

**CONTRACT BETWEEN THE CITY OF AUSTIN  
AND  
Allen Lee Click  
For  
Sale and Removal of Compost Material for Austin Water  
Contract Number: NR16000007**

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Allen Lee Click ("Contractor"), having offices at 10813 Decker Lane, Austin, Texas 78724.

**SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES**

1.1 **Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.

1.2 **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.

1.3 **Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work. Specifically, the Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress and task reports.

1.4 **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Allen Lee Click, Phone: (512)422-8850, Email Address: Allen.Click@gmail.com. The City's Contract Manager for the engagement shall be Darrell Richmond, Phone: (512) 972-0313, Email Address: Darrell.Richmond@austintexas.gov. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

**SECTION 2. SCOPE OF WORK**

2.1 **Contractor's Obligations.** The Contractor shall fully and timely provide all deliverables described herein 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.

2.2 **Tasks.** In order to accomplish the work described herein, the Contractor shall perform the tasks as outlined in the Contract Scope of Work attached hereto as Exhibit A.

**SECTION 3. TERM AND TERMINATION**

3.1 **Term of Contract.** The Contract shall be in effect for an initial term of twelve (12) months and may be extended thereafter for up to five (5) additional twelve (12) month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.

3.1.1 Upon expiration of the initial term or 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 to re-solicit and/or complete the project (not to exceed 120 calendar days unless mutually agreed on in writing).

3.2 **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.

3.3 **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 the "Right to Assurance paragraph herein, (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 Contractor to the City.

3.4 **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.

3.5 **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.

3.6 **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.

## **SECTION 4. OTHER DELIVERABLES**

4.1 **Insurance:** The following insurance requirements apply.

### **4.1.1 General Requirements.**

4.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

4.1.1.2 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 fourteen (14) calendar days after written request from the City.

4.1.1.3 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.

4.1.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by 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.

4.1.1.5 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.

4.1.1.6 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.

4.1.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

City of Austin  
Purchasing Office  
P. O. Box 1088  
Austin, Texas 78767

4.1.1.8 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.

4.1.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements, 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.

4.1.1.10 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.

4.1.1.11 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.

4.1.1.12 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.

4.1.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

4.1.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

4.1.2 **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.

4.1.2.1 **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 Injuries). The policy shall contain the following provisions and endorsements.

4.1.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

4.1.2.1.2 Contractor/Subcontracted Work.

4.1.2.1.3 Products/Completed Operations Liability for the duration of the warranty period.

4.1.2.1.4 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage.

4.1.2.1.5 Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.

4.1.2.1.6 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

4.1.2.2 **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. The policy shall contain the following endorsements:

4.1.2.2.1 Waiver of Subrogation, Endorsement CA0444, or equivalent coverage.

4.1.2.2.2 Thirty (30) calendar days Notice of Cancellation, Endorsement CA0244, or equivalent coverage.

4.1.2.2.3 The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.

4.1.2.3 **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. The policy shall contain the following provisions and endorsements:

4.1.2.3.1 The Contractor's policy shall apply to the State of Texas.

4.1.2.3.2 Waiver of Subrogation, Form WC420304, or equivalent coverage.

4.1.2.3.3 Thirty (30) calendar days Notice of Cancellation, Form WC420601, or equivalent coverage.

4.1.2.4 **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.

## 4.2 **Equal Opportunity.**

4.2.1 **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 Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. 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.

4.3 **Americans With Disabilities Act (ADA) Compliance.** No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

4.4 **Interested Parties Disclosure.** As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from the Offeror. Link to Texas Ethics Commission Form 1295 process and procedures below:

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

4.5 **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.

## 4.6 **Delays.**

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

4.6.2 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.

4.7 **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.

## **SECTION 5. WARRANTIES**

5.1 **Warranty – Services.** The Contractor warrants and represents that all services to be provided to 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.

5.1.1 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.

5.1.2 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 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 of warranty, but failure to give timely notice shall not impair the City's rights under this section.

5.1.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

## **SECTION 6. MISCELLANEOUS**

6.1 **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 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.

### **6.2 Workforce.**

6.2.1 The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

6.2.2 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:

6.2.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the Contract; and

6.2.2.2 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.

6.2.3 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.

6.3 **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.

6.4 **Significant Event.** The Contractor shall immediately notify the City's Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to the Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

6.4.1 disposal of major assets;

6.4.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this Contract;

6.4.3 any significant termination or addition of provider contracts;

6.4.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

6.4.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this Contract;

6.4.6 reorganization, reduction and/or relocation in key personnel;

6.4.7 known or anticipated sale, merger, or acquisition;

6.4.8 known, planned or anticipated stock sales;

6.4.9 any litigation against the Contractor; or

6.4.10 significant change in market share or product focus.

6.5 **Right To Audit.**

6.5.1 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.

6.5.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

6.6 **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.

6.7 **Indemnity.**

6.7.1 Definitions:

6.7.1.1 "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:

6.7.1.1.1 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;

6.7.1.1.2 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),

6.7.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

**6.7.2 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.**

6.8 **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 effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally

or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

6.9 **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 City and the Contractor shall be addressed as follows:

To the City:  
City of Austin, Purchasing Office  
ATTN: Contract Administrator  
P O Box 1088  
Austin, TX 78767

To the Contractor:  
Allen Lee Click  
ATTN: Allen Lee Click, Contract Manager  
10813 Decker Lane  
Austin, Texas 78724

6.10 **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 Contract, 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.

6.11 **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.

6.12 **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.

6.13 **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 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.

6.14 **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.

6.15 **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.

6.16 **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.

6.17 **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.

6.18 **Modifications.** The Contract can be modified or amended only in writing signed by both parties. No pre-printed or similar terms on any Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

6.19 **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.

6.20 **Dispute Resolution.**

6.20.1 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.

6.20.2 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.

6.21 **Minority And Women Owned Business Enterprise (MBE/WBE) Procurement Program.**

6.21.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

6.21.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

6.21.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

6.22 **Subcontractors.**

6.22.1 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.

6.22.2 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:

6.22.2.1 require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract.

6.22.2.2 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;

6.22.2.3 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;

6.22.2.4 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

6.22.2.5 require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

6.22.3 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.

6.22.4 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.

## 6.23 **Living Wages.**

6.23.1 The minimum wage required for any Contractor employee directly assigned to this City Contract is \$13.03 per hour, unless Published Wage Rates are included in the solicitation. In addition, the City may stipulate higher wage rates in certain contracts in order to assure quality and continuity of service.

6.23.2 The City requires Contractors to provide a signed certification within five (5) calendar days of Contract execution certifying that all employees directly assigned to this Contract will be paid a minimum living wage equal to or greater than \$13.03 per hour (see Exhibit C, Living Wages Contractor Certification). The certification shall include a list of all employees directly assigned to providing services under the Contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.

6.23.3 The Contractor shall maintain throughout the term of the Contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA).

6.23.4 The Contractor shall provide to the Department's Contract Manager with the first invoice, individual Employee Certifications (See Exhibit D, Living Wages Employee Certification) for all employees directly assigned to the Contract. The City reserves the right to request individual Employee Certifications at any time during the Contract term. Employee Certifications shall be signed by each employee directly assigned to the Contract. The Employee Certification form is available on-line at:

[https://assets.austintexas.gov/purchase/living\\_wages\\_employee\\_certification.pdf](https://assets.austintexas.gov/purchase/living_wages_employee_certification.pdf)

6.23.5 Contractor shall submit employee certifications annually on the anniversary date of Contract award with the respective invoice to verify that employees are paid the Living Wage throughout the term of the Contract. The Employee Certification Forms shall be submitted for employees added to the Contract and/or to report employee changes as they occur.

6.23.6 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 identified above in paragraph 7.23.3 above to verify compliance with this provision.

6.24 **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.

6.25 **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.

6.26 **Holidays.** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

6.27 **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.

6.28 **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.

6.29 **Order of Precedence.** The Contract includes, without limitation, the Solicitation, the Offer submitted in response to the Solicitation, the Contract award, the Standard Purchase Terms and Conditions, Supplemental Terms and Conditions if any, Specifications, and any addenda and amendments thereto. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order.

6.29.1 any exceptions to the Offer accepted in writing by the City;

6.29.2 the Supplemental Purchase Terms and Conditions;

6.29.3 the Standard Purchase Terms and Conditions;

6.29.4 the Offer and exhibits; within the Offer, drawings (figured dimensions shall govern over scaled dimensions) will take precedence over specifications or scope of work.

6.30 **Interlocal Purchasing Agreements.**

6.30.1 The City has entered into Interlocal Purchasing Agreements with other governmental agencies pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions to other eligible agencies that have an interlocal agreement with the City.

The City does not accept any responsibility or liability for the purchases by other governmental agencies through an interlocal cooperative agreement.

In witness whereof, the parties have caused duly authorized representatives to execute this Contract on the dates set forth below.

ALLEN LEE CLICK

CITY OF AUSTIN

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
Printed Name

Name: \_\_\_\_\_  
Printed Name

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

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

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

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

**List of Exhibits**

- Exhibit A Contract Scope of Work
- Exhibit B Non Discrimination Certification
- Exhibit C Living Wages Contractor Certification
- Exhibit D Living Wages Employee Certification
- Exhibit E Allen Click Proposal

DRAFT

**EXHIBIT A  
CONTRACT SCOPE OF WORK**

**Purpose**

By and through this Contract, The City of Austin (City) establishes a contract for the removal services of unscreened biosolids and yard trimmings compost, hereafter referred to as "compost". This compost removal is for the City of Austin Water Department's Hornsby Bend Biosolids Management Plant, hereafter referred to as "Hornsby".

**2.0 Background**

The City currently has five unscreened curing piles onsite at Hornsby. At the time of Contract award, potentially up to 10 additional unscreened curing piles will be made, for a maximum of 15 total piles per year. The minimum volume of each curing pile is estimated to be approximately 5,000 cubic yards upon completion of the composting process, but volumes are not guaranteed. **Contractor shall be responsible for estimating actual volumes and should account for losses during the curing process.** The compost is located on the compost pad; however, piles may be located in different areas of the same compost pad. This compost was processed through the Process to Further Reduce Pathogens and meets Class A standards for Biosolids. The Contractor may request lab data results for compost piles. Compost removal services shall be provided to Hornsby at 2210 South FM 973, Austin, Texas 78725.

**3.0 Contractor Requirements**

- 3.1 The Contractor shall purchase all compost piles made available by the City during the contract term, up to a maximum of 15 piles.
- 3.2 The Contractor shall load, transport off site, and beneficially reuse compost that is removed from Hornsby.
- 3.3 The Contractor shall be responsible for compliance with Occupational Safety and Health Administration (OSHA), Texas Department of Transportation (TXDOT), Environmental Protection Agency (EPA) and Texas Commission on Environmental Quality (TCEQ) regulations.
- 3.4 The Contractor shall be responsible for any and all spills of material associated with the loading, transporting, processing, storage and use or resale of the compost. The Contractor shall in no case leave any visible signs of spilled residue. The Contractor shall provide equipment, materials and personnel necessary to clean up spills to the satisfaction of the City's Contact Person and as required by regulations.

City's Contact Person:

Lisa M. Boatman, P.E.  
Phone: (512) 972-1954  
Email: [lisa.m.boatman@austintexas.gov](mailto:lisa.m.boatman@austintexas.gov)

- 3.5 The Contractor shall be responsible for managing their operation in a manner to eliminate complaints and nuisance conditions created by odor and dust.
- 3.6 The Contractor shall be responsible for managing the operations onsite to reduce the probability of fires.

- 3.7 The Contractor shall mobilize and complete compost removal work for the first five (5) compost piles within 90 days after contract award, unless extended by the City. The Contractor shall remove subsequently made compost piles by the end of the contract term. Contractor's equipment shall be removed from Hornsby within one week of completion of these services.
- 3.8 The Contractor shall create and maintain accurate records of cubic yards of compost removed. The Contractor shall submit records of the volume of compost removed for each curing pile to the City's Contact Person. The records shall include date of pick up and destination of pile, and shall be submitted semiannually along with invoice for services.
- 3.9 The Contractor shall be responsible for providing all equipment and personnel necessary to perform the services included in this Contract Scope of Work.
- 3.10 The Contractor shall immediately notify the City's Contact Person via phone and follow up e-mail of any damage caused by the Contractor to City equipment and/or property. The Contractor shall repair/replace damaged equipment and/or property within a time frame designated by the City's Contact Person. Equipment and/or property shall be repaired/replaced to the satisfaction of the City's Contact Person, at no additional cost to the City. The City reserves the right to bill the Contractor for damages.
- 3.11 The Contractor shall provide maintenance of the compost piles and loading areas as directed by the City's Contact Person. Maintenance of these areas shall include, but is not be limited to, cleaning and other work needed to ensure the areas are neat, safe, and usable.
- 3.12 The Contractor shall give the City's Contact Person at least one week notice prior to arriving onsite for hauling piles. The notice shall be given via email or telephone.
- 3.13 The Contractor shall meet with the City's Contact Person and Operations Manager onsite and in person to discuss routes for Contractor's vehicles and equipment entering and exiting Hornsby.

#### 4.0 **Transportation Requirements**

- 4.1 The Contractor shall provide loading and transport of compost.
- 4.2 The Contractor shall ensure that any equipment used in the loading operation of the compost is equipped with rubber tires and designed to operate on a concrete surface.
- 4.3 The Contractor shall ensure all trucks use a tarp to cover any material being removed from Hornsby.
- 4.4 The Contractor shall ensure drivers obey posted speed limits while onsite.
- 4.5 The Contractor shall stop any and all hauling at the request of the City's Contact Person. The City's Contact Person reserves the right to stop any and all hauling activities if trucks and equipment are not kept clean. The City's Contact Person shall be the final judge as to the condition of the trucks and equipment.

#### 5.0 **Other Requirements**

- 5.1 The City reserves the right to inspect any part of the Contractor's operation during the contract term.

- 5.2 If the Contractor is not in compliance with this contract, the City's Contact Person reserves the right to stop any and all of the Contractor's activities until the required changes are made.
- 5.3 **Composted material cannot be considered "Dillo Dirt." The Contractor shall not use the "Dillo Dirt" name in association with any final product produced from this compost material.**

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

**City of Austin, Texas**  
**Human Rights Commission**

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

**Sec. 4-2 Discriminatory Employment Practices Prohibited.** As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

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

**City of Austin**  
**Minimum Standard Non-Discrimination in Employment Policy:**

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

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

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

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

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

**Sanctions:**

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

**Term:**

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

CONTRACTOR \_\_\_\_\_  
Authorized  
Signature \_\_\_\_\_  
  
Title \_\_\_\_\_

**EXHIBIT C  
LIVING WAGES CONTRACTOR CERTIFICATION**

**SOLICITATION NO. RFP JXP0501**

Pursuant to the Living Wages provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$13.03 per hour.

- (1) The below listed employees of the Contractor who are directly assigned to this contract are compensated at wage rates equal to or greater than \$13.03 per hour:

Employee Name	Employee Job Title

- (2) all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$13.03 per hour.

- (3) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

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

I hereby certify that all the listed employees of the Contractor who are directly assigned to this contract are paid a minimum Living Wage equal to or greater than \$13.03 per hour.

Contractor's Name:

\_\_\_\_\_

Signature of Officer  
or Authorized  
Representative:

Date:

\_\_\_\_\_

Printed Name:

\_\_\_\_\_

Title

\_\_\_\_\_

**EXHIBIT D  
CITY OF AUSTIN, TEXAS  
LIVING WAGES EMPLOYEE CERTIFICATION**

Contract Number:	Description of Services: Sale and Removal of Compost Material
Contractor Name: Allen Lee Click	

Pursuant to the Living Wages provision of the contract (reference Section 0400, Supplemental Purchase Provisions), the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$13.03 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify that I am directly assigned to this contract and that I am compensated at wage rates equal to or greater than \$13.03 per hour.

Employee's Title:	
Signature of Employee	Date
Type or Print Name	

\_\_\_\_\_  
(Witness Signature)

\_\_\_\_\_  
(Printed Name)

# Sale and Removal of Compost Materials

May 3, 2016



Submitted by

**Allen Click**

P.O. Box 684907  
Austin, Texas 78768

City of Austin, Municipal Building  
Purchasing Office  
Response Enclosed for Solicitation # RFP 2200 JXP0501  
124 W 8th Street, Room 308  
Austin, Texas 78701-2302

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Tab 1 - City of Austin Purchasing Documents



**CITY OF AUSTIN, TEXAS**  
Purchasing Office  
**REQUEST FOR PROPOSAL (RFP)**  
**OFFER SHEET**

**SOLICITATION NO:** RFP 2200 JXP0501

**COMMODITY/SERVICE DESCRIPTION:** Sale and Removal of Compost Material

**DATE ISSUED:** March 28, 2016

**REQUISITION NO.:** RQM 2200 16021700267

**PRE-PROPOSAL CONFERENCE TIME AND DATE:** Tuesday, April 5, 2016, 1:00 PM local time

**COMMODITY CODE:** 98859

**LOCATION:** Hornsby Bend BMP, 2210 South FM 973, Austin, TX 78725

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

**PROPOSAL DUE PRIOR TO:** Tuesday, April 19, 2016, 2:00 PM local time

Primary Point of Contact:

Joshua Pace

Buyer II

**Phone:** (512) 974-3127

**E-Mail:** [Joshua.Pace@austintexas.gov](mailto:Joshua.Pace@austintexas.gov)

**PROPOSAL CLOSING TIME AND DATE:** Tuesday, April 19, 2016, 2:00 PM local time

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

**LIVE SOLICITATION CLOSING ONLINE:** For RFP's, only the names of respondents will be read aloud

Secondary Point of Contact:

Danielle Lord

Corporate Purchasing Manager

**Phone:** (512) 974-2298

**E-Mail:** [Danielle.Lord@austintexas.gov](mailto:Danielle.Lord@austintexas.gov)

For information on how to attend the Solicitation Closing online, please select this link:

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

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

Address for US Mail (Only)	Address for Fedex, UPS, Hand Delivery or Courier Service
City of Austin	City of Austin, Municipal Building
Purchasing Office-Response Enclosed for Solicitation # RFP 2200 JXP0501	Purchasing Office-Response Enclosed for Solicitation # RFP 2200 JXP0501
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.

**SUBMIT 1 ORIGINAL, AND 1 ELECTRONIC COPY (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	PAGES
0100	STANDARD PURCHASE DEFINITIONS	*
0200	STANDARD SOLICITATION INSTRUCTIONS	*
0300	STANDARD PURCHASE TERMS AND CONDITIONS	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	5
0500	SCOPE OF WORK	3
0501	EXCEPTIONS	1
0600	PROPOSAL PREPARATION INSTRUCTIONS & EVALUATION FACTORS	3
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM – Complete and return	2
0700	REFERENCE SHEET – Complete and return	1
0800	NON-DISCRIMINATION CERTIFICATION	*
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	*
0810	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION	*
0815	LIVING WAGES CONTRACTOR CERTIFICATION–Complete and return	1
0835	NONRESIDENT BIDDER PROVISIONS – Complete and return	1

\* 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)

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.

#### INTERESTED PARTIES DISCLOSURE

In addition, Section 2252.908 of the Texas Government Code requires the successful offeror to complete a Form 1295 “Certificate of Interested Parties” that is signed and notarized for a contract award requiring council authorization. The “Certificate of Interested Parties” form must be completed on the Texas Ethics Commission website, printed, signed and submitted to the City by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury prior to final contract execution.

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

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: Allen CLICK

Company Address: PO BOX 684907

City, State, Zip: AUSTIN TX 78768-4907



Printed Name of Officer or Authorized Representative: Allen L. CLICK

Title: sole proprietor

Signature of Officer or Authorized Representative: Allen Click

Date: MAY 2, 2016

Email Address: allen.click@gmail.com

Phone Number: 512.422.8850

**\* Proposal response must be submitted with this Offer sheet to be considered for award**



**ADDENDUM  
CITY OF AUSTIN, TEXAS**

---

**Solicitation: RFP 2200 JXP0501**

**Addendum No: 1**

**Date of Addendum: 4/6/16**

---

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

**I. Questions:**

**(Q1) What was the nutrient content of the previous compost piles?**

(A1) Please see Attachment A below.

**(Q2) Is the make-up of the compost material the same as the make-up of previous compost material from the City?**

(A2) It is similar.

**(Q3) Can offerors do independent testing of the compost piles?**

(A3) No.

**(Q4) The selected Contractor will be guaranteed five compost piles, correct?**

(A4) The City cannot guarantee quantities, but will do everything possible to provide at least five piles.

**(Q5) If a compost pile catches on fire while on City property will the selected Contractor still get at least five piles?**

(A5) In the event of an onsite fire that destroys one of the first five piles, the City will attempt to replace the destroyed pile with a new one. Again, the City cannot guarantee quantities, but will do everything possible to provide at least five.

**(Q6) Can the selected Contractor screen the compost material onsite?**

(A6) No.

**(Q7) Does the No Contact Period apply to other contracts? For example, if an offeror wants to submit an offer on this solicitation, and that offeror already has a separate contract with the City, can the offeror still contact the department about the existing contract?**

(A7) The No Contact Period only applies to this solicitation. Offerors may contact the department regarding contracts already in place.

**(Q8) How quickly should the selected Contractor notify the City of any spills?**

(A8) Within 24 hours.

(Q9) Considering the amount of equipment that will be going in and out of Hornsby once the work begins, can the City provide a standard on traffic control to the selected Contractor?

(A9) Yes, the City will request a meeting with the selected Contractor one week prior to beginning work to discuss traffic guidelines.

(Q10) What was the price of the compost piles in the previous contract?

(A10) The City sold each pile for \$26,212.50.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY:

  
Joshua Pace, Buyer II  
Purchasing Office, (512) 974-3127

4/6/16

Date

ACKNOWLEDGED BY:

Allen CLICK

Name



Authorized Signature

May 3, 2016

Date

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

# ATTACHMENT A

Laboratory Services  
Compost Curing Pile  
Report Date: 05-APR-16

Page: 1

This data has been proofed by a Laboratory Official: YMS

Date	Sample Name	SM 2540 G	SM 2540 G	SM 4500-NH3	EPA 353.2	EPA 351.2	EPA 351.2	SW 9045	SM 4500-P BE	SM 9221 E
		%TOTAL	%VOL	NH3-N	NO3+NO2-N	TKN	TKN	PH	TP	ECOLI
		%	%	MG/KG	MG/KG	MG/KG	KG/L	SU	MG/KG	MPH/G
20-AUG-14	CURINGPILE3-20AUG14-G	53.9	35.9	<147	1437	22500		6.9	7486	222
20-AUG-14	CURINGPILE4-20AUG14-G	50.0	34.9	<144	1490	18426		6.9	9711	30
20-AUG-14	CURINGPILE5-20AUG14-G	50.1	33.0	<159	1487	17314		6.7	7672	46
20-AUG-14	CURINGPILE6-20AUG14-G	45.4	40.6	<173	1121	23754		7.0	9335	11
08-OCT-14	CURINGPILE3-08OCT14-G	49.1								161
08-OCT-14	CURINGPILE4-08OCT14-G	49.2								67
08-OCT-14	CURINGPILE5-08OCT14-G	53.2								62
08-OCT-14	CURINGPILE6-08OCT14-G	57.2								14
04-NOV-14	CURINGPILE3-04NOV14-G	52.2								78
04-NOV-14	CURINGPILE4-04NOV14-G	50.9								65
04-NOV-14	CURINGPILE5-04NOV14-G	53.2								62
04-NOV-14	CURINGPILE6-04NOV14-G	47.9								196
25-NOV-14	CURINGPILE7-25NOV14-G	42.5	55.1	RNT				6.8	RNT	2965
25-NOV-14	CURINGPILE8-25NOV14-G	55.6	47.4	769	782	27817		6.9	10888	234
25-NOV-14	CURINGPILE9-25NOV14-G	59.5	48.9	1340	1239	31950		7.0	8311	403
08-DEC-14	CURINGPILE5-08DEC14-G	45.9								11
08-DEC-14	CURINGPILE5-08DEC14-G	53.0								321
08-DEC-14	CURINGPILE3-08DEC14-G	48.6								7
08-DEC-14	CURINGPILE7-08DEC14-G	53.3	44.0	1001	1739	32460		6.9	9000	9
22-DEC-14	CURINGPILE10,11-22DEC14-G	46.4	37.0	<81	445		23608	7.0	7934	106
Minimum		42.5	33	769	445	17314	23608	6.7	7486	7
Maximum		59.5	55.1	1340	1739	32460	23608	7.0	10888	2965
Average		50.86	42.02	1036.67	1217.50	24890.14	23608.00	6.90	8792.13	253.50

# ATTACHMENT A

Laboratory Services  
 Compost Curing Pile  
 Report Date: 05-APR-16

Page: 2

This data has been proofed by a Laboratory Official: YES

e	Sample Name	EPA 6010C	EPA 6010C	EPA 6010C	DM 2510 B	EPA 6010C				
		NA	MG	CA	COND	AG	AL	AS	B	CD
		MG/KG	MG/KG	MG/KG	UMHOS/CM	MG/KG	MG/KG	MG/KG	MG/KG	MG/KG
AUG-14	CURINGPILE3-20AUG14-G	357	6031	160041	5310	3.38	3372	3.60	37.5	0.556
AUG-14	CURINGPILE4-20AUG14-G	585	6688	152924	5300	5.56	4967	5.34	43.9	0.729
AUG-14	CURINGPILE5-20AUG14-G	362	6443	177568	5900	4.42	3974	4.92	35.7	0.561
AUG-14	CURINGPILE6-20AUG14-G	527	6525	150573	4530	3.75	5134	5.10	41.0	0.660
OCT-14	CURINGPILE3-08OCT14-G									
OCT-14	CURINGPILE4-08OCT14-G									
OCT-14	CURINGPILE5-08OCT14-G									
NOV-14	CURINGPILE3-04NOV14-G									
NOV-14	CURINGPILE4-04NOV14-G									
NOV-14	CURINGPILE5-04NOV14-G									
NOV-14	CURINGPILE6-04NOV14-G									
NOV-14	CURINGPILE7-25NOV14-G									
NOV-14	CURINGPILE8-25NOV14-G	430	4719	88586	5800	3.51	4017	5.06	45.6	0.605
NOV-14	CURINGPILE9-25NOV14-G	448	4825	102196	6840	3.33	3649	4.08	43.5	0.540
DEC-14	CURINGPILE6-08DEC14-G									
DEC-14	CURINGPILE5-08DEC14-G									
DEC-14	CURINGPILE3-08DEC14-G									
DEC-14	CURINGPILE7-08DEC14-G	506	4653	80306	6770	3.21	4388	4.72	43.4	0.560
DEC-14	CURINGPILE10-11-22DEC14-G	263	9976	161925	3000	3.99	3432	4.66	32.7	0.646
imum		263	4653	80306	3000	3.21	3372	3.8	32.7	0.54
imum		585	9976	177568	6840	5.56	5134	5.34	45.6	0.729
range		434.75	6232.59	134257.38	5431.25	3.76	4116.63	4.71	40.41	0.61

# ATTACHMENT A

Laboratory Services  
 Compost Curing Pile  
 Report Date: 05-APR-16

Page: 3

This data has been proofed by a Laboratory Official: YES

Date	Sample Name	EPA 6010C	EPA 6010C	EPA 6010C	EPA 7471B	EPA 6010C	EPA 6010C	EPA 6010C	EPA 6010C	EPA 6010C
		CR MG/KG	CU MG/KG	FE MG/KG	HG MG/KG	K MG/KG	MO MG/KG	NI MG/KG	PB MG/KG	SE MG/KG
20-AUG-14	CURINGPILE3-20AUG14-G	9.48	141	8649	0.253	3166	3.05	10.2	14.0	<2
20-AUG-14	CURINGPILE4-20AUG14-G	13.0	186	10384	1.36	4815	3.06	13.4	20.2	<2
20-AUG-14	CURINGPILE5-20AUG14-G	11.6	150	9524	0.243	3105	3.89	11.4	15.2	<2
20-AUG-14	CURINGPILE6-20AUG14-G	12.8	201	11511	0.334	4015	2.73	13.2	17.9	<2
08-OCT-14	CURINGPILE3-08OCT14-G									
08-OCT-14	CURINGPILE4-08OCT14-G									
08-OCT-14	CURINGPILE5-08OCT14-G									
08-OCT-14	CURINGPILE6-08OCT14-G									
04-NOV-14	CURINGPILE3-04NOV14-G									
04-NOV-14	CURINGPILE4-04NOV14-G									
04-NOV-14	CURINGPILE5-04NOV14-G									
04-NOV-14	CURINGPILE6-04NOV14-G									
25-NOV-14	CURINGPILE7-25NOV14-G									
25-NOV-14	CURINGPILE8-25NOV14-G	13.4	154	11450	0.365	4175	2.90	12.6	17.2	<2
25-NOV-14	CURINGPILE9-25NOV14-G	11.8	140	10984	0.456	3915	2.76	10.1	13.4	<2
08-DEC-14	CURINGPILE6-08DEC14-G									
08-DEC-14	CURINGPILE5-08DEC14-G									
08-DEC-14	CURINGPILE3-08DEC14-G									
08-DEC-14	CURINGPILE7-08DEC14-G	13.7	149	10113	0.279	4088	3.78	11.2	14.1	<2
22-DEC-14	CURINGPILE10_1-22DEC14-G	10.1	132	9094	0.291	2789	2.25	9.76	13.5	<2
Minimum		9.48	132	8649	.243	2789	2.25	9.76	13.4	
Maximum		13.7	201	11511	1.36	4815	3.89	13.4	20.2	
Average		11.99	156.63	10213.63	.45	3833.50	2.93	11.47	15.69	

# ATTACHMENT A

Laboratory Services  
 Compost Curing Pile  
 Report Date: 05-APR-16

Page: 4

This data has been proofed by a Laboratory Official: YES

EPA 6010C		Zn
Sample Name		MG/KG
AUG-14	CURINGPILE3-20AUG14-G	304
AUG-14	CURINGPILE4-20AUG14-G	380
AUG-14	CURINGPILE5-20AUG14-G	322
AUG-14	CURINGPILE6-20AUG14-G	400
OCT-14	CURINGPILE3-08OCT14-G	
OCT-14	CURINGPILE4-08OCT14-G	
OCT-14	CURINGPILE5-08OCT14-G	
OCT-14	CURINGPILE6-08OCT14-G	
NOV-14	CURINGPILE3-04NOV14-G	
NOV-14	CURINGPILE4-04NOV14-G	
NOV-14	CURINGPILE5-04NOV14-G	
NOV-14	CURINGPILE6-04NOV14-G	
NOV-14	CURINGPILE7-25NOV14-G	
NOV-14	CURINGPILE8-25NOV14-G	353
NOV-14	CURINGPILE9-25NOV14-G	327
DEC-14	CURINGPILE6-08DEC14-G	
DEC-14	CURINGPILE5-08DEC14-G	
DEC-14	CURINGPILE7-08DEC14-G	
DEC-14	CURINGPILE7-08DEC14-G	345
DEC-14	CURINGPILE10,11-22DEC14-G	291
Sum		291
Sum		400
Page		340.50

# ATTACHMENT A

Laboratory Services  
Compost Curing Pile  
Report Date: 05-APR-16

Page: 1

This data has been proofed by a Laboratory Official: YES

Date	Sample Name	SM 2540 G % TOTAL	SM 2540 G % VOL	SM 4500-NH3 NH3-N MG/KG	EPA 353.2 NO3+NO2-N MG/KG	EPA 351.2 TKN MG/KG	SW 9045 PH	GM 4500-P BE % TP	GM 9221 E MEN/G	EPA 6010C NA MG/KG
15-APR-15	CURINGPILE17-15APR15-G	46.3	46.2	<36.3	637	30905	7.0	8110	11	510
15-APR-15	CURINGPILE18-15APR15-G	43.1	43.2	<114	694	29187	7.3	8806	77	475
06-AUG-15	CURINGPILE7-06AUG15-G	51.0							6	
06-AUG-15	CURINGPILE8-06AUG15-G	44.9							11	
06-AUG-15	CURINGPILE11-06AUG15-G	62.3							21	
06-AUG-15	CURINGPILE10-06AUG15-G	54.7							9	
11-AUG-15	CURINGPILE19-11AUG15-G	44.9	46.2	122	420	22493	7.8	9588	51	649
Minimum		43.1	43.2	122	420	22493	7	8110	8	449
Maximum		62.3	46.2	122	694	30905	7.8	9588	77	510
Average		49.60	45.20	122.00	583.67	27528.32	7.37	8832.67	26.86	478.33

# ATTACHMENT A

Laboratory Services  
 Compost Curing Pile  
 Report Date: 05-APR-16

Page: 2

This data has been provided by a Laboratory Official: YES

Date	Sample Name	EPA 6010C	EPA 6010C	GM 2510 B	EPA 6010C					
		MG	CA	COND	AG	AL	AS	S	CD	CF
		MG/KG								
APR-15	CURINGPILE17-15APR15-G	5410	101752	3200	2.38	5375	5.33	41.1	0.592	15.1
APR-15	CURINGPILE18-15APR15-G	5853	112482	3200	2.19	7453	5.80	47.5	0.670	14.6
AUG-15	CURINGPILE7-06AUG15-G									
AUG-15	CURINGPILE8-06AUG15-G									
AUG-15	CURINGPILE11-06AUG15-G									
AUG-15	CURINGPILE10-06AUG15-G									
AUG-15	CURINGPILE19-11AUG15-G	6442	118142	3200	2.68	7414	4.60	43.4	0.585	15.0
Minimum		5410	101752	3200	2.68	5375	4.6	41.1	0.592	14.6
Maximum		6442	118142	3200	2.38	7414	5.8	47.5	0.67	15.1
Average		5901.67	112458.67	3200.67	5.75	6814.00	5.24	44.00	0.64	14.97

# ATTACHMENT A

Laboratory Services  
 Compost Curing Pile  
 Report Date: 05-APR-16

Page: 3

This data has been proofed by a Laboratory Official: YES

Date	Sample Name	EPA 6010C	EPA 6010C	EPA 7471E	EPA 6010C					
		CU	FE	HG	K	MC	NI	PB	SE	ZN
		MG/KG								
15-APR-15	CURINGPILE17-15APR15-G	220	13386	0.207	5042	3.29	12.7	15.5	<2	333
15-APR-15	CURINGPILE18-15APR15-G	167	12482	0.302	5170	2.15	12.5	16.3	<2	366
06-AUG-15	CURINGPILE7-06AUG15-G									
06-AUG-15	CURINGPILE8-06AUG15-G									
06-AUG-15	CURINGPILE11-06AUG15-G									
06-AUG-15	CURINGPILE10-06AUG15-G									
11-AUG-15	CURINGPILE10-11AUG15-G	170	13395	0.221	5302	2.74	12.0	17.1	<2	324
Minimum		167	12482	.207	5042	2.74	12	15.5		324
Maximum		220	13395	.302	5302	3.29	12.7	17.1		366
Average		185.67	13087.67	.24	5171.33	3.06	12.40	16.30		341.00

**PURCHASING OFFICE MEETING SIGN-IN SHEET**

**RFP & Description:** RFP 2200 JXP0501, Sale and Removal of Compost Material

**Meeting Date:** 4/5/16

**Buyer:** Joshua Pace

**Place/Room:** Hornsby Conference Room

Please Print Legibly

Name	Company/Agency/Dept.	Phone	Email
Darrell Richmond	AW-Purch	512 972-0313	darrell.richmond@austintexas.gov
Ken Lockard	AWU-Hornsby	512-972-1953	Ken Lockard
Lisa Bortman	AWU - HORNSBY	512-972- <sup>1954</sup> <del>1953</del>	LISA.M.BORTMAN@AUSTINTEXAS.GOV
John Kalmbach	New Earth	210 661 5180	jkalmbach@newearth-compost.com
Jacob Smith	JD General	512-587-3478	SmithJacob@gmail.com
Daniel Isokpunwu	JD General	512-4188-9294	daniel_isokpunwu@yahoo.com
Clayton Leonard	New Earth	210-661-5180	
Allen Clark	Allen Clark	512-422-8850	allen.clark@smiit.com
John Niedorfen	New Earth	512-5261213	JNIEDORFEN@NEW EARTH COMPOST



**ADDENDUM  
CITY OF AUSTIN, TEXAS**

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Solicitation: RFP 2200 JXP0501

Addendum No: 2

Date of Addendum: 04/18/16

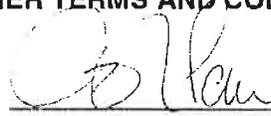
---

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

I. **Extension:** The proposal due date is hereby extended until Tuesday, May 3, 2016 at 2:00 PM local time.

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

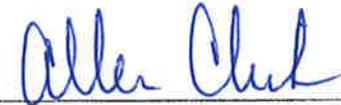
APPROVED BY:

  
Joshua Pace, Buyer II  
Purchasing Office, (512) 974-3127

4/18/16  
Date

ACKNOWLEDGED BY:

Allen Click  
Name

  
Authorized Signature

MAY 2, 2016  
Date

**RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR RESPONSE 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: RFP 2200 JXP0501**

**Addendum No: 3**

**Date of Addendum: 04/27/16**

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

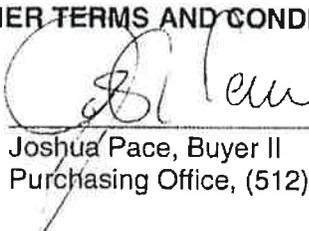
**I. Questions:**

**(Q1) Should the Anti-Lobbying Ordinance apply to this solicitation even though it will result in a revenue generating contract for the City?**

(A1) Yes, the Anti-Lobbying Ordinance will still apply to this solicitation.

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

APPROVED BY:

  
Joshua Pace, Buyer II  
Purchasing Office, (512) 974-3127

4/27/16

Date

ACKNOWLEDGED BY:

Allen Click

Name

  
Authorized Signature

May 2, 2016

Date

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

**Section 0605: Local Business Presence Identification**

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

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

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

**OFFEROR:**

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

**SUBCONTRACTOR(S):**

<b>Name of Local Firm</b>		
<b>Physical Address</b>		
Is your headquarters located in the Corporate City Limits? (circle one)	<input type="radio"/> Yes	<input type="radio"/> No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years?	<input type="radio"/> Yes	<input type="radio"/> No

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

**SUBCONTRACTOR(S):**

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

Section 0700: Reference Sheet

Responding Company Name Allen CLICK

The City at its discretion may check references in order to determine the Offeror's experience and ability to provide the products and/or services described in this Solicitation. The Offeror shall furnish at least 3 complete and verifiable references. References shall consist of customers to whom the offeror has provided the same or similar services within the last 5 years. References shall indicate a record of positive past performance.

1. Company's Name Crop Production Services  
Name and Title of Contact Bryan Weiss, Manager  
Project Name Continuing  
Present Address 2604 E 4TH ST  
City, State, Zip Code TAYLOR, TX 76574  
Telephone Number (512) 352-5545 Fax Number (512) 352-5616  
Email Address bryan.weiss@cpsagu.com

2. Company's Name El Dorado Chemical Co  
Name and Title of Contact Steven Schautschick, Plant Manager  
Project Name Continuing  
Present Address 1801 W Austin St  
City, State, Zip Code Giddings TX 78942  
Telephone Number (479) 542-3554 Fax Number (479) 542-3557  
Email Address sschautschick@lsbindustries.com

3. Company's Name Aurora Agronomy  
Name and Title of Contact Jason Cheffon, Sales Manager  
Project Name Continuing  
Present Address 9552 Highway 21 West  
City, State, Zip Code Bryan, TX 77807  
Telephone Number (479) 204-4668 Fax Number (479) 775-5740  
Email Address jcheffon@auroraagronomy.com

**Section 0815: Living Wages Contractor Certification**

Company Name Allen CLICK

Pursuant to the Living Wages provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$13.03 per hour.

The below listed employees of the Contractor who are directly assigned to this contract are compensated at wage rates equal to or greater than \$13.03 per hour.

Employee Name	Employee Job Title
Contractor will comply with Living Wage	
certification. Project employees will be	
hired pending award of contract.	

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

(1) All future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$13.03 per hour.

(2) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

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

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

Company Name Allen CLICK

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

Tab 2 –Compost Removal and Beneficial Reuse Plans

a. Compost Removal Plan

i. Vehicles and equipment information

Offeror will utilize the following commercially-leased vehicles and equipment:

Table 1: Vehicles	
Description	Quantity
Semi-trailers	3
Belt trailers	3
Front-loader tractor with rubber tires	1

ii. Personnel qualifications and experience

Offeror will hire personnel with the requisite training, licenses, certifications, and a minimum of three (3) years relevant experience. The following personnel will be assigned to the project:

Table 2: Personnel	
Title	Quantity
Commercial Truck Drivers	3
Heavy Equipment Operator	1

Job announcements will be posted in local media, and job descriptions will be available for employees.

iii. Schedule of removal

Offeror will comply with the 90 day requirement for transporting compost material.

To that end, 18 loads will be transported per day. Transport operations are based on a six (6) day work week; Monday through Saturday (8:00 am to 5:00 pm). Overtime salaries will be paid as per Fair Labor Standards Act (FLSA).

b. Beneficial Reuse Plan

i. Comprehensive plan for reused

Compost material will be used on agricultural land to fertilize Coastal Bermuda Grass for hay at the 15 locations in Travis County, Texas.

The Offeror currently has these locations under long-term leases. Locations are within two (2) miles of the I-130 Toll Road between Creedmoor and Pflugerville, Texas.

ii. Innovative reuse methods consistent with goals of the City

This process will also add fertility and enhance soil water holding capacity through addition of organic materials.

Tab 3 - Contingency Plans

## a. Contingency plan

### i. Odor and Dust Control

Most properties adjoining the identified locations are agricultural so there is limited impact to residential and/or commercial users. Unscreened material will be spread unscreened with standard agricultural machinery. Spreading rates will be adjusted to minimize any dust and/or odors.

Offeror will publicize contact information (eg, telephone number and email) as needed. Offeror will investigate and validate complaints. If determined valid, Contactor will cease operation near complainant.

Offeror also carries general liability insurance on each property where material will be spread.

### ii. Fire Prevention

Offeror employees will participate in Fire Drills. Furthermore, they will receive training on how to respond to a fire emergency. Specifically, if a fire is reported, they will sound a fire alarm, (if available and not already activated) to warn Hornsby site occupants to evacuate. Then they will Dial 911 to alert Austin Fire Department. They will provide the following information:

- Business name and street address
- Nature of fire
- Fire location
- Name of person reporting fire
- Telephone number for return call

Offeror team will direct evacuation of municipal employees and visitors, utilizing the following procedures:

- Evacuate site occupants along evacuation routes to primary areas outside.
- Offeror team to account for all municipal employees and visitors at the assembly area.
- Meet Fire Department Incident Commander (IC). Inform the IC if everyone has been accounted for and if there are any injuries. Provide information on
  - the nature of the emergency and actions taken
  - site plans, keys and other assistance as requested.
- Assign personnel to verify that fire protection systems are operating normally and to operate utility and protection systems as directed by the fire department.

### iii. Spill Response

#### Prevention

Offeror will manage all hazardous substances, including chemical wastes, in a way that prevents release.

#### Employee Training

All Offeror employees will receive periodic training on the proper handling of hazardous substances; spill prevention practices, and emergency response procedures. Training will include a review of the spill prevention and emergency response plan, and a review of location and use of emergency response

equipment. Training can be recorded through safety committee meetings, staff training logs, or other equivalent record keeping.

#### Hazardous Substance Inventory

Offeror will maintain an inventory for all hazardous substance stored in quantity (<55 gallons), and/or list of locations where non-bulk hazardous substances are stored.

#### Spill Response Equipment

Spill response equipment must be maintained and located in areas where spills are likely to occur. Spill kits should provide adequate response capabilities to manage any anticipated spill or release. The following general requirements are to be followed.

#### Control

In the event of a compost material spill, your first goal should be to eliminate the source of the spill. Whether it be caused by equipment malfunction, storage overflow, or improper application techniques, address the situation immediately, if Offeror can do so safely.

#### Containment

After addressing the source of the spill, Offeror will focus on protecting waterways and other environmentally sensitive areas. This could be done by building small dams to contain the flow of liquid compost material, or covering culverts and drain tile inlets with plywood or plastic sheeting.

#### Compliance

Offeror will assess the damage and report the spill to the City and other proper authorities. Offeror will contact both Austin emergency responders as well as regional/statewide agricultural and environmental agencies as needed.

#### Clean Up

Offeror will remove the spilled compost materials and make any repairs needed to restore the affected area.

#### Evaluation

Finally, after each incident, Offeror will conduct an investigation and issue an After-Action Report (AAR) to the City and other applicable parties.

### b. Prevention of public health nuisances and responds to public complaints

#### Operations

Compost site operators need to optimize certain conditions in order to produce high-quality mature compost without nuisance odors and pests.

#### Oxygen

During the active composting stage (the first 2 to 3 weeks), turn material once per week at a minimum. Composting generates odors. The key is not generating nuisance odors. Something is wrong if your piles are emitting strong putrid odors. Bad odors could be a sign that the pile has gone anaerobic or has

anaerobic pockets. If this is the case, turning and remixing will help inject more oxygen. (Not enough carbon could also create nuisance odors.)

#### Moisture

Offeror can most practically gauge proper moisture levels (40 to 65%) on-site by conducting a “hand squeeze test.” The squeeze test entails taking a handful of decomposing material from the compost system and squeezing. If the material sticks together, and the hand is moist and glistening, this is an indicator of ideal moisture content ranging between 50 to 60%. Material that is crumbly, leaving the hand dry indicates inadequate moisture, whereas material that sticks together with excessive dripping down the arm indicates too much moisture.

#### Storing and Collecting Materials

All storage units (as well as the composting system itself) should be adequately secured. Properly sealed and fastened lids, bungee chords, combination locks, and other devices should be used to securely close units until composting is finished. Composters that closely monitor for and prevent vector disturbances, unsightly and unsanitary messes, and unpleasant smells will have the greatest success.

#### Avoidance

**Odors:** Odor control is critical to advancing community-based composting. Maintaining aerobic (adequate oxygen transport) conditions in the composting system (e.g. by using the correct C:N ratio, mixing wet feedstocks with porous bulking amendments, consistently turning or aerating the composting system) is key to controlling odor.

**Pests:** Controlling odors will help control pests. Offeror will create favorable, aerobic conditions for the microorganisms within the properties, not for pests. Offeror will ensure site and tools are left clean with no visible food and that all vector deterrents on their composting system are securely in place (e.g. hardware cloth fastened, holes repaired).

**Contact and storm water:** Offeror will maintain sites with good drainage in order to avoid pools of standing water, which can attract mosquitoes and other unwanted pests. Offeror may also implement proactive watershed protection measures by installing a buffer (e.g. a vegetated filter strip or compost or wood chip berm) between the composting system and any surface or groundwater resources to intercept potential “contact” water (this is water that has contacted raw feedstocks or actively composting materials).

**Unsanitary practices:** Composting systems are resource recovery sites, not waste disposal facilities and are treated as such. Offeror will maintain a clean, safe, and friendly environment. Offeror will wear protective gloves while composting and washing their hands to avoid the spread of bacteria when finished.

#### Response

Clear and visible signage facilitates awareness, and proper site maintenance. Offeror will use signage to provide public with contact information (including telephone and email address) to report any complaints. Signs can either be mounted on posts in the ground or fastened directly to an object, so long as they are solidly in place.

Complaints will be reviewed within 24 hours to determine their validity. Valid complaints will be remediated immediately, documented, and evaluated.

Tab 4 – Revenue Matrix

Revenue Matrix

REQUIRED INFORMATION					
ITEM NO.	DESCRIPTION	UNIT OF MEASURE	ESTIMATED ANNUAL QUANTITY	REVENUE TO THE CITY (PER PILE)	ANNUAL REVENUE TO THE CITY (EST. ANNUAL REVENUE PER PILE)
1	Unscreened Compost Pile	LOAD	15	\$2,500.00	\$37,500.00

# Tab 5 - Business Exceptions

None.



**CITY OF AUSTIN  
PURCHASING OFFICE  
EXCEPTIONS**

**Solicitation Number:** RFP 2200 JXP0501

The City will presume that the Offeror is in agreement with all sections of the solicitation unless the Offeror takes specific exception as indicated below. The City, at its sole discretion, may negotiate exceptions to the sections contained in the solicitation documents or the City may deem the Offer non-responsive. The Offeror that is awarded the contract shall sign the contract with the accepted or negotiated sections.

Place this attachment in Tab 5-Business Exceptions of your Proposal. Copies of this form may be utilized if additional pages are needed.

Accepted as written.

Not accepted as written. See below:

**Indicate:**

- 0300 Standard Purchase Terms & Conditions
- 0400 Supplemental Purchase Provisions
- 0500 Scope of Work

<b>Page Number</b>	<b>Section Number</b>	<b>Section Description</b>
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**Alternative Language:**

**Justification:**