
  - 3.1.1. The Contractor shall have experience in processing a minimum of 50,000 wet tons of biosolids annually.
- 3.2. The Contractor shall have a dedicated Operations Manager. The Operations Manager is the individual responsible for site operations and is actively involved in operations and management of biosolids composting at Hornsby. The Operations Manager shall have a minimum of five years' of biosolids composting experience.
  - 3.2.1. The Operations Manager assigned to perform the obligations under this Contract shall not be replaced without written consent of the AW Site Contact. Any

replacement Operations Manager shall meet the same shall meet the minimum qualifications established herein.

- 3.3. The Contractor shall be a member of a nationally recognized biosolids composting organization, such as the Water Environment Federation or the United States Composting Council.
- 3.4. The Contractor shall be responsible for all work necessary to meet product quality and regulatory requirements for producing and marketing compost. This includes, but is not limited to, bulking agent/amendment supply and transport, feedstock preparation, premixing, creating windrows, turning windrows, daily temperature measurements, sampling and laboratory analysis, screening, disposition of "overs", curing, recordkeeping, marketing and distribution of compost products. This is not meant to require all of these actions but encompass all the actions that might be involved onsite. In addition, this shall include services which are clearly necessary for the complete and legal operation of this Contract, though not specifically stated.
- 3.5. The Contractor shall move onsite and begin production of biosolids compost no later than 60 days after Contract execution. The Contractor shall be responsible for planning and coordinating the transition from the current Contract to the next.
- 3.6. The Contractor shall not disrupt the protected bird species and shall not interfere with the birding community's access to the site.
- 3.7. The Contractor is responsible for the sourcing, grinding and transportation of additional green waste required for a successful biosolids composting operation. With the addition of new waste programs and other external factors, the City cannot guarantee the quantity and/or the availability of green waste.
- 3.8. The City will be continuing to study new innovative technologies for treating biosolids. The Contractor shall not obstruct the City's efforts to finding alternative ways to reuse biosolids. These studies may include pilot testing onsite with City biosolids. The City will work with the Contractor to locate any pilot facilities out of the way of the Contractor's operations. It is impossible to know that this time how much of the biosolids the City would need for piloting, but the City will not divert more than 2% of biosolids annually for any pilot projects.

#### **4. COMPOST QUALITY ASSURANCE**

- 4.1. Biosolids from other sources are not permitted on the Hornsby site.

The Contractor shall:

- 4.2. Maintain records of each windrow activated, preferably by utilizing Austin Water's Water Environmental Integrated Recordkeeping System (WEIRS) program unless the Contractor has an alternate way that the City agrees to use. Windrow records shall be submitted monthly and shall include the following:
  - Windrow identification number
  - Activation date
  - Volumetric ratio and amount of biosolids and green waste in wet tons and cubic yards
  - Cake production date
  - Daily temperature and moisture measurements
  - Date and number of turns

- Chain of Custody Forms (as needed), "Chain of Custody Form". See attachment.
  - PFRP completion date
  - Field stability and maturity screening
- 4.3. Screen the compost to remove oversized and inert materials, especially plastics, prior to distribution and marketing to the end user.
  - 4.4. Produce a compost product that meets or exceeds the United States Compost Council Seal of Testing Assurance Standards (STA). Only compost that is stable and mature shall be marketed and distributed.
  - 4.5. Label and/or include an information sheet with all products produced with City biosolids to inform the end user.
  - 4.6. Produce Dillo Dirt that meets the requirements in the "Dillo Dirt" section of this Scope of Work and the "Dillo Dirt Product Specification". See attachment. Only compost meeting these Dillo Dirt specifications may be marketed and sold as Dillo Dirt.
  - 4.7. Disclose the source of any material used for bulking agents or amendments to compost products and obtain approval from AW prior to use. If the material is of unknown origin, the Contractor is responsible for testing this material for contaminants and ensuring compatibility with the composting process if required by the City. Furthermore, the Contractor shall provide a statement on company letter head and signed by Contractor assuring the City of the quality and regulatory compliance of the vendor-provided bulking materials as requested by the AW Site Contact.

The City will:

- 4.8. Spot check any part of the process at any time, including the stability and maturity of the product before the Contractor distribution to the end user. The approved methods for determining stability and maturity are shown in "Testing Methods". See attachment.

## **5. SAMPLING AND LABORATORY ANALYSIS**

The Contractor shall:

Follow the AW Compost Sampling Plan (CSP) for any sampling of the compost products. The CSP presents a detailed site-specific work flow from sample acquisition through receipt of the analytical data. Specific tasks comprising the CSP include, but are not limited to, sampling methods/procedures, personnel responsibilities, sampling schedule, analytical methods, record keeping and data management. The CSP can be found at:

<http://www.austintexas.gov/page/guidance-documents-composting-operations>.

- 5.1. Contract for the third-party sampling and analysis of the compost products for the parameters required for the STA program, shown in the "STA Program Sampling Procedures & Test Methods". See attachment. The Contractor shall provide those results to the AW Site Contact and the United States Composting Council as required for STA compliance.
- 5.2. Follow the procedures in the City Compost Sampling Plan and the "Test Methods for the Examination of Composting and Compost" (Chapter 2.01 – Field Sampling of Compost Material) for all sampling of the compost products, windrows and piles.
- 5.3. Be responsible for sample collection and laboratory analysis (if requested) of the following:

- Bulking agents and amendments as required by the City (The Contractor shall pay for analysis at a third-party laboratory if this is requested). A change in source or a marked change in the composition of bulking agents may trigger a sampling requirement by the AW Site Contact. For example, if the bulking agent is changed from City brush to sawdust the sawdust would need to be tested.
- Daily windrow temperature and moisture measurements – These will be taken by a trained member of the Contractor's staff until PFRP is achieved.
- Batch-specific sampling (i.e., a minimum of one sample per batch until pathogen reduction PFRP criteria have been met).
- Batch-specific sampling of compost that has been determined to have met PFRP for stability and maturity.
- Conduct field sampling for stability and maturity via Solvita (or equal) testing until compost is reported to be conditionally stable and mature.
- Coordinate third-party United States Composting Council (USCC) Seal of testing assurance (STA) sampling and analysis on a monthly basis for compost which is PRFP- complete, stable and mature. The Contractor shall pay all costs and expenses for this sampling and analysis.

The City will:

- 5.4. Be responsible for sample collection and laboratory analysis of Class B biosolids and for the regulatory sampling and analysis of the compost product. Laboratory analysis of Class B biosolids shall include the following:
  - Daily - Percent Total Solids of pressed biosolids and basin solids
  - Monthly - Pathogen and Vector reduction
  - Monthly - Metals and Nutrients
  - Annually –TCLP (Toxicity Characteristic Leaching Procedure) and PCB's (Polychlorinated Biphenyl)
- 5.5. Be responsible for laboratory analysis the Compost product. Laboratory Analysis of the Compost product shall include the following:
  - Monthly – Pathogen sampling of the compost for PFRP
  - Monthly – Metals and nutrients
  - Annually –TCLP (Toxicity Characteristic Leaching Procedure) and PCB's (Polychlorinated Biphenyl)

## **6. REGULATORY COMPLIANCE/RECORD KEEPING**

The Contractor shall:

- 6.1. Comply with all Federal, State and County rules and regulations during the execution and performance of this Contract and maintain a good standing with all relevant licensing and regulatory agencies. If the Contractor is a partnership/joint venture, the Contractor shall ensure that each partner maintains a good standing with all relevant licensing and regulatory agencies. The Contractor is also responsible for obtaining all insurance, permits, and licenses necessary to perform services under this Contract. This shall include, but is not limited to, Occupational Safety and Health Administration (OSHA), Texas Department of Transportation (TxDOT), Environmental Protection Agency (EPA), Texas Commission on Environmental Quality (TCEQ), Travis and any other affected Counties, and requirements of the Hornsby Bend, Walnut Creek and South Austin Regional permits listed in "Current Permits". See attachment.

- 6.2. Maintain conditions necessary for the composting operation to achieve PFRP under EPA 40 CFR Part 503 and TCEQ regulations. Upon completion of the PFRP process the treated Class B biosolids shall meet Class A pathogen reduction requirements.
- 6.3. Track, keep records and comply with all regulations throughout the processing, marketing and distribution of biosolids or biosolids derived products. Products that do not meet regulatory requirements or quality standards (including stability and maturity) shall not be distributed. The Contractor shall immediately report to the City any regulatory noncompliance or failure to meet quality standards and provide procedures and corrective actions to address the issue. The Contractor will correct the issue in the time frame given to them by the City or they will be considered non-compliant with the Contract.
- 6.4. Sign the "Certification Statement" each month that will be submitted with the invoices and will be considered part of the invoice. See attachment.

## **7. SITE REQUIREMENTS**

The City will:

- 7.1. Provide access to the Hornsby site for the Contractor to utilize two concrete compost pads totaling 22 acres and 3 of the 5 concrete basins. Each basin is approximately three feet deep with five acres of surface area as shown in the "Site Layout". See attachment. ARR operates in one of the basins so that basin is unavailable to the Contractor, and one of the remaining basins shall remain open and available at all times for sludge storage in the event of process upsets and/or emergency conditions. Only the City may authorize the use of the emergency sludge storage basin.
- 7.2. Allow the Contractor to utilize acreage onsite, if desired, to receive bulking materials for the Contractor's composting operations at Hornsby, have retail sales onsite, and a bagging operation, etc. If used, the Contractor is responsible for the retail and bulk drop-off sites, and shall provide an all-weather access road and be enclosed with an opaque fence. The Contractor is responsible for permits, registrations, site improvements, maintenance, runoff, and security of the site. Compliance with the City and Travis County requirements for the site is the sole responsibility of the Contractor. The City does not guarantee permitting for the intended use of the site nor is the City responsible for any of the site improvements, permits, or any of associated costs to sell product on the site. The City shall have access to the site at all times. The "Contractor Work Area" shows the provided location. See attachment.
- 7.3. Allow the Contractor to install a trailer onsite, and use of metered potable water.

The Contractor shall:

- 7.4. Control inventory/storage in a manner in which will mitigate fire, odor, or dust issues. The City acknowledges the cyclical and asymmetrical nature of compost production and distribution. Consequently, the City will set inventory goals that shall be achieved by the Contractor such that the biosolids are moved off site. The following methods may be altered if the AW Site Contact approves with the Contractor's alternate method of handling inventory.
  - 7.4.1. Provide inventory control and management of materials including green waste, curing piles and screened "overs". The method of inventory measurement shall be reasonably accurate and approved by the AW Site Contact. Piles shall be constructed and maintained in accordance with the approved control plan requirements listed in the "Control & Sampling Plans" section of this Scope of

Work. The Contractor shall store biosolids such that the oldest biosolids can be tracked and accessed first. The Contractor shall maintain consistent movement of products and not store compost other than Dillo Dirt at Hornsby for more than 120 days after completion of PFRP requirements. Only 10,000 cubic yards of finished Dillo Dirt can be stored onsite at any one time.

- 7.4.2. Inventory the material onsite with the AW Site Contact monthly. This inventory shall take place no later than the 10<sup>th</sup> day of each month and shall result in an agreed-upon total amount of Class B biosolids, premix, compost, overs, and yard waste onsite. The Contractor shall meet two inventory-related criteria:
  - 7.4.2.1. Annual net-zero compost, sludge, overs and yard waste inventories for a calendar year. If 110,000 wet tons of biosolids are produced by the facility in a calendar year, 110,000 wet tons of biosolids must leave the facility to be distributed as a component of compost to an end user. An annual inventory of the site will be conducted no later than the second Friday in January to determine whether this criterion has been met.
  - 7.4.2.2. Flat or decreasing compost, sludge, premix and overs inventories evaluated on a monthly basis (coinciding with monthly inventory report) based on a four-month rolling time period.
  - 7.4.2.3. Yard waste will be evaluated differently (coinciding with the monthly inventory) from the other materials. The Contractor shall manage the oversupply and undersupply of yard waste during the composting process. At a minimum the Contractor shall ensure enough yard waste is available onsite for composting operations. The Contractor shall ensure that Basin 2 does not reach capacity.
  - 7.4.2.4. If these criteria are not met, the Contractor will submit a written plan within three business days after being notified by the AW Site Contact. The plan will state the Contractor's plan for lowering the inventory to a level acceptable to the City. The plan shall include timelines, which will be enforced by the AW Site Contact. The inventory will begin the first month after Contract execution, but the inventory controls will not go into effect until the sixth month after mobilization.
- 7.4.3. Maintain the biosolids processing and storage areas as directed by the AW Site Contact. Maintenance of these areas shall include, but is not be limited to, daily removal of all biosolids from the belt press area, cleaning and building berms necessary to contain the biosolids, maintaining the basins and other work needed to ensure the areas are neat, safe and usable.
- 7.5. The following activities are allowed on the Hornsby site: grinding of green waste, premixing biosolids and green waste (if utilized), biosolids composting to meet PFRP requirements, curing, blending with soil and bagging. Unless otherwise approved by the City, all work associated with the production of Dillo Dirt shall take place at Hornsby, including but not limited to: premixing, composting, curing, screening, testing and loading of the final Dillo Dirt product.
- 7.6. Once PFRP is complete and Class A pathogen reduction and fecal coliform requirements are met the Contractor may perform work and activities at an offsite biosolids composting facility that is approved by the City and if necessary, TCEQ. The site may be used for activities such as grinding of green waste prior to mixing with biosolids, curing, screening, STA sample collection for products other than Dillo Dirt, and blending, bagging and loading of the final product. The Contractor is required to disclose

to the City the location of any and all offsite work locations used to provide services under this Contract throughout the term of the Contract. Offsite locations shall be located within 100 miles of Hornsby, unless approved by the City, and be accessible to the City's representative during normal business hours.

- 7.7. The Contractor may choose the work hours and work days, but sampling shall take place between Monday – Friday and 8 AM to 4 PM. Any modifications to this schedule shall be submitted in writing to the AW Site Contact for review and approval prior to the change taking effect.
- 7.8. Designate for each work site an Operations Manager to be available Monday through Friday 8 AM to 4 PM for coordination and communication with City staff. These communications shall include status of windrows, areas of concern, nuisance conditions at the site, and schedule of removal of compost. The names and contact information shall be provided to the AW Site Contact. The Operations Manager must have decision-making authority to immediately address operational, health and safety concerns.
- 7.9. Remove site fencing, road base, trailer(s), and other Contractor owned items at the end of the Contract, unless a written authorization detailing what is being left onsite is obtained from the AW Site Contact.

## **8. ONSITE MATERIALS**

- 8.1. Compost onsite – The City will continue to sell Dillo Dirt made by the City staff from the Hornsby site to City registered vendors until the last day of the sixth month after Contract execution (or another date if requested by the Contractor and agreed to by the AW Site Contact). Any City-made Dillo Dirt or unscreened compost left onsite after Dillo Dirt sales by the City have ended will be turned over to the Contractor.
- 8.2. The Contractor shall retain ownership of any Dillo Dirt made by the Contractor after the Contract execution and any Dillo Dirt remaining onsite after the City suspends Dillo Dirt sales.
- 8.3. The Contractor shall be responsible for the distribution and marketing of the material. The Dillo Dirt given to the Contractor shall be accounted for as it is moved offsite and reported to the AW Site Contact each month.
- 8.4. The City estimates that there will be approximately three months of biosolids and/or premix onsite at the time of Contract execution. The City's premix is a 2 to 1 ratio of yard waste to biosolids. It is the Contractor's responsibility to incorporate the premix into the composting operations; the City will not pay the Contractor for the premix. The City will pay the Contractor for any biosolids that are in the storage basins when the Contract begins. This amount is estimated at 35,000 wet tons. The biosolids will be paid at the amount per wet ton the Contractor lists for biosolids in the "Price Sheet". The Contractor will work with the AW Site Contact to determine if any special tracking/invoicing is needed for this material.

## **9. TRANSPORTATION REQUIREMENTS**

The Contractor shall:

- 9.1. Ensure all vehicles providing transportation services under regular or emergency operating conditions for the Contractor, whether owned and operated by the Contractor, shall utilize the site entry/exit and access routes.

- 9.2. Ensure transportation equipment is sealed in a manner to prevent leakage/spillage. Transportation equipment shall include a tarp or other cover to prevent materials from blowing out or spillage while transporting. All loads shall be covered before leaving any site.
- 9.3. Clean all trucks and trailers used for transporting compost or biosolids to prevent spillage. The truck washing area will be designated by the AW Site Contact. The City reserves the right to stop the Contractor's hauling activities if trucks and equipment are not kept clean. The AW Site Contact will have the final decision as to the condition of the Contractor's trucks and equipment.
- 9.4. Ensure all personnel and vehicles hauling Class B biosolids off-site are registered to haul in compliance with Texas Administrative Code Title 30, Part 1, Chapter 312, Subchapter G.
- 9.5. All equipment used at Hornsby shall have either rubber tires or rubber tracks designed to operate on a concrete surface.

## **10. DILLO DIRT**

The Contractor shall:

- 10.1. Continue to make and market a product with the Dillo Dirt name. This product shall be made available to the local market and wholesalers but can and should be marketed elsewhere. The Dillo Dirt trademark name and compost quality will remain in the City of Austin control regardless of who produces the product. Dillo Dirt shall meet the requirements of this Scope of Work and the specifications in the "Dillo Dirt Product Specification". See attachment. Dillo Dirt may be sold either bagged or in bulk. Records of the amount of Dillo Dirt sold and/or donated will be kept by the Contractor and given to the City as a part of the invoice; including representative sample results showing the Dillo Dirt compost meets all the requirements contained in the "Dillo Dirt Product Specification". See attachment.
  - 10.1.1. Have 10,000 cubic yards of Dillo Dirt available every calendar year to sell to the local vendors; out of these 10,000 cubic yards, 3,000 cubic yards shall be made available to donate to charitable organizations and other City Departments. The charitable organization shall be approved by the AW Site Contact. The amount of Dillo Dirt sold over the last four years is available in "Dillo Dirt Sales". See attachment.
  - 10.1.2. Dillo Dirt is a 100% compost product. Blended products containing Dillo Dirt shall not be marketed and distributed as Dillo Dirt. Dillo Dirt and blended products containing Dillo Dirt shall follow the labeling requirements for biosolids derived products.
- 10.2. Have one calendar year after Contract execution to have the US Composting Council Seal of Testing Assurance (STA) registration for Dillo Dirt transferred to the Contractor. The Contractor is responsible for maintaining Dillo Dirt's STA certification. Testing frequency, parameters, sample collection and lab analysis shall comply with the requirements of the STA program.
- 10.3. Be prepared to start selling Dillo Dirt made by the Contractor six months after mobilization. The Contractor may price Dillo Dirt at their discretion after the six-month period.

The City will:

- 10.4. Sell Dillo Dirt made with City staff until six months after Contract execution or until the Contractor has Dillo Dirt to sell, and then will turn over all sales and marketing of Dillo Dirt to the Contractor. The City will not sell any Dillo Dirt made by the Contractor.
- 10.5. Reserve the right to discontinue Contractor's use of the Dillo Dirt name at any time and at the City's sole discretion.

## **11. MARKETING**

The Contractor shall:

- 11.1. Have a Marketing Plan that identifies and develops a reliable, sustainable and diverse range of compost products. The Contractor is free to establish appropriate prices and make adjustments in response to market conditions for City biosolid products. The Contractor shall have a Marketing Plan that reflects the goal of making all biosolids into a Class A compost and achieve 100 percent beneficial reuse of biosolids. In keeping with the goal of diversification, it is the responsibility of the Contractor to strive to generate products for suitable market uses. Revenues received from compost sales shall be retained by the Contractor (except for the sales of Dillo Dirt by the City before the Contractor has Dillo Dirt to sell).
- 11.2. Submit an Annual Compost Distribution Report to the City by October 31<sup>st</sup> of each year. The report shall align with the City's fiscal year (October 1 – September 30) and include volume and production rates, donations and volume of sales (local, in state and out state) for each product derived from City of Austin biosolids.

## **12. EMERGENCY CONDITIONS**

- 12.1. Emergency conditions, as determined by the City, are defined as severe fire risk, other imminent threats to health and safety, or imminent risk of regulatory non-compliance that could not have reasonably been foreseen. AW will attempt to proactively remedy any condition or situation that may lead to an emergency. Prior to or during an emergency the City may engage parties outside of the Contract to prevent an emergency condition or situation from developing or remedy an existing emergency condition or situation.
- 12.2. An emergency condition created by the Contractor because of failure to perform in accordance with the requirements outlined in the Contract may constitute a Contract default, and the Contractor shall be subject to any and all remedies under this Contract and provided by law. The Contractor shall be responsible for any expenses, damages, and corrective actions for their failure to perform in accordance with the requirements outlined in the Contract.
- 12.3. The Contractor shall receive approval from AW to proceed with the performance of any emergency options. Because emergency conditions are unforeseen and cannot be planned for in advance, the Contractor shall have an alternative way to transport the Class B Biosolids. This may include land application permits, or a relationship with a company with land application capabilities, or the ability to haul to a permitted landfill.
- 12.4. Under emergency conditions, the Contractor may on a temporary basis and as approved by the AW Site Contact:

- Haul Class B biosolids to a site permitted to process or dispose of Class B biosolids.
- Land apply unscreened compost or Class A biosolids onsite or offsite
- Land apply Class B biosolids on permitted application fields onsite or offsite
- Landfill Class B biosolids, Class A biosolids or compost.
- Lower the threshold for inert material removal if screening poses a process delay.

12.5. These temporary reuse options shall extend only as long as necessary to alleviate emergency conditions when determined by the City.

12.6. In emergency conditions, the Contractor shall provide information to City staff within 3 calendar days on what corrective actions will take place after emergency conditions have been enacted. The information shall include a plan to return operations to normal and the time frame. The Contractor will be held to that plan, and failure to adhere to the plan may result in the City taking corrective action.

12.7. In the event land application of Class B is authorized, the following shall apply:

- 12.7.1. Only companies who are registered with the TCEQ may legally haul and land apply Class B biosolids on fields permitted by TCEQ. In the event of an emergency the Contractor is responsible for acquiring, permitting and maintaining land application sites and permits for Class B biosolids. The Contractor shall provide loading, spreading and any other equipment and personnel necessary to complete this task.
- 12.7.2. The Contractor shall land apply Class A or B biosolids, if directed by the City, onsite at Hornsby only during emergency conditions. The City will verify the loading rates based on agronomic rate calculations. The Contractor shall ensure that fields are marked for buffers and setbacks. The Contractor shall plan, track and report wet and dry tons applied per field on a monthly basis. The Contractor shall provide loading, spreading and any other equipment and personnel necessary to complete this task. Unscreened compost may be applied only under emergency conditions. For land application onsite, the City will not authorize additional payments over the amount already paid to the Contractor for biosolids off the belt press.
- 12.7.3. The Contractor is responsible for all materials, labor and lab analysis for soil sampling of each land application field as required in the applicable TCEQ permits.
- 12.7.4. The Contractor shall document each onsite and offsite land application load with a trip ticket or receipt as proof of loading and delivery. The Contractor shall review and approve the tickets or receipts before submitting them with an invoice. The trip ticket or receipt shall include, but is not be limited to the following information:
  - Name of company and driver name
  - Time and date of haul and application
  - Volume and/or weight of biosolids hauled
  - Biosolids production date or date range
  - Class of biosolids
  - TCEQ permitted site number (if hauled for land application)
- 12.7.5. The Contractor shall land apply biosolids in a uniform manner and at a rate not to exceed the TCEQ permitted application rates. The Contractor shall

perform application with a calibrated spreader designed for biosolids application. Land application shall comply with all requirements in the Texas Administrative Code, Title 30, Chapter 312 Sludge Use, Disposal and Transportation.

12.7.6. The City will not authorize biosolids to go to a landfill except in extreme circumstances. If the option is exercised, the AW Site Contact will direct the Contractor on the amount of biosolids to be disposed of at a TCEQ and Environmental Protection Agency (EPA) approved landfill. Requirements for disposal in a municipal solid waste landfill are contained within the Hornsby permit. A Type I landfill shall be utilized. The Contractor shall provide proof the landfill is in compliance with EPA and TCEQ requirements for accepting Class B biosolids before any hauling to the landfill takes place. Copies of the Landfill ticket receipts and a monthly report shall be submitted with each invoice to the AW Site Contact.

12.7.7. In an emergency, the City will only pay the Contractor for the surcharge for transportation and disposal at a permitted landfill as indicated in on the Price Sheet for this Contract.

### **13. TRACKING AND REPORTING**

The Contractor shall:

- 13.1. Accept all dewatered Class B biosolids from the belt press.
- 13.2. Weigh all the dewatered biosolids with Contractor-owned truck scales that the Contractor installs and maintains onsite. The Contractor shall use certified truck scales as required for operations. Placement of the truck scale shall be coordinated with the AW Site Contact and not interfere with plant operations. The Contractor is responsible for maintenance, certification and calibration of the scale. The City reserves the right to view certification and calibration documents for the truck scale upon request.
- 13.3. Provide a weekly report to the AW Site Contact of all the compost leaving the site. This report will be in volume (CY) and weight (DT) unless agreed to by the AW Site Contact.

The City will:

- 13.4. Consider other options to measure the biosolids coming off the belt press; however, the Contractor shall submit, in writing another way to measure the biosolids coming off the belt press for the AW Site Contact to review and approval prior to utilizing another method.

### **14. CONTROL & SAMPLING PLANS**

The Contractor shall:

- 14.1. Follow the City's Control and Sampling Plans available at: <http://www.austintexas.gov/page/guidance-documents-composting-operations>. These plans include but are not limited to: Odor Control, Dust Control, Spill Response, Fire Control, and Compost Sampling Plans. The City may, at its sole discretion and according to policy and/or regulation, and may modify any of the various City Control and/or Sampling Plans as needed to comply with new requirements or concerns not covered in the existing plans as needed throughout the Contract term to achieve the following results:

- Odor Control Plan - 2 or less odor complaints a calendar year that can be directly attributed to the actions on Hornsby Bend Property.
- Fire Control Plan – No fires
- Spill Response Plan – No spills, or if there were spills, the spills were cleaned up promptly and timely
- Dust Control Plan – 2 or less complaints a calendar year from the public regarding dust onsite
- Sampling Plan – Incorporate new approved methods for sampling and/or analysis

The Contractor shall:

- 14.2. Be responsible for managing their operation in a manner that shall prevent hazardous conditions and minimize nuisance conditions created by vectors, odor and dust. The Contractor shall be responsible for all spills of material associated with the loading, processing, transporting, land application, or any use of the biosolids and/or compost.
- 14.3. Follow the City's Control Plans for Odor, Dust, Spill Response, Fire Response, and Sampling. The Contractor shall respond to all complaints and implement any practices or processes needed to remedy such complaints. The Contractor shall be prepared to address concerns and respond to questions in a public forum from City Staff, committee and commission members, stakeholders and citizens. Failure to manage the facility to minimize hazards, odors and dust that result in citizen complaints and regulatory infractions may cause the City to take corrective action for non-compliance. Any costs or expenses incurred by the Contractor to correct odor or dust issues, or to fight fires or to clean up spills will be paid entirely by the Contractor.
- 14.4. Access and review the various AW plan requirements available on <http://www.austintexas.gov/page/guidance-documents-composting-operations> by the 10<sup>th</sup> of each month.
- 14.5. Modify their operations, to comply with any plan modification no later than the last day of the month of that change, unless an extension is approved in writing by the AW Site Contact.
  - 14.5.1. Be responsible for costs and expenses associated with complying with the revised plan(s), and for any additional costs resulting from their actions, negligence, and for any damages or corrective actions incurred by the Contractor because of failure to modify their process and operations.

The City may:

- 14.6. Engage the Contractor to gather feedback on the modification prior to posting the revised plan(s).

## 15. RFI COMMENTS

COMPANY	DESCRIPTION
Walker Aero Environmental	We understand that a minimum amount of experience is necessary, and that years of experience might weigh in the balance when evaluating the relative merits of various proposals. However, 5 years seems a bit excessive, and 3 might suffice: after all, the composting process is not rocket science, nor even high-rise construction. It's a highly repetitive process – like milking cows – and proficiency can be attained in under a year. So reducing this hard cutoff to 4 years (or 50 months) would attract more still-qualified bidders – like us (our 5 year biosolids anniversary is not till March 1, 2019).
Walker Aero Environmental	There is a similar problem with 3.2; we suggest the operations manager minimum experience requirement be lowered to 4 years or 50 months.
Walker Aero Environmental	As written, it appears that expectations could be altered with the contractor required to meet new standards/adopt different methods at the contractors' expense, without limit. Each bidder will make their offer based on a certain set of assumptions about how the material should be processed and how those operations should be managed based on current operations and permit requirements. Section 15.3 suggests that the rules could be changed in the middle of the game, with the cost of adopting the "new" processing/operations requirements -- which could be thought of as a "change order" - - being borne by the contractor. Obviously minor changes around the edges could be essentially cost-neutral and easy to swallow, but for the conscientious bidder making such an open ended commitment could be troublesome. I can see this provision (depending on if/how enforced) potentially leading to misunderstanding/conflict in the future that could perhaps be avoided by better drafting. Perhaps if we had a better idea what the City staff had in mind when formulating this provision the language could be tweaked so that a bidder's jeopardy could be mitigated.
Texas Landfill Management	Has the City identified the type of solicitation it intends to issue for Beneficial Reuse of Biosolids (e.g. Request for Proposal, Invitation for Bid, etc.)?
Texas Landfill Management	Has the City determined the Scoring Criteria it intends to use for evaluating vendor responses to a solicitation for Beneficial Reuse of Biosolids, and if so will the scoring sheet be available for review soon? As part of the Scoring Criteria, TLM suggests including a Local Business Presence criteria that is consistent with the following July 2017 recommendation of the City Council Waste Management Policy Working Group: "Within waste management matrices, revise the definition of "local" to more accurately represent local business presence. The current point allowance favors businesses with offices within the city limits regardless of the type, nature, or history of their presence in the local community. At the same time it penalizes businesses with headquarters just outside the city limits but with substantial business presence in the Austin Area."
Texas Landfill Management	What is the City's projected time frame for issuing a solicitation for Beneficial Reuse of Biosolids, receiving and evaluating vendor responses, contract negotiations and securing recommendations from Boards & Commissions and approval from City Council?
Texas Landfill Management	TLM suggests including language in the solicitation that informs respondents that the City intends to post all contract documents as agenda backup material when seeking recommendations from Boards & Commissions and approval from City Council.
Texas Landfill Management	The draft documents are unclear about how the Contractor will be compensated by the City. Will the Contractor be compensated on a wet ton basis? Is a sample pricing sheet available now for review and comment?

Texas Landfill Management	TLM suggests that processing ARR green waste be considered as part of this solicitation as we are convinced this will save both ARR and AW budgeting funds which could be spent in other important areas. This could be done as either being included with the wet ton price for processing biosolids, or as an additive alternate to the biosolids processing bid.
Texas Landfill Management	<p>TLM suggests clarifying Section 2 (Purpose) as follows:</p> <p><b>PURPOSE</b>  The Contractor shall treat, market and distribute all Class B biosolids produced annually at Hornsby Bend. Biosolids shall must be treated to meet Class A pathogen reduction requirements through the windrow composting process. For purposes of this Contract, compost is defined as a product resulting from controlled biological decomposition of organic materials that has been sanitized through the generation of heat and stabilized to the point that it is beneficial to plant growth. Compost bears little physical resemblance to the raw material from which it originated. Compost is an organic matter resource that has the unique ability to improve the chemical, physical, and biological characteristics of soils or growing media. It contains plant nutrients but is typically not characterized as a fertilizer. Active composting is typically characterized by a high-temperature phase that sanitizes the product and allows a high rate of decomposition, followed by a lower-temperature phase that allows the product to stabilize while still decomposing at a lower rate.</p>
Texas Landfill Management	TLM suggests including more details in Section 3.8 regarding the volumes of green waste (brush, yard and tree trimmings) managed at Hornsby Bend during the last two years and the volumes of green waste to be made available for use by the Contractor during the contract term.
Texas Landfill Management	<p>Any offsite facility or location used by the Contractor in performing any work or activities associated with the Contract for Beneficial Reuse of Biosolids should have proper authorization from the city, county and/or state (i.e. TCEQ permit or registration for biosolids processing). The City should prohibit a Contractor from using unknown and unauthorized facilities to perform work or activities directly associated with this Contract.</p> <p>Accordingly, TLM suggests revising Section 7.6 as follows:</p> <p><del>Once PERP is complete, the Contractor may perform work and activities at an offsite TCEQ authorized (e.g. Registered or Permitted) biosolids composting facility approved by the City. The site can be for activities such as grinding of green waste prior to mixing with biosolids, curing, screening, STA sample collection for products other than Dillo Dirt, and blending, bagging and loading of final product. All processing related to achieving a stable and mature Class 'A' compost must be done at Hornsby Bend. The Contractor is required to disclose to the City the location of any and all offsite work locations used to provide services under this Contract throughout the term of the Contract. Offsite locations shall be located within 100 miles of Hornsby Bend, unless approved by the City, and accessible to the City's representatives during normal business hours.</del></p>
Texas Landfill Management	Since composting is a very seasonal business, the 20% monthly cap on inventory increases requirement could be a problem when building up inventory for peak seasonal sales. It is suggested that instead the Contractor and City work together to prevent inventory problems and comply with the fire prevention criteria.

Texas Landfill Management	<p>Certain pieces of equipment commonly used at a composting operation, such as windrow turners and trommel screens, are now equipped with rubber tracks as opposed to rubber tires. In order to accommodate this type of equipment, TLM suggests revising Section 9.5 as follows:</p> <p><del>Equip-</del> <del>a</del> All equipment used at Hornsby Bend shall have either <del>with</del>-rubber tires or rubber tracks designed to operate on a concrete surface.</p>
Texas Landfill Management	<p>Section 14.3 states that a weekly report be provided for compost leaving the Hornsby Bend site. Will this be reported in tons or cubic yards? TLM suggests all materials (Class B biosolids and compost) be reported in tons since certified scales will be used and this should prevent any questions on quantities leaving the site.</p>
Texas Landfill Management	<p>As currently proposed, Section 15 requires the Contractor to fully comply with any and all changes made at the City's sole discretion to the various operational and control plans associated with this Contract (e.g. compost sampling and testing, fire control, spill response, odor control, dust control, etc.). In addition, the Contractor is required to modify their operation within a very short period of time to comply with those plan changes, no later than the last day of the month of the change, and to bear 100% of the costs associated with implementing and complying with the City's changes to the various operational and control plans. This proposed arrangement places enormous uncertainty on the Contractor, and leaves the Contractor no recourse to object to and/or recover the costs associated with complying with unpredictable and unknown future requirements imposed upon them by the City.</p>
Texas Landfill Management	<p>The City may, at its sole discretion and according to best practices, policy, or regulation, propose reasonable changes to the requirements of various operational and control plans that the Contractor shall stay in compliance with. The Contractor shall review the proposed changes and not unreasonably withhold its consent or objection to the proposed changes.</p>
Texas Landfill Management	<p>15.2: The City will inform the Contractor of proposed changes to the operational and control plans and make them available for Contractor's <del>a</del>Access and review <del>the various AW plan requirements</del> on www.austinwater.com by the 15th of every month.</p>
Texas Landfill Management	<p>15.3: Modify biosolids composting processing and operations, to comply with the mutually agreed upon change no later than the last day of the month of that change. If necessary, the City and Contractor will agree upon longer implementation periods for significant changes. The Contractor shall be responsible for reasonable costs and expenses associated with their processing and operational modification; and damages or corrective actions incurred by the Contractor because of failure to modify their processing and operations <del>shall be the responsibility of the Contractor.</del> The Contractor may petition the City for necessary rate modifications to offset any capital and operational costs and expenses incurred by the Contractor to comply with City-imposed changes to the operational and control plans associated with this Contract.</p>
Synagro	<p>The minimum qualifications should include Bidder experience managing municipal biosolids beneficial use programs from at least three Cities of equal or greater size than Austin for a period of five continuous years each– This ensures corporate competence in biosolids.</p>
Synagro	<p>The minimum qualifications should include experience operating at least two biosolids composting facilities each processing at least 60,000 wet tons of biosolids and marketing the compost produced, each for five consecutive years – This ensures minimum competence in biosolids composting.</p>

Synagro	To secure a diversified market beyond Dillo Dirt, Bidders shall be able to demonstrate successful development and continued servicing of an agricultural market for biosolids based compost of at least 60,000 cubic yards per year to users that include turf production, direct agricultural production, and other diversified agricultural uses. To ensure diversification and sustainability of the market for Austin compost – a goal the City has consistently stated – This experience should exclude traditional retail and Dillo Dirt markets and TxDOT type projects.
Synagro	Bidders should demonstrate experience with the National Biosolids Partnership, securing certification of at least one facility with third-party reviewed operating plans – This ensures fully developed operating plans and experience, protecting the City.
Synagro	Bidder must be able to demonstrate at least one example in the past three years where the company has sponsored research programs for biosolids compost utilization with Universities in Texas.
Synagro	Bidders shall have a full time employee dedicated to biosolids based compost sales and assigned exclusively to the Austin project. Such person's qualifications must include either a master's degree in agriculture or a closely related field or a bachelor's degree in agriculture or a closely related field and a minimum of ten years' experience selling compost to the agricultural sector. Resumes must be provided with the bid.
Synagro	Bidder shall have a full time employee working exclusively on the City of Austin project who is Certified as a Compost Operations Manager by the United States Composting Council. A copy of this person's certification shall be provided with the bid.
Synagro	To provided redundancy and operational reliability, Bidders shall demonstrate that they have permits in hand for land application sites capable of managing 100% of the City's biosolids. This is good public policy and a best practice within the wastewater industry.
Synagro	All compost produced must meet USCC STA mature and stable criteria before leaving the Hornsby Bend site.
Synagro	All compost must be screened before it leaves the Hornsby Bend site.
Synagro	Bidders shall not stockpile or deliver to any one site greater than 5,000 tons of compost per year.
New Earth	By requiring 100% composting the City has tied the Contractor's hand. The assumption is that the Austin market can handle all the compost which is being provided. However, history shows this is not the case. Stockpiles have amassed, and this must be considered when looking at what amount of compost the Austin market can absorb.
New Earth	Land Application must be given as an option to the Contractor. Along with Land Application, any other option that qualifies as beneficial reuse should be allowed at the discretion of the Contractor.
New Earth	"Label and/or include an information sheet with all products produced with City biosolids to inform the end user of that fact." This statement is too broad in the context that compost material from the city would likely be used in a variety of products as a feedstock in addition to other blends where it makes up most of the blend. This statement could lead to a burdensome labeling and informing process for each product that had a portion of finished compost in it.
New Earth	A label, information sheet or some other means of notification will be given to the end user only on bulk products containing more than 51% compost

New Earth	<p>"Disclose the source of any material used for bulking agents or amendments to compost products and obtain approval from AW prior to use." This requirement is too broad in the context that bulking agents could come from numerous outlets. Disclosing their use before obtaining approval for each source is simply not practical.</p> <p>Recommendation: Change language that AW staff has the right to inspect a load if they believe there is an issue. The contractor will have the ability to source material from any location they need to so they can have an adequate bulking agent.</p>
New Earth	<p>It is a burden on the Contractor to continue with Dillo Dirt. For whatever reason there is a clear history that the market is not really interested in this product as it is currently being created and marketed. To make this the new responsibility of the contractor is not financially beneficial. Requiring a contractor to make compost and then market and sell that compost as Dillo Dirt is an unnecessary burden and could lead to negative effects for the product and contractor and a failure of the contract. The idea that a contractor can also get a break, in terms of the time the product can be left on the pad if they claim it is Dillo Dirt, seems faulty and could create other issues. The city has in many ways limited a contractor but left this one loophole that can be exploited by simply claiming that the contractor is making Dillo Dirt. Recommendation: Remove these and any other section sections from the RFP that deal with the mandatory continuation of the Dillo Dirt program. Remove any special treatment that Dillo Dirt gets by making the claim and treat all compost the same.</p>
New Earth	<p>"Create a Marketing Plan to identify and develop a reliable, sustainable and diverse range of compost products. The Contractor is free to establish appropriate prices and make adjustments in response to market conditions. The Contractor shall have a Marketing Plan that reflects the City's stated goal to make all biosolids into a Class A compost and achieve 100 percent beneficial reuse of biosolids. In keeping with the City's goal of diversification it is the responsibility of the Contractor to strive to generate products for suitable market uses." If the goal of the city is really to see 100% of its material go to beneficial reuse and not just 100% composting, then it must also allow freedom for a Contractor to make that a reality. The CURRENT 100% composting plan for the city of Austin is not a good fit for the Austin market. Giving a contractor the freedom to create a plan with pricing and products that fit market conditions (and have the ability to react to changes in the market) but then mandating that their plan must fit the city's goals is a contradiction in terms. What the market wants may not match what goals the city attempts to achieve with its waste.</p>
New Earth	<p>"Submit an Annual Marketing, Distribution and Sales Report to the City by October 31st of each year. The report shall align with the City's fiscal year (October 1 - September 30) and include at minimum: targeted markets, volume and production rates, donations and sales (local, in state and out state) for each product derived from City of Austin biosolids." This is right in line with the City telling the Contractor how to run their business and market their products. Providing some projections is one thing, but allowing the City to determine if the Contractor is not complying with appropriate marketing and end use of the product and then further allowing the city to take corrective actions leaves little room for the Contractor to be successful.</p>
New Earth	<p>"Be permitted to install and maintain onsite certified truck scales as required for their operations. Placement of the truck scale shall be coordinated with the City's Site Contact and not interfere with plant operations. The Contractor is responsible for maintenance, certification and calibration of the scale. The City reserves the right to view certification and calibration documents for the truck scale upon request." If the city decided to sell the material on a per ton basis then it must use its current scales for such application. The Contractor may not have a use for scales so being forced to install them when they have no practical use for them would be an unnecessary expense. Contractor should not be required to install scales but may be allowed to install a volumetric scanner. The Contractor would not be permitted to use the city scales.</p>

New Earth	Composting biosolids at 100% is difficult. Restricting methods by which contractors could achieve this goal make it nearly impossible since only few methods currently exist. The city of Austin has been unable to move half of the biosolids through composting and is now asking a contractor to take on the project with added restrictions. Issues such as overs, carbons, organic mixes and a host of other factors that are crucial to achieving the goal of 100% composting should receive further consideration. New Earth understands and supports the city's desire to reach 100% composting. However, eliminating Land Application, a widely available and cost-effective backup, will handicap any contractor assisting in that objective.
New Earth	Mandating that a contractor produce Dillo Dirt, in spite of issues with the product and its marketability, is a roadblock to reaching 100% composting of biosolids
New Earth	The testing requirements are beyond any industry standard for production of compost.

## Section 0600-PRICE SHEET

CDL2003REBID2 - Beneficial Reuse of Biosolids

Version 1.1 8/16/2018

Vendor: Synagro of Texas-CDR, Inc.

**Price Sheet Instructions:** Offerors must use this Price Sheet to submit pricing for Category 1 "Required Pricing". Be advised that altering the Price Sheet and/or taking exceptions to any portion of the solicitation may jeopardize acceptance of your Offer.

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

A "no bid" or no response (space left blank) will be interpreted by the City that the Offeror does not wish to bid on that item. Be advised, a "no bid" or no response for Category 1 "Required Pricing" may be considered as a non-responsive Offer and will result in disqualification of the Offer.

Bids on the Price Sheet shall be all inclusive, the Offeror shall not charge separately for administrative, overhead, per diem, and shipping, hauling, or transportation costs (travel time, fuel surcharges, mileage, stop-fee, etc.) to perform these services. The Offeror shall provide all tools, labor, travel, and equipment necessary to perform the services required under this Contract.

The City reserves the right to award a single Contract based on the lowest responsive Offer.

### CATEGORY 1. REQUIRED PRICING

**Category 1 Instructions:** Provide pricing for the following line items.

**The pricing provided for line item 1 will be used to evaluate "Price".**

**The pricing provided for line item 2 will be used as required in emergencies only and will not be used to evaluate "Price".**

Item No.	Description	Unit of Measure	Annual Estimates	Unit Pricing	Extended Pricing
1	Composting and marketing of biosolids	Wet Tons	110,000	\$13.93	\$1,532,300.00
<b>Total Annual Estimate</b>					<b>\$1,532,300.00</b>
2	Class B Biosolids surcharge for emergency transportation and disposal at a permitted landfill (this price is in addition to the amount that will already have been paid to the Contractor under line item 1).	Wet Tons	<b>EMERGENCY ONLY</b>	\$45.79	

### CATEGORY 2. REQUIRED SUBMITTALS

**Category 2 Instructions:** The information in this category will be utilized to verify the minimum experience and qualifications outlined in Section 0500, Scope of Work of this solicitation.

The following information shall be submitted within 3 calendar days upon the City's request or be submitted with the Offer.

**The information provided for this category will be used to determine the Offeror's responsiveness.**

Submittal Description	
1. Provide a signed letter, on company letterhead, with the Offeror's full name and address of the company and identify the parent company if you are a subsidiary. Indicate whether you operate as a partnership, corporation, or individual. Include the State(s) in which incorporated or licensed to operate. Include the number of years of experience your company has in biosolids composting operations.	
2. Provide a resume for the Operation Manager that will be assigned to this Contract. The resume shall include dates of employment, company names, position titles, and duties and responsibilities.	

### CATEGORY 3. INFORMATION ONLY-OPTIONAL ADDITIONAL SERVICES OR PRODUCTS

**Category 3 Instructions:** The City may have a future need to purchase additional related services and/or products under this Contract. Purchase of these services or products will be on an "as needed" basis at the prices offered in the list below (or you attach), and the City makes no guarantee of purchase. List any additional services or products related to the Scope of Work **if possible, the City would like the Offeror to provide pricing for "Class B Biosolids surcharge for emergency transportation and beneficial reuse at a TCEQ premitted land application facility (offsite)" for emergencies in the field provided below (this is not mandatory).**

Offerors may submit a separate document or price list for these other services or products in lieu of completing the fields in this category. At a minimum, the other document or price list shall include a description, unit of measure, and unit pricing. Or if you are providing a percentage mark up or discount for the other services or products, the other document or price list at minimum shall include a description, the percentage, and indicate either "mark up" or "discount". All pricing, pricing documents, and/or price lists for this category must remain firm and fixed during the life of the Contract.

**The information and pricing provided for this category will not be used to evaluate "Price".**

Service or Product Description (if any)	HOW MUCH WILL YOU CHARGE THE CITY FOR THESE SERVICES OR PRODUCTS? (list price per service/item below)	
	Unit of Measure	Unit Pricing
Class B Biosolids surcharge for emergency transportation and beneficial reuse at a TCEQ premitted land application facility (offsite) <b>EMERGENCY ONLY</b>	Wet Tons	\$38.79

## **Section 0800: Non-Discrimination and Non-Retaliation Certification**

**City of Austin, Texas**

**Equal Employment/Fair Housing Office**

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

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

### **City of Austin Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy**

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

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

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

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

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

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

**Sanctions:**

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

**Term:**

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

Dated this 27th day of August, 2018

CONTRACTOR

Authorized  
Signature

Title

Synagro of Texas-CDR, Inc.



Michelle Hamann

Assistant Secretary

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

Company Name Synagro of Texas-CDR, Inc.

- 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: \_\_\_\_\_ 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: \_\_\_\_\_



## Acknowledgement of Addenda

SYNAGRO®



**ADDENDUM  
CITY OF AUSTIN, TEXAS**

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**Solicitation: IFB CDL2003REBID2**

**Addendum No: 1**

**Date of Addendum: 8/16/18**

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This addendum is to incorporate the following changes to the above referenced solicitation:

**I. Changes:**

- I.1 Section 0400, Supplemental Purchase Provisions item 11 F is hereby added and reads as follows:

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.

- I.2 Section 0500, Scope of Work item 6.1 is hereby revised to read as follows:

6.1. Comply with all Federal, State, and County and City rules and regulations (found at: <http://www.austintexas.gov/page/guidance-documents-composting-operations>) during the execution and performance of this Contract and maintain a good standing with all relevant licensing and regulatory agencies. If the Contractor is a partnership/joint venture, the Contractor shall ensure that each partner maintains a good standing with all relevant licensing and regulatory agencies. The Contractor is also responsible for obtaining all insurance, permits, and licenses necessary to perform services under this Contract. This shall include, but is not limited to, Occupational Safety and Health Administration (OSHA), Texas Department of Transportation (TxDOT), Environmental Protection Agency (EPA), Texas Commission on Environmental Quality (TCEQ), Travis and any other affected Counties, and requirements of the Hornsby Bend, Walnut Creek and South Austin Regional permits listed in "Current Permits". See attachment.

- I.3 Section 0500, Scope of Work item 7.4.2 is hereby revised to read as follows:

7.4.2. Inventory the material onsite with the AW Site Contact monthly. This inventory shall take place no later than the 10<sup>th</sup> day of each month and shall result in an agreed-upon total amount of Class B biosolids, premix, compost, overs, and yard waste onsite. The contractor shall meet two inventory-related criteria:

I.4 Section 0500, Scope of Work item 12.7 is hereby revised to read as follows:

12.7. In the event land application of Class B is ~~required~~ authorized, the following shall apply:

I.5 Section 0600, Price Sheet Category 3 is hereby revised to read as follows:

CATEGORY 3. INFORMATION ONLY-OPTIONAL ADDITIONAL SERVICES OR PRODUCTS		
<b>Category 3 Instructions:</b> The City may have a future need to purchase additional related services and/or products under this Contract. Purchase of these services or products will be on an "as needed" basis at the prices offered in the list below (or you attach), and the City makes no guarantee of purchase. List any additional services or products related to the Scope of Work. <b>If possible, the City would like the Offeror to provide pricing for "Land application offsite" "Class B Biosolids surcharge for emergency transportation and beneficial reuse at a TCEQ permitted land application facility (offsite)" for emergencies in the field provided below (this is not mandatory).</b>		
Offerors may submit a separate document or price list for these other services or products in lieu of completing the fields in this category. At a minimum, the other document or price list shall include a description, unit of measure, and unit pricing. Or if you are providing a percentage mark up or discount for the other services or products, the other document or price list at minimum shall include a description, the percentage, and indicate either "mark up" or "discount". All pricing, pricing documents, and/or price lists for this category must remain firm and fixed during the life of the Contract.		
The information and pricing provided for this category will <u>not</u> be used to evaluate "Price".		
Service or Product Description (if any)	HOW MUCH WILL YOU CHARGE THE CITY FOR THESE SERVICES OR PRODUCTS? (list price per service/item below)	
	Unit of Measure	Unit Pricing
Class B Biosolids surcharge for emergency transportation and beneficial reuse at a TCEQ permitted land application facility (offsite)-EMERGENCY ONLY	Dry Wet Tons	

## II. Questions:

Q1: Is Living Wage applicable for the life of the contract? As Council raises Living Wages will the Contract Living Wages go up as well or stay at the original Living Wage amount?

A1: Yes, Living Wage is applicable for the life of the contract. Living Wage will not increase during the Contract term as new Living Wage rate increases are approved.

Q2: Are there Minority and/or Woman Owned Business Enterprise goals assigned to this project?

A2: No, however, if your bid includes the use of subcontractors you are expected to complete the 0900-Subcontracting/Sub/Consulting Utilization Form and Section 0905-Subcontracting/Sub-Consulting Utilization Plan, and contact the City's SMBR Department.

Q3: Is attendance of the 8/15/18 Pre-Offer conference mandatory?

A3: No, the Pre-Offer conference is not mandatory.

Q4: Is the Contractor required to have the equipment to do land application onsite if required?

A4: Yes, the Contractor will be responsible for providing any equipment and personnel needed for onsite land application.

Q5: Will the City be responsible for annual sampling of on-site land application fields?

A5: Yes, the Austin Water will be responsible for conducting soil sampling.

Q6: Will onsite application directed by the City be a requirement of the Contractor as a part of the composting and marketing price per wet ton or as an additional fee?

A6: Onsite land applications costs shall be reflected in Category 1, Line Item 1 on the Section 0600-Price Sheet.

Q7: Are Version 2 of the 0200 and version 2 of the 0810 posted on Austin Finance Online?

A7: Yes, these Version 2 of these documents are available at the following:

[https://www.austintexas.gov/financeonline/afo\\_content.cfm?s=67](https://www.austintexas.gov/financeonline/afo_content.cfm?s=67)



## SOLICITATIONS

## STANDARD BID DOCUMENTS 2

Standard Bid Documents  
and Forms for Purchases

Standard Bid Documents  
for Sales

## IMPORTANT INFORMATION 1

## BID OPENINGS - ONLINE 1

## STANDARD BID DOCUMENTS AND FORMS FOR PURCHASES

DESCRIPTION	LINK TYPE
Section 0100 - Standard Purchase Definitions	PDF
Section 0200 V2 - Standard Solicitation Instructions June 26, 2018	PDF
Section 0200 - Standard Solicitation Instructions for Solicitations issued Prior to June 26, 2018	PDF
Section 0300 - Standard Purchase Terms and Conditions	PDF
Section 0800 - Non-Discrimination Certification	PDF
Section 0805 - Non-Suspension or Debarment Certification	PDF
Section 0810 V2 - Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Certification June 26, 2018	PDF
Section 0810 - Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Certification for Solicitations issued Prior to June 26, 2018	PDF
Section 0820 - Living Wage Employee Certification FY18 (For contracts awarded between 10/1/2017 and 9/30/2018)	PDF
Section 0820 - Living Wage Employee Certification FY17 (For contracts awarded between 6/5/2017 and 9/30/2017)	PDF
Section 0900 - No Goals Utilization Plan	PDF
Prevailing Wage Posters	Web Link

Q8: Will there be any points given to Offerors for Local Presence?

A8: This solicitation is an Invitation for Bid in which no points will be given to Offerors for Local Presence.

Q9: Who is responsible for finishing and screening existing Dillo Dirt inventory in process?

A9: The City will screen, as needed, for the first six months of the Contract and the Contractor will screen after that time period.

Q10: Describe current basins usage.

A10: The "Site Layout" attachment and Section 7.1 of the Scope of Work addresses basin usage. Basins available for use by the Contractor are Basins 1, 3, 4, the old pad, and the new pad.

Q11: Are the windrows in basin 2 the City's?

A11: Basin 2 is not relevant to this solicitation.

Q12: How will current inventory convey?

A12: Section 8.1 and 8.4 of the Scope of Work addresses current inventory.

Q13: How long will Contractor be allowed to transition?

A13: Section 14 A of the 0400-Supplemental Purchase Provisions addresses the transition expectations at the end of the Contract and Section 10.4 of the Scope of Work address the transition expectations specific to Dillo Dirt.

III. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY: \_\_\_\_\_

Danielle Lord, Procurement Manager  
Purchasing Office, (512) 974-2298

8/16/18

\_\_\_\_\_  
Date

ACKNOWLEDGED BY:

Synagro of Texas-CDR, Inc.

Michelle Hamann, Assistant  
\_\_\_\_\_  
Name Secretary

Michelle Hamann  
\_\_\_\_\_  
Authorized Signature

August 27, 2018  
\_\_\_\_\_  
Date

**RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR OFFER OR PRIOR TO THE SOLICITATION CLOSING DATE. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION.**



**ADDENDUM  
CITY OF AUSTIN, TEXAS**

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**Solicitation: CDL2003REBID2**

**Addendum No: 2**

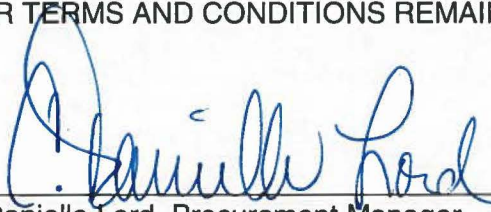
**Date of Addendum: 8/16/18**

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This addendum is to incorporate the following changes to the above referenced solicitation:

- I. Attached is the sign-in sheet from the Pre-Offer Meeting on August 15, 2018 at 10:30 AM CT.
- II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY: \_\_\_\_\_

  
Danielle Lord, Procurement Manager  
Purchasing Office, (512) 974-2298

8/16/18

\_\_\_\_\_  
Date

**THIS ADDENDUM WAS FOR NOTIFICATION PURPOSES ONLY. THE RETURN OF THIS ADDENDUM OR INCLUSION OF THIS ADDENDUM IN YOUR BID IS NOT NECESSARY.**



**ADDENDUM  
CITY OF AUSTIN, TEXAS**

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**Solicitation: IFB CDL2003REBID2**

**Addendum No: 3**

**Date of Addendum: 8/24/18**

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This addendum is to incorporate the following changes to the above referenced solicitation:

**I. Changes:**

**I.1 Section 0500, Scope of Work item 1 is hereby revised to read as follows:**

The City of Austin (City) seeks to establish a Contract for the composting of biosolids at the Austin Water (AW) Hornsby Bend Biosolids Management Plant (Hornsby), hereafter referred to as "Hornsby" or "site" or "onsite". Hornsby is located at 2210 South FM 973, Austin, Texas 78725. The biosolids are in drying basins and in the belt press area at the site. The Hornsby site is composed of approximately 1200 acres, 540 of which are under Contract for the growing, cutting and baling of hay and the harvest of pecans.

Hornsby is expected to receive approximately 110,000 wet tons of biosolids over the next year. The Class B production in wet tons for the last three years is listed in the "Belt Press Production". See attachment. The City will provide the Contractor green waste (brush, yard and tree trimmings) brought to the site by other City departments and Contractors. Austin Resource Recovery (ARR) utilizes one of the basins for grinding the green waste.

For informational purposes only: 35,800 tons of green waste was brought to Hornsby by ARR from July 2016 – June 2017, and 28,300 tons brought to Hornsby from July 2017 – June 2018.

At this time there is approximately 7,000 cubic yards of screened Dillo Dirt stored onsite. There are currently three batches of Dillo Dirt in process. After screening, an additional 7,500 cubic yards of Dillo Dirt will be produced from these three batches, which is what the City will be selling between now and when the Contactor takes over Dillo Dirt sales.

The City of Austin issued a Request for Information (RFI) CDL6000 to obtain comments on the Beneficial Reuse of Biosolids Scope of Work on July 18, 2018-August 8, 2018. A summary of the RFI comments that were submitted and reviewed by the City are available in Section 15 "RFI Comments" of this Scope of Work.

I.2 Section 0500, Scope of Work item 7.6 is hereby revised to read as follows:

7.6. Once PFRP is complete and Class A pathogen reduction and fecal coliform requirements are met the Contractor may perform work and activities at an offsite biosolids composting facility that is approved by the City and if necessary, TCEQ. The site may be used for activities such as grinding of green waste prior to mixing with biosolids, curing, screening, STA sample collection for products other than Dillo Dirt, and blending, bagging and loading of the final product. The Contractor is required to disclose to the City the location of any and all offsite work locations used to provide services under this Contract throughout the term of the Contract. Offsite locations shall be located within 100 miles of Hornsby, unless approved by the City, and be accessible to the City's representative during normal business hours.

I.3 Section 0500, Scope of Work item 8.4 is hereby revised to read as follows:

8.4. The City estimates that there will be approximately three months of biosolids and/or premix onsite at the time of Contract execution. The City's premix is a 2 to 1 ratio of yard waste to biosolids. It is the Contractor's responsibility to incorporate the premix into the composting operations; the City will not pay the Contractor for the premix. The City will pay the Contractor for any biosolids that are in the storage basins when the Contract begins. This amount is estimated at 35,000 wet tons. The biosolids will be paid at the amount per wet ton the Contractor lists for biosolids in the "Price Sheet". The Contractor will work with the AW Site Contact to determine if any special tracking/invoicing is needed for this material.

## II. Questions:

Q1: Invitation for Bid (IFB) CDL2003REBID2 represents the City's third attempt to solicit a contract for Beneficial Reuse of Biosolids. The City issued the two previous solicitations (Request for Proposal CDL2003 and Request for Proposal CDL2003REBID) using the Request for Proposal (RFP) solicitation format. Please explain why the City chose to issue IFB CDL2003REBID2 using the IFB format as opposed to the previous RFP format.

A1: In IFB CDL2003REBID2, the City detailed the requirements necessary for a Contractor to beneficially reuse and compost biosolids; therefore, other evaluation criteria were no longer necessary to consider.

Q2: For the following periods, please provide the total volume (in tons) of the City's biosolids that were composted into Dillo Dirt; composted into Agricultural Compost or another type of compost; land applied onsite; and land applied offsite.

	Wet Tons				
	Dillo Dirt	Agricultural Compost	Other Compost	Class B spread onsite	Class B spread offsite
January 1, 2008 – December 31, 2008					
January 1, 2009 – December 31, 2009					
January 1, 2010 – December 31, 2010					
January 1, 2011 – December 31, 2011					
January 1, 2012 – December 31, 2012					
January 1, 2013 – December 31, 2013					
January 1, 2014 – December 31, 2014					
January 1, 2015 – December 31, 2015					
January 1, 2016 – December 31, 2016					
January 1, 2017 – December 31, 2017					
January 1, 2018 – August 1, 2018					

A2: This is not applicable to this solicitation.

Q3: Section 1 of the Scope of Work states that 35,800 tons of green waste was brought to Hornsby Bend from July 2016 – June 2017, and 28,300 tons was brought to Hornsby Bend from July 2017 – June 2018. For the following periods, please provide the total volume (in tons) of green waste brought to Hornsby Bend, and the corresponding total annual cost to the City for receiving and processing the green waste brought to Hornsby Bend by City departments and contractors.

July 1, 2008 – June 30, 2009 Tons _____	City's Annual Cost _____
July 1, 2009 – June 30, 2010 Tons _____	City's Annual Cost _____
July 1, 2010 – June 30, 2011 Tons _____	City's Annual Cost _____
July 1, 2011 – June 30, 2012 Tons _____	City's Annual Cost _____
July 1, 2012 – June 30, 2013 Tons _____	City's Annual Cost _____
July 1, 2013 – June 30, 2014 Tons _____	City's Annual Cost _____
July 1, 2014 – June 30, 2015 Tons _____	City's Annual Cost _____
July 1, 2015 – June 30, 2016 Tons _____	City's Annual Cost _____
July 1, 2016 – June 30, 2017 Tons 35,800 _____	City's Annual Cost _____
July 1, 2017 – June 30, 2018 Tons 28,300 _____	City's Annual Cost _____

A3: Past volumes of green waste brought to Hornsby Bend are not applicable to this solicitation, and future volumes of green waste that will brought to Hornsby Bend are indeterminate.

Q4: TLM suggests revising Section 4.4 of the Scope of Work as follows:

4.4 Produce a compost that meets or exceeds the United States Compost Council Seal of Testing Assurance Standards (STA). All compost must meet United States Compost Council STA criteria before leaving the Hornsby Bend site. Only compost that is stable and mature shall be marketed and distributed.

A4: The space onsite at Hornsby is limited; therefore, the City is not revising this portion of the Scope of Work.

Q5: Will the City post the full set of negotiated contract documents as agenda back up material when seeking recommendations from Boards and Commissions and approval from City Council?

A5: When conducting competitive sealed bidding, all bid contents and prices become publically available at the time the bids are opened. In accordance with Section 0200V2 - Solicitation Instructions, 7(K) *Proprietary Information*, only the bid documents that are labeled as "proprietary" will be kept confidential following the bid opening.

Q6: Please explain why this solicitation excludes grinding and processing of all green waste delivered to Hornsby Bend by Austin Resource Recovery and other City departments.

A6: Grinding and processing of green waste is a policy decision for Austin Resource Recovery; therefore, these services were not included in this solicitation.

Q7a: City staff informed attendees at the 8/15/18 Pre-Bid Conference that Local Business Presence will not be considered as an evaluation factor of offers received by the City. Is this accurate? If accurate, why are Offerors required to submit a completed Local Business Presence form with their offer?

Q7b: Whether or not Local Business Presence is considered an evaluation factor by City staff, does staff intend to validate the Local Business Presence status of Offerors who respond to this solicitation and provide this information to the City Council and Boards and Commissions when seeking recommendation and / or approval?

A7a: The Local Business Presence of an Offeror will not be an evaluation factor (or criteria) because evaluation factors (or criteria) are not used when conducting a competitive sealed bidding process. Local Business Presence will be applied in accordance with Section 0200V2 – Solicitation Instructions, 12(C)(1).

A7b: The City will validate the Local Business Presence status of Offerors who respond to this solicitation. This information will be provided to the City Council and Boards and Commissions when seeking recommendation and/or approval if preference is given.

Q8: In July 2017, the City Council Waste Management Policy Working Group issued a recommendation for City staff to revise the definition of Local Business Presence. Please describe what steps, if any have been taken by City staff since July 2017 to revise the definition of Local Business Presence in accordance with the recommendation of the City Council Waste Management Policy Working Group.

A8: Solicitation Q&A addendums are utilized to address questions regarding this solicitation.

Q9: What was the original start and finish date for the current vendor's contract? What is the current vendor's contract finish date (i.e. for what time period has the original contract finish date been extended administratively)? What if any other specific contractual amendments were included when the current vendor's contract was extended administratively?

A9: Solicitation Q&A addendums are utilized to address questions regarding this solicitation.

**III. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.**

APPROVED BY:



Danielle Lord, Procurement Manager  
Purchasing Office, (512) 974-2298

8/24/18

Date

ACKNOWLEDGED BY:

Michelle Hamann, Assistant  
Name Secretary

  
Authorized Signature

August 27, 2018  
Date

**RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR OFFER OR PRIOR TO THE SOLICITATION CLOSING DATE. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION.**



**ADDENDUM  
PURCHASING OFFICE  
CITY OF AUSTIN, TEXAS**

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**Solicitation: CDL2003REBID2**

**Addendum No: 4**

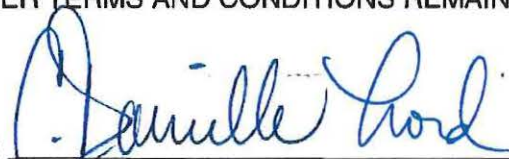
**Date of Addendum: 8/27/2018**

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This addendum is to incorporate the following changes to the above referenced solicitation:

- I. Changes to the solicitation due dates are as follows:
  - I.1 "Bid Due Prior To" time and date has changed to 2:00PM CT, September 4, 2018.
  - I.2 "Bid Opening Time and Date" has changed to 3:00PM CT, September 4, 2018.
- II. Danielle Lord is hereby removed as an Authorized Point of Contact for the above-referenced solicitation; therefore, Matthew Duree is hereby the only Authorized Point of Contact for the above-referenced solicitation.
- III. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY: \_\_\_\_\_

  
Danielle Lord, Procurement Manager  
Purchasing Office, 512-974-2298

8/27/2018

\_\_\_\_\_  
Date

ACKNOWLEDGED BY:

Michelle Hamann, Assistant

Name Secretary

  
Authorized Signature

August 29, 2018

\_\_\_\_\_  
Date

**RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR OFFER OR PRIOR TO THE SOLICITATION CLOSING DATE. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION.**



**ADDENDUM  
CITY OF AUSTIN, TEXAS**

**Solicitation: IFB CDL2003REBID2**

**Addendum No: 5**

**Date of Addendum: 8/30/18**

This addendum is to incorporate the following changes to the above referenced solicitation:

**I. Changes:**

- I.1 Section 0200 V2, Standard Solicitation Instructions, is hereby included in the solicitation package in full text.

SECTION NO.	TITLE	# OF PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200 V2	STANDARD SOLICITATION INSTRUCTIONS, UPDATED JUNE 28, 2018	11
0300	STANDARD PURCHASE TERMS AND CONDITIONS	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	8
0500	SCOPE OF WORK	18
0600	PRICE SHEET – Complete and Return	**
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return	2
0700	REFERENCE SHEET – Complete and return	1
0800	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION–Complete and return	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810 V2	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION, UPDATED JUNE 28, 2018	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1
0900	SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM – Complete & return	1
0905	SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN – Complete and return, if subcontracting	3
ATT	ATTACHMENT A – TRANSITION PLAN TEMPLATE	**
ATT	ATTACHMENTS PACKAGE (B-K)	**

I.2 Section 0200 V2, Standard Solicitation Instructions, (8) (A) (iii), is hereby deleted in its entirety from the solicitation package for consideration.

A. **Documents required with Offer:** Submit the following documents with the Offer, as applicable, prior to the Due Date (SEE SECTIONS 0400, 0500 and 0600 IN THE SOLICITATION FOR ADDITIONAL REQUIRED INFORMATION). Failure to submit the documents may be grounds to reject the Offer:

- i. Cover Page, Offer Sheet signed by an authorized representative;
- ii. Section 0600, Bid/Quote Sheet or Offer, as applicable;
- iii. ~~Section 0605, Local Business Presence Identification, if applicable;~~
- iv. Section 0700, Reference Sheet, as applicable;
- v. Sections 0835 – Non-Resident Bidder Provisions;

I.3 Section 0200 V2, Standard Solicitation Instructions, (12) (C), is hereby deleted in its entirety from the solicitation package for consideration.

C. ~~Local Business Presence: 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.~~

~~(1) For Invitations for Bids if the City receives a competitive sealed bid from an offeror who has Local Business Presences and whose bid is within three percent of the lowest bid price received from an offeror who does not have Local Business Presence, the City may enter into a contract with the local vendor.~~

~~(2) For Request for Proposals and Invitation For Bids-Best Value: Points will be awarded through a combination of the Offeror's Local Business Presence and/or the Local Business Presence of their subcontractors per the below evaluation criteria. Evaluation of the Team's Percentage of Local Business Presence will be based on the dollar amount of goods and/or services as reflected in the Offeror's MBE/WBE Compliance Plan or MBE/WBE Utilization Plan. For Local Business Presence to be considered a completed Section 0605 must be returned with the Offer.~~

~~LOCAL BUSINESS PRESENCE (Maximum 10 points)~~

<del>Team's Local Business Presence</del>	<del>Points Awarded</del>
<del>Local business presence of 90% to 100%</del>	<del>10</del>
<del>Local business presence of 75% to 89%</del>	<del>8</del>
<del>Local business presence of 50% to 74%</del>	<del>6</del>
<del>Local business presence of 25% to 49%</del>	<del>4</del>
<del>Local presence of between 1 and 24%</del>	<del>2</del>
<del>No local presence</del>	<del>0</del>


- I.4 Section 0605, Local Business Presence Identification Form, is hereby deleted in its entirety from the solicitation package for consideration.

SECTION NO.	TITLE	# OF PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200 V2	STANDARD SOLICITATION INSTRUCTIONS, UPDATED JUNE 28, 2018	11
0300	STANDARD PURCHASE TERMS AND CONDITIONS	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	8
0500	SCOPE OF WORK	18
0800	PRICE SHEET – Complete and Return	**
<del>0605</del>	<del>LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return</del>	<del>2</del>
0700	REFERENCE SHEET – Complete and return	1
0800	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION–Complete and return	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810 V2	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION, UPDATED JUNE 28, 2018	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1
0900	SUBCONTRACTING/SUB-CONSULTING UTILIZATION FORM – Complete & return	1
0905	SUBCONTRACTING/SUB-CONSULTING UTILIZATION PLAN – Complete and return, <i>if subcontracting</i>	3
ATT	ATTACHMENT A – TRANSITION PLAN TEMPLATE	**
ATT	ATTACHMENTS PACKAGE (B-K)	**

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY:   
 Matthew Duree, Procurement Supervisor  
 Purchasing Office, (512) 974-6346

8/30/18  
 Date

ACKNOWLEDGED BY:  
  
 Name Alan Supina

  
 Authorized Signature

8/30/2018  
 Date

**RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR OFFER OR PRIOR TO THE SOLICITATION CLOSING DATE. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION.**



Synagro of Texas-CDR, Inc.  
435 Williams Court, Suite 100  
Baltimore, MD 21220

**SYNAGRO** 

## GOAL DETERMINATION REQUEST FORM

<b>Buyer Name/Phone</b>	Danielle Lord/ 512.974.2298	<b>PM Name/Phone</b>	Judy Musgrove/ 512.972.0157
<b>Sponsor/User Dept.</b>	Austin Water	<b>Sponsor Name/Phone</b>	Judy Musgrove/ 512.972.015
<b>Solicitation No</b>	CDL2003REBID2	<b>Project Name</b>	Beneficial Resuse of Biosolids
<b>Contract Amount</b>	\$4,000,000/year	<b>Ad Date (if applicable)</b>	8/6/2018
<b>Procurement Type</b>			
<input type="checkbox"/> AD – CSP <input type="checkbox"/> AD – Design Build Op Maint <input type="checkbox"/> IFB – IDIQ <input checked="" type="checkbox"/> Nonprofessional Services <input type="checkbox"/> Critical Business Need <input type="checkbox"/> Sole Source* <input type="checkbox"/> AD – CM@R <input type="checkbox"/> AD – JOC <input type="checkbox"/> PS – Project Specific <input type="checkbox"/> Commodities/Goods <input type="checkbox"/> Interlocal Agreement <input type="checkbox"/> AD – Design Build <input type="checkbox"/> IFB – Construction <input type="checkbox"/> PS – Rotation List <input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Ratification			
<b>Provide Project Description**</b>			
Management and processing of biosolids from the Austin Water Hornsby Bend Biosolids Management Plant fro beneficial resuses.			
<b>Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.</b>			
<b>List the scopes of work (commodity codes) for this project. (Attach commodity breakdown by percentage; eCAPRIS printout acceptable)</b>			
95812-Biosolids Management Services 100%			
Danielle Lord		8/1/2018	
<b>Buyer Confirmation</b>		<b>Date</b>	

\* Sole Source must include Certificate of Exemption

\*\*Project Description not required for Sole Source

<b>FOR SMBR USE ONLY</b>			
<b>Date Received</b>	8/1/2018	<b>Date Assigned to BDC</b>	8/1/2018
<b>In accordance with Chapter2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:</b>			
<input type="checkbox"/> Goals	% MBE	% WBE	
<input type="checkbox"/> Subgoals	% African American	% Hispanic	
	% Asian/Native American	% WBE	
<input type="checkbox"/> Exempt from MBE/WBE Procurement Program		<input checked="" type="checkbox"/> No Goals	

**GOAL DETERMINATION REQUEST FORM**

**This determination is based upon the following:**

- |  |   |
|--|---|
| <input type="checkbox"/> Insufficient availability of M/WBEs       | <input type="checkbox"/> No availability of M/WBEs                  |
| <input type="checkbox"/> Insufficient subcontracting opportunities | <input checked="" type="checkbox"/> No subcontracting opportunities |
| <input type="checkbox"/> Sufficient availability of M/WBEs         | <input type="checkbox"/> Sufficient subcontracting opportunities    |
| <input type="checkbox"/> Sole Source                               | <input type="checkbox"/> Other                                      |

*If Other was selected, provide reasoning:*

**MBE/WBE/DBE Availability**

*0 certified firms available*

**Subcontracting Opportunities Identified**

*none*

Cynthia Van Maanen	<i>Cynthia Van Maanen</i> 8/1/18
<b>SMBR Staff</b>	<b>Signature/ Date</b>
<i>[Signature]</i>	
<b>SMBR Director or Designee</b>	<b>Date</b> <i>8-1-18</i>
<b>Returned to/ Date:</b>	

435 Williams Court, Suite 100  
Baltimore, MD 21220  
www.synagro.com

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**SEPTEMBER 12, 2018**

**Mr. Matthew Duree, MPA, PMP, CTCM**  
**Procurement Manager**  
City of Austin, Purchasing Office  
124 W. 8<sup>th</sup> Street, Rm 308  
Austin, Texas 78701

DELIVERED VIA E-MAIL TO: [MATT.DUREE@AUSTINTEXAS.GOV](mailto:MATT.DUREE@AUSTINTEXAS.GOV)

**Re: IFB 2200 CDL2003REBID2**

Dear Mr. Duree:

Synagro of Texas-CDR, Inc. (Synagro) is pleased to respond to the City of Austin's above referenced Invitation for Bids. Per your email of September 10, 2018 see below and attached the following information:

- 1. Provide a signed letter, on company letterhead, with the Offeror's full name and address of the company and identify the parent company if you are a subsidiary. Indicate whether you operate as a partnership, corporation, or individual. Include the State(s) in which incorporated or licensed to operate. Include the number of years of experience your company has in biosolids composting operations.*

The Offeror's full name and address is:

Synagro of Texas-CDR, Inc.  
435 Williams Court, Suite 100  
Baltimore, MD 21220

Synagro of Texas-CDR, Inc.'s parent company is Synagro South, LLC.

Synagro of Texas-CDR, Inc. operates as a corporation and was incorporated in, and is licensed to operate in, the State of Texas.

Synagro began composting municipal biosolids in 1989 and has over 98 cumulative years of experience operating nine different biosolids composting facilities.

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2. *Provide a resume for the Operation Manager that will be assigned to this Contract. The resume shall include dates of employment, company names, position titles, and duties and responsibilities.*

Please see attached the resume for Craig Geyer, who will serve as the Operations Manager for this project. Mr. Geyer has been with Synagro since 2002 and has 13 years of experience managing biosolids composting operations.

Please also find the resume of Rod Grant, who will serve as Deputy Operations Manager for this project. Mr. Grant has been assigned to Synagro's biosolids composting work at Hornsby Bend since November 4, 2013. Though Mr. Grant has successfully performed in this role for more than four years, he is currently approximately two months short of the five-year minimum experience requirement. So, Mr. Grant will serve in the Deputy Operations Manager role until such time as he has attained the requisite experience. At that time and subject to the City's approval, we intend to promote Mr. Grant to the role of Operations Manager and to re-assign Mr. Geyer to the role of Supervisor of Operations, in which role he will supervise the work of Mr. Grant and provide compost process consulting to our team.

We look forward to working with the City on this important project and are available to meet upon your request.

Sincerely,

*Andrew E. Bosinger*

Andrew E. Bosinger  
Vice President, Strategic Accounts

AB:kw





---

# Craig Geyer

## AREA PLANT DIRECTOR

### **Synagro Technologies, Inc.**

*Area Plant Director, January 2010 to Present*

Responsible for management of Synagro's biosolids management service contract and compost facility operations in the southwestern United States to include daily haul, composting, event operations.

*Senior Operations Manager, January 2005 – December 2009*

Responsible for management of Synagro's Arizona operations to include operations at the Arizona Soils Compost Facility and California and Arizona daily haul operations.

*Operations Manager, October 2002 to December 2004*

Responsible for management of the day-to-day operations of Synagro's projects with the City of Phoenix, the City of Mesa, City of Avondale, Arizona City and City of Casa Grande in Southern Arizona.

### **Gilbert Pump**

*Construction Superintendent, 2001 to 2002*

Supervised construction for water facilities.

### **Camp, Dresser and McKee**

*Construction Superintendent, 1999 to 2001*

Supervised construction for water and wastewater treatment plants.

### **Latigo, Inc.**

*Manager, 1989 to 1999*

Assisted with the management and operation of a family-owned business specializing in truck transportation and construction.

## EDUCATION

Coursework in  
Agriculture Business  
University of Arizona

## CERTIFICATIONS

State of Arizona Class A  
General Contractor's License



# Roderick Grant

## DEPUTY OPERATIONS MANAGER

### **Synagro Technologies, Inc.**

*Deputy Operations Manager, November 2013 - Current*

Management of biosolids and composting program for the City of Austin, TX since 2013. Produce and manage the sales and distribution of over 50,000 tons of Class A compost for the City. Responsible for the application of Class B biosolids under the guidelines of the Texas Commission on Environmental Quality on over 12,000 acres of graze land. Develop and implement composting program to private agricultural customers. Prepare budgets, manage operating costs, allocate resources (personnel and equipment), implement repair and maintenance programs, develop and maintain relationships between Synagro and land owners/ranchers.

### **Containment Services Inc./Vision Enviro Services**

*Vice President – Operations/Field Service, 2001 to 2003*

Directly responsible for exceeding sales objectives and business to business sales. Responsible for operational excellence and establishment of sales and marketing objectives. Managed government and private bid preparation; budget process and personnel performance. Implementation of new technology and process assessment. Directed all transportation/disposal/permitting operations.

*Project Manager/Field Service, 1998 - 2001*

Responsible for project completion, personnel, budget management, and customer relations. Operation of pumping equipment – power units, hydraulics and electronics. Successful installation/operation of material dewatering systems (belt press, centrifuge, and geotextile). Management of disposal programs including permitting, transportation, and reporting.

## EDUCATION

### **B.S. Geosciences**

Northwest Missouri State  
University  
Environmental  
Geography/Geology

## CERTIFICATIONS

- CDL – Class A
- Water Environment Federation Member