

RMMA THREADGILL & McCLOSKEY STREET
HEALTH & SAFETY REMEDIATION PROJECT
PURCHASING AFFIDAVIT

STATE OF TEXAS }
 }
COUNTY OF TRAVIS }

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

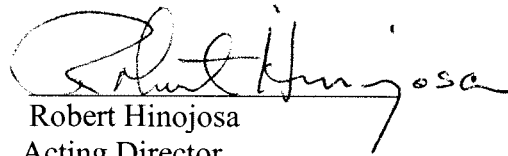
The City of Austin's Public Works Department manages the City's public street system. The Department is responsible for the construction, maintenance, repair and reconstruction of literally hundreds of miles of public streets located within the full purpose City limits. The Department is also responsible for the safety of the City's public street system and endeavors to repair damage to City streets in a timely manner to protect the travelling public and the street infrastructure itself. The City, through the Public Works Department, is currently providing essential street maintenance services for the protection of the health and safety of hundreds of thousands of citizens of the City.

In 2009, during a maintenance inspection of several phases of the Mueller Development in Austin, Texas, City staff encountered unforeseen conditions in the form of the subsidence of several sections of the streets in the development. Further investigation and engineering analysis has lead to the conclusion that a portion of the streets in Mueller Section V, Phase 1, are the result of defective construction by Rodman LLC, the contractor that constructed the streets and utility infrastructure located in the streets. The condition of the streets along a portion of Threadgill Street and the especially at the intersection of Threadgill and McCloskey Street (the "Streets") indicate the possibility of a subsurface collapse or subsidence, which not only endangers the structural integrity of the Streets themselves, but also presents a danger to the travelling public. The Streets serve as the primary routes for access and ingress to a densely populated residential neighborhood. In addition, the condition of the Streets serves to hinder access by public safety vehicles and utility repair crews. As such, the condition of the Streets constitutes a present danger to the public health and safety of the citizens of Austin.

The City will hire a contractor to expeditiously perform the necessary repair and reconstruction of the Streets (the "Project") in order to preserve or protect the public health and safety of the City's residents and the traveling public. Until the Project is completed, the City will be faced with continuing health and safety concerns related to the Streets. The City has concluded that the situation described above requires immediate action to complete the scope of work on the Project on an expedited schedule in order to relieve the health and safety necessity of the municipality. The Department of Public

Works is satisfied that the quality of the completed work will adequately provide for the health and safety of the traveling public and the abutting and adjacent residential neighborhood. The presently estimated cost of construction for the correction of the defective work, including a ten percent contingency for unforeseen conditions, is \$506,094.00 and the total estimated cost of the correction of the defective work, including engineering, project management, inspection, and support services, is \$615,915.00. The construction contract for the Project will be presented to City Council for ratification.

As the affiant, I am familiar with state and local laws relating to competition and bidding requirements and realize that the willful violation of these laws can invoke criminal sanctions. I understand further that, while the Charter of the City of Austin recognizes state exemption for emergency or health and safety purchases from the requirement of bidding, it still requires competition for contracting opportunities. The time required to package bid documents, advertise for contractors, award a contract, and execute a contract, in order to fully compete the procurement of a construction contract would place the municipality's residents or property in further danger and that my fiduciary responsibilities to the City of Austin require that the remediation of the Streets be made as soon as reasonably possible, if not immediately. This procurement is necessary to protect or preserve the public health or safety of the municipality in accordance with the provisions of Texas Local Government Code Section 252.022(a)(2). "Further Affiant sayeth not."

A handwritten signature in black ink, appearing to read "Robert Hinojosa", is written over a horizontal line.

Robert Hinojosa
Acting Director

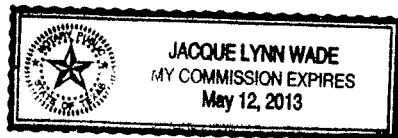
City of Austin Public Works Department

STATE OF TEXAS }

COUNTY OF TRAVIS }

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

Given under my hand and seal of office on the 15th day of June, 2010.



Jacquelyn Wade
NOTARY PUBLIC, STATE OF TEXAS

Jacquelyn WADE
Printed Name of Notary

My Commission Expires: May 12, 2013