

AN ORDINANCE 2007-09-20-0990

ACCEPTING THE OFFER FROM LIBRARY DESIGN SYSTEMS, INC., UTILIZING THE TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) CONTRACT # 3-7110120, TO PROVIDE THE LIBRARY DEPARTMENT WITH THE PURCHASE AND INSTALLATION OF SHELVING FOR BOOKS AT THE HAUSMAN ROAD BRANCH LIBRARY FOR A COST OF \$82,306.05.

* * * * *

WHEREAS, an offer was submitted by Library Design Systems, Inc., an authorized Montel Aetnastak, Inc. shelving dealer under the Texas Multiple Award Schedule Contract, to provide the City of San Antonio Library Department with the purchase and installation of shelving for books at the Hausman Road Branch Library for a cost of \$82,306.05; and

WHEREAS, this purchase meets the requirements under the terms of the State of Texas Cooperative Purchasing Agreement adopted by the City of San Antonio by Resolution No. 91-39-53 on September 12, 1991; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The offer submitted by Library Design Systems, Inc., an authorized Montel Aetnastak, Inc. shelving dealer under the Texas Multiple Award Schedule Contract, to provide the City of San Antonio Library Department with the purchase and installation of shelving for books at the Hausman Road Branch Library for a cost of \$82,306.05 is hereby accepted, subject to and contingent upon the deposit of all required bonds, performance deposits, insurance certificates and endorsements. The contract and bid tabulation sheet are attached hereto and incorporated herein for all purposes as Exhibit I.

SECTION 2. The budget in SAP Fund 45099000, General Obligation Capital Projects, SAP Project Definition 04-00101, Hausman Road Branch Library, shall be revised by increasing SAP WBS Element 04-00101-06-01 entitled Other, SAP GL Account 5301010, by the amount of \$82,306.05.

SECTION 3. The budget in SAP Fund 45099000, General Obligation Capital Projects, SAP Project Definition 04-00101, Hausman Road Branch Library, shall be revised by decreasing SAP WBS Element 04-00101-06-01 entitled Other, SAP GL Account 5201140, by the amount of \$82,306.05.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This ordinance shall take effect September 30, 2007.

PASSED AND APPROVED this 20th day of September, 2007.

Donna Adrian
M A Y O R

ATTEST:

Steph M. Vacek
City Clerk

for PHIL HARDBERGER

APPROVED AS TO FORM:

Al Bennett
for City Attorney

City Council Meeting

DATE: September 20, 2007

ORDINANCE: 2007-09-20-09 90

AGENDA ITEM: 9
Consent Agenda

RESOLUTION:

NAME	ROLL CALL	MOTION	SECOND	ABSTAIN	AYE	NAY	ABSENT
Mary Alice Cisneros DISTRICT 1							
Sheila McNeil DISTRICT 2							
Roland Gutierrez DISTRICT 3							
Philip Cortez DISTRICT 4							
Lourdes Galvan DISTRICT 5							
Delicia Herrera DISTRICT 6							
Justin Rodriguez DISTRICT 7							
Diane Cibrian DISTRICT 8							
Kevin Wolff DISTRICT 9							
John Clamp DISTRICT 10							
Phil Hardberger MAYOR							

COMMENTS:

City of San Antonio Bid Tabulation

Opened: August 14, 2007		
For: Purchase, Installation of Shelving for Hausman Branch Library		Library Designs Systems, Inc.
07-137RFO	DS/at	P. O. Box 750757 Houston, TX 77275 713-869-4075
Item	Description	Qty
1	Purchase, Installation of Shelving for Hausman Branch Library	1
	Price Total	\$82,306.05
ESTIMATED TOTAL AWARD		\$82,306.05

EXHIBIT I

07-137



CITY OF SAN ANTONIO

P.O. Box 839966
SAN ANTONIO, TEXAS 78283-1966

July 20, 2007

Library Designs Systems
P. O. Box 750757
Houston, TX 77275

Attention: Fred Baucom

RE: 07-137-DS Purchase, Installation of Shelving for Books at Hausman Road Branch Library.

The City of San Antonio is requesting quotations for the goods and services listed below in accordance with the terms and conditions herein. These items are being purchased as a "Sole Source" according to Local Government Code 252.022. No other source can supply the items listed nor can any comparable item fulfill the same requirements. Vendor acknowledges, with his/her signature, that all items being quoted are considered a "Sole Source".

Please provide a response to this request for quote on the forms provided as well as a price quotation on company letterhead within 14 calendar days. Responses can be faxed to 210-207-7270 or delivered to the address stated on page 13.

In the event of any inconsistent or incompatible provisions, this signed agreement shall take precedence.

Steve Morando, Assistant
Director Purchasing &
Contract Services
City of San Antonio

07-137-DS Purchase, Installation of Shelving for Books at Hausman Road Branch Library

TERMS AND CONDITIONS

READ CAREFULLY

1. GENERAL CONDITIONS

Vendors are required to submit their offer upon the following expressed conditions:

- a. Vendors shall thoroughly examine the drawings, specifications, schedule(s), instructions and all other contract documents.
- b. Vendors shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of material and equipment as required by the solicitation conditions. No plea of ignorance by the vendor of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the vendor to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of the City or the compensation to the vendor.
- c. Vendors are advised that all City contracts are subject to all legal requirements provided for in the City Charter and/or applicable City Ordinances, state and federal statutes. Any offer, after being opened, becomes subject to the Open Information Act, Government Code Chapter 552, therefore Vendors must clearly indicate any portion of the submitted offer that the vendor claims is not subject to public inspection under the Open Information Act.
- d. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall benefit financially, directly or indirectly, in the sale to the City of any materials, supplies or services, except on behalf of the City as an officer or employee. This prohibition extends to the City Public Service Board, San Antonio Water System, and all City boards and commissions other than those which are purely advisory. In this instance a City employee is defined as any employee of the City who is required to file a financial involvement report pursuant to the City's ethics ordinance.

2. PREPARATION OF OFFERS

Offers will be prepared in accordance with the following:

- a. All information required by the request shall be furnished or the offer may be rejected. The vendor shall print or type name and manually sign the request for quote.
- b. Where there is a discrepancy between the unit price and the extended price, the unit price shall prevail.
- c. Any offer that is considered for award on an "all or none" basis must include a price quote for all units or line items. Any offer that is considered for award by each unit or line item must include a price for each unit or line item for which the vendor wishes to be considered. Any ambiguity in the offer as a result of omission, error, unintelligible or illegible wording shall be construed in the favor of the City.
- d. Alternate offers may be allowed at the sole discretion of the City.

07-137-DN Purchase, Installation of Shelving for Books at Hausman Road Branch Library

- c. Vendors will neither include federal taxes nor State of Texas limited sales excise and use taxes in quoted prices since the City of San Antonio is exempt from payment of such taxes. An exemption certificate will be signed by City where applicable upon request by vendor.

3. DESCRIPTION OF SUPPLIES

Any catalog or manufacturer's reference used in describing an item is merely descriptive, and not restrictive, unless otherwise noted, and is used only to indicate type and quality of material. Each offer must clearly identify the proposed product, the quantity of the product, model, and type, as applicable. Prorata adjustments to packaging and pricing may be allowed at the sole discretion of the City.

4. ASSURANCE OF COMPLIANCE - EQUAL EMPLOYMENT OPPORTUNITY AND SMALL AND/OR MINORITY BUSINESS ADVOCACY REQUIREMENTS

It is the policy of the City of San Antonio that Small and/or Minority Business Enterprises shall have the maximum practicable opportunity to participate in the performance of public contracts. Vendor agrees that if this offer is accepted, he/she will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age, handicap or political belief or affiliation. In addition, vendor agrees, by submittal of this offer, that he/she will abide by all applicable terms and provisions of this Nondiscrimination Clause and the Small Business Advocacy Clause. These clauses are available in the City's Department of Economic and Employment Development and the City Clerk's Office.

5. SAMPLES, DEMONSTRATIONS AND TESTING

At the City's request and direction, vendor shall provide product samples and/or testing of items offered to ensure compliance with specifications. Samples, demonstrations and/or testing may be requested prior to award of the contract, upon delivery and/or at any point during the term of resulting contract. After notification, samples, demonstrations and/or testing must be provided within ten days. Failure to provide samples prior to award of contract will disqualify vendor from consideration. All samples (including return thereof), demonstrations and/or testing shall be at the expense of the vendor. Samples will be returned upon request; otherwise, samples will become property of the City of San Antonio, ten days after award of the contract.

6. REJECTION OF OFFERS

- a. The City may reject an offer if:
- 1) The vendor misstates or conceals any material fact in the proposed offer; or
 - 2) The offer does not strictly conform to law or the requirements of the request;
 - 3) The offer is conditional, except that the vendor may qualify the offer for acceptance by the City on an "All or None" basis or a "Low Item" basis. An "All or None" basis offer must include all items upon which offers are invited.
- b. In the event that a vendor is or subsequently becomes delinquent in the payment of his, her or its City taxes, including state and local sales taxes, such fact shall constitute grounds for

07-137-1X8 Purchase, Installation of Shelving for Books at Hausman Road Branch Library

rejection of the offer, or if awarded the contract, for cancellation of the contract. However, the City reserves the right to deduct any delinquent taxes from payments that the City may owe to the delinquent vendor as a result of such contract.

- c. The City may, however, reject any offer whenever it is deemed in the best interest of the City to do so, and may reject any part of an offer unless the offer has been qualified as provided in Par. 6 (a) 3 above. The City at its sole discretion may also waive any minor informalities or irregularities in any offer, to include failure to submit sufficient documentation, failure to submit literature or similar attachments, or business affiliation information.

7. CLARIFICATION TO SPECIFICATIONS

- a. If any person contemplating submitting a quote for this contract is in doubt as to the true meaning of the specifications, other related documents, or any part thereof, he/she may submit to the City Director of Purchasing on or before seven calendar days prior to scheduled opening, a request for clarification. All such requests for information shall be made in writing and the person submitting the request will be responsible for its prompt delivery. Any interpretation of the offer, if made, will be made only by Addendum duly issued. A copy of such Addendum will be mailed or delivered to each person receiving solicitations. The City will not be responsible for any other explanation or interpretation of the proposed offer made or given prior to the award of the contract. Any objections to the specifications and requirements as set forth in this request must be filed in writing with the Director of Purchasing on or before seven calendar days prior to the scheduled opening.
- b. The City reserves the right to request clarification to assist in evaluating the vendor's response when the vendor response is unclear with respect to product pricing, packaging or other factors. The information provided is not intended to change the quote response in any fashion and such information must be provided within two days from request.

8. DISCOUNTS

- a. Prompt payment discounts will be considered in making the award provided the period of the discount offered is sufficient to permit payment within such period in the regular course of business (minimum ten days).
- b. In connection with any discount offered, time will be computed from the date of receipt of supplies or services, or from the date a correct invoice is received, whichever is the later date. Payment is deemed to be made on the date of mailing of the check.

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9. AWARD OF CONTRACT

- a. The City reserves the right to accept any item or group of items on this quote, unless the vendor qualifies his/her offer by specific limitations. Re Par.6 (a) 3 above.
- b. A written award of acceptance (manifested by a City Ordinance) and appropriation mailed or otherwise furnished to the successful vendor results in a binding contract without further action by either party.
- c. The City of San Antonio reserves the right to utilize previous purchases as a basis for evaluation of offers when future usages are unable to be determined.

07-137-DS Purchase, Installation of Shelving for Books at Hausman Road Branch Library

- d. Although the information furnished to Vendors specified the approximate quantities needed, based on the best available information where a contract is let on a unit price basis, payment shall be based on the actual quantities supplied. The City reserves the right to delete items, prior to the awarding of the contract, and purchase said items by other means; or after the awarding of the contract, to increase or decrease the quantities in accordance with § 252.048 of the Texas Local Government Code. No changes shall be made without written notification of the City.

10. CONTRACT TERMINATION

a.(a) TERMINATION-BREACH:

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Should vendor fail to fulfill in a timely and proper manner, as determined solely by the Director of Purchasing & General Services, its obligations under this contract, or violate any of the terms of this contract, the City shall have the right to immediately terminate the contract. Notice of termination shall be provided in writing to the contractor, effective upon the date set forth in the notice. Such termination shall not relieve the vendor of any liability to the City for damages sustained by virtue of any breach by the vendor.

TERMINATION-NOTICE:

- (b) The City may terminate this contract without cause. The City shall be required to give the vendor notice ten days prior to the date of termination of the contract without cause.

TERMINATION-FUNDING:

- (c) City retains the right to terminate this contract at the expiration of each of City's budget periods. This contract is conditioned on a best efforts attempt by City to obtain and appropriate funds for payment of any debt due by City herein.

11. DELIVERY OF GOODS/SERVICES

- a. All materials are to be delivered F.O.B., City of San Antonio's designated facility.
- b. Delivery dates pertaining to this request must be clearly stated in the quote form where required and include weekends and holidays. Failure to comply with this requirement may be a cause for disqualification of the offer. Unless otherwise specified, delivery at the earliest date is required. The vendor will clearly state in the offer the time required for delivery upon receipt of contract or purchase order. Proposed delivery time must be specific and such phrases "as required", "as soon as possible" or "prompt" may result in disqualification of the offer.
- c. Upon award of a contract, the vendor is obligated to deliver the goods to the destination specified in the Request for Offer or the Purchase Order and bears the risk of loss until delivery. If this Request for Offer or Purchase Order does not contain delivery instructions, Vendors shall request instructions in writing from the Director of Purchasing.

07-137-108 Purchase, Installation of Shelving for Books at Hausman Road Branch Library

If the delivery instructions contained in the Request for Offer allocate delivery costs and risks in a manner contrary to this section, the provisions of this Request for Offer shall prevail.

- d. When delivery is not met as provided for in the contract, the Purchasing Department reserves the right to make the purchase on the open market, with any cost in excess of the contract price paid by the vendor, in addition to any other damages, direct or consequential, incurred by the City as a result thereof. In addition, failure of the vendor to meet the contract delivery dates will be cause for removal of the vendor from the City's list of eligible Vendors as determined by the Purchasing & General Services Department.

12.
12.

PERFORMANCE DEPOSIT

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- a. The following provisions shall apply only when a performance deposit is specified as required in this Request for Offer.
- b. The successful vendor must furnish the City of San Antonio with a performance deposit in the amount set forth in the Request for Offer. This deposit is not to be submitted with the offer, but must be presented to the Purchasing & General Services Department within ten days from request.
- c. The City of San Antonio will not enter into a contract or issue a purchase order until the successful vendor has complied with the performance deposit provisions.
- d. The performance deposit shall be in the form of a performance bond (in a form acceptable to the City Attorney), cashier's check, certified check upon a state or national bank or trust company, or a check on such bank or trust company signed by a duly authorized officer thereof (checks to be drawn payable to the City of San Antonio), or a Certificate of Deposit from such bank or trust company assigned to the City of San Antonio, or an irrevocable letter of credit from a state or national bank or trust company.
- e. The performance deposit of the successful vendor shall be returned by the City upon completion of the contract and final acceptance of all items in accordance with conditions thereof.
- f. Failure of successful vendor to perform any of the services required by this contract within ten days of receipt of written demand for performance from City, or failure of vendor to correct or replace defective goods or products within ten days from receipt of written demand therefore, shall constitute a total breach of this contract and shall cause this contract to terminate immediately upon the expiration of the ten day period. In the event of such termination, the performance deposit shall be retained by the City of San Antonio as liquidated damages, based upon mutual agreement and understanding between vendor and City at the time this Request for Offer is solicited, submitted and accepted, that the City of San Antonio is a governmental agency engaged in public projects, and that the measurement of damages, which might result from a breach of the terms and specifications herein is difficult or impossible to determine. However, the Director of Purchasing & General Services with the concurrence of the City Manager, may return all or part of the performance deposit to the vendor if the Director determines, in the Director's sole discretion, that the failure to perform the conditions of this contract was the result of acts or events over which the vendor had no control. The determination shall then be final and binding on all parties.

07 137-DS Purchase, Installation of Shelving for Books at Housman Road Branch Library

13.12. INDEPENDENT CONTRACTOR

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It is expressly understood and agreed by both parties hereto that the City is contracting with the successful vendor as an independent contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful vendor under this contract and that the successful vendor has no authority to bind the City.

14.13. REQUEST FOR INFORMATION

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Any party who wishes to be provided documents relating to this procurement shall make a request in writing. Pursuant to state law, the City may assess a fee in order to recoup the cost related to providing the requested information.

15.14. PATENTS/COPYRIGHTS

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The successful vendor agrees to indemnify and hold the City harmless from any claim involving patent infringement or copyrights on goods supplied.

16.15. INDEMNITY

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- a. **CONTRACTOR** covenants and agrees to **FULLY INDEMNIFY** and **HOLD HARMLESS** the **CITY** and the elected officials, employees, officers, directors, and representatives of the **CITY**, individually or collectively, from and against any and all costs, claims, liens, damages losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death and property damage, made upon the **CITY**, directly or indirectly arising out of resulting from or related to **CONTRACTOR'S** activities under this **CONTRACT**, including any acts or omissions of **CONTRACTOR**, any agent, officer, director, representative, employee, consultant or subcontractor of **CONTRACTOR**, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this **CONTRACT**, all without, however, waiving any governmental immunity available to the **CITY** under Texas Law and without waiving any defenses of the parties under Texas Law. The provisions of this **INDEMNIFICATION** are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. **CONTRACTOR** shall promptly advise the **CITY** in writing of any claim or demand against the **CITY** or **CONTRACTOR** known to **CONTRACTOR** related to or arising out of **CONTRACTOR'S** activities under this **CONTRACT** and shall see to the investigation and defense of such claim or demand at **CONTRACTOR'S** cost. The **CITY** shall have the right, at its option and at its own expense, to participate in such defense without relieving **CONTRACTOR** of any of its obligations under this paragraph.
- b. It is the **EXPRESS INTENT** of the parties to this contract, that the **INDEMNITY** provided for in this section, is an **INDEMNITY** extended by **CONTRACTOR** to **INDEMNIFY, PROTECT** and **HOLD HARMLESS** the **CITY** from consequences of the **CITY'S OWN NEGLIGENCE**, provided however, that the **INDEMNITY** provided for in this section **SHALL APPLY** only when the **NEGLIGENT ACT** of the **CITY** is a **CONTRIBUTORY CAUSE** of the resultant injury, death, or damage, and shall have no

07-137-128 Purchase, Installation of Shelving for Books at Hausman Road Branch Library

application when the negligent act of the CITY is the sole cause of the resultant injury, death, or damage. CONTRACTOR further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

17. INSURANCE

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If required, specific insurance provisions will be included in specifications. An original, certified copy of an insurance certificate must be submitted within ten days from request. The successful vendor will be required to maintain, at all times during performance of the contract, the insurance detailed in specifications. Failure to provide this document may result in rejection of offer.

18. ACCEPTANCE BY CITY

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The City shall have a reasonable time (but not less than 30 days) after receipt to inspect the goods and services tendered by vendor. The City at its option may reject all or any portion of such goods or services which do not, in City's sole discretion, comply in every respect with all terms and conditions of the contract. The City may elect to reject the entire goods and services tendered even if only a portion thereof is nonconforming. If the City elects to accept nonconforming goods and services, the City, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate the City for the nonconformity. Any acceptance by the City, even if non-conditional, shall not be deemed a waiver or settlement of any defect in such goods and services.

19. WARRANTY

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The supplies or services furnished under this contract shall be covered by the most favorable commercial warranties given to any customer for same or similar supplies or services.

20. CHANGE ORDERS

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders will be made in writing by the City of San Antonio Purchasing & General Services Department.

21. ASSIGNMENT

The successful vendor shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the City of San Antonio Purchasing & General Services Department. Any such assignment or transfer shall not release vendor from all contractual obligations.

07-107-08 Purchase, Installation of Shelving for Books at Hausman Road Branch Library

22. INTERLOCAL PARTICIPATION

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- a. The City may, from time to time, enter into Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance the City's purchasing power. At the City's sole discretion and option, City may inform other Entities that they may acquire items listed in this Request for Offer (hereafter "RFO"). Such acquisition(s) shall be at the prices stated herein, and shall be subject to vendor's acceptance. Entities desiring to acquire items listed in this RFO shall be listed on a rider attached hereto, if known at the time of issuance of the RFO. City may issue subsequent riders after contract award setting forth additional Entities desiring to utilize this contract. VENDOR shall sign and return any subsequently issued riders within ten calendar days of receipt.
- b. In no event shall City be considered a dealer, remarketer, agent or other representative of Vendor or Entity. Further, City shall not be considered and is not an agent, partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.
- c. Entity purchase orders shall be submitted to Vendor by the Entity.
- d. Vendor authorizes City's use of Vendor's name, trademarks and Vendor provided materials in City's presentations and promotions regarding the availability of use of this contract. The City makes no representation or guarantee as to any minimum amount being purchased by City or Entities, or whether Entity will purchase utilizing City's contract.

CITY WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY OBLIGATIONS, INCLUDING, BUT NOT LIMITED TO, PAYMENT, AND FOR ANY ITEM ORDERED BY AN ENTITY OTHER THAN CITY.

23.22. QUESTIONS

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Questions regarding interpretation of this request should be directed to the Purchasing & General Services Department at (210) 207-7260 and referenced by request name and number indicated on page one.

24.23. SOLE SOURCE EXEMPTION

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Local Government Code chapter §252.022 allows an exemption from competitive bidding for purchases considered to be "Sole Source" or a purchase for good or service available from only one source because of patents, copyrights, secret processes or natural monopolies. By accepting the terms and conditions of this request, vendor acknowledges and makes claim to be a sole provider of requested products or services.

Vendor must provide a statement from the Manufacturer describing the proprietary nature of the good(s) or service(s) as well as a statement that no similar product or

07 137 DS Purchase, Installation of Shelving for Books at Hausman Road Branch Library

service is available from any other source. This statement shall be submitted, along with the offer, on company letterhead and signed by an authorized representative of the company.

07-137-05 Purchase, Installation of Shelving for Books at Hausman Road Branch Library

SPECIFICATIONS AND GENERAL REQUIREMENTS

PERIOD OF CONTRACT: Upon award and terminating and terminating December 31, 200.

SCOPE OF CONTRACT:

The City of San Antonio is soliciting bids for purchase, installation of shelving for Books Hausman Road Branch Library located at 1330 Kyle Seale Parkway, San Antonio, Texas 78249.

I. GENERAL REQUIREMENTS:

- A. Prospective bidders must prove beyond any doubt to the City Purchasing Manager that they are duly qualified, capable, and bondable to fulfill and abide by the specifications herein listed.
- B. When contractor cannot abide by terms and conditions in fulfilling the contract, contractor must supply service or supplies from other sources at the contract price. If contractor delays in the above, the City reserves the right to purchase on the open market and charge contractor the difference between contract price and the purchase price.
- C. THE CITY OF SAN ANTONIO WILL MAKE THE AWARD TO ONE FIRM ONLY.
- D. The City reserves the right to extend the term of the contract in 30 day increments, not to exceed 90 days total with written notice to the vendor; provided, that the City shall give the vendor a preliminary written notice of its intent to extend at least 10 days before the contract expires. The preliminary notice does not commit the City to an extension.

07-137-DIS Purchase, Installation of Shelving for Books at Hausman Road Branch Library

D. INSURANCE:

INSURANCE REQUIREMENTS:

The contractor shall maintain, for the duration of this agreement and any extensions or renewals hereof, insurance by a company or companies qualified to do business in the State of Texas, and rated A- or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types and amounts:

Type	Amount
*Workers Compensation	Statutory
Employer's Liability	\$1,000,000/\$1,000,000/\$1,000,000
Commercial General (public) Liability Insurance to include coverage for the following:	For Bodily Injury and Property Damage of \$1,000,000 per occurrence;
a. Premises operations	\$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
b. Independent contractors	
c. Products/completed operations	
d. Personal Injury	
e. Contractual Liability	
f. Broad form property damage, to include fire legal liability	(1) \$50,000
Business Automobile Liability	Combined Single Limit for Bodily Injury and Property Damage of
a. Owned/leased vehicles	\$1,000,000 per occurrence
b. Non-owned vehicles	
c. Hired Vehicles	

Contractor agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

- Name the City and its officers, employees, volunteers, and elected representatives as additional insureds as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;

07-117-DS Purchase, Installation of Shelving for Books at Hausman Road Branch Library

- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.
- *Any alternate workers compensation employer's liability insurance plan submitted by the vendor must be approved by the City's Risk Management Dept.

Contractor shall provide the City with 30 days advance notice, in writing, of cancellation or material change in coverage.

With respect to all of the above insurance, the City of San Antonio shall a) be named as an additional insured (Commercial General Liability and Automobile Liability only); b) be provided with 30 days advance notice, in writing, of cancellation or material change; c) be provided with Certificates of Insurance evidencing the above required insurances.

III. GENERAL SPECIFICATIONS:

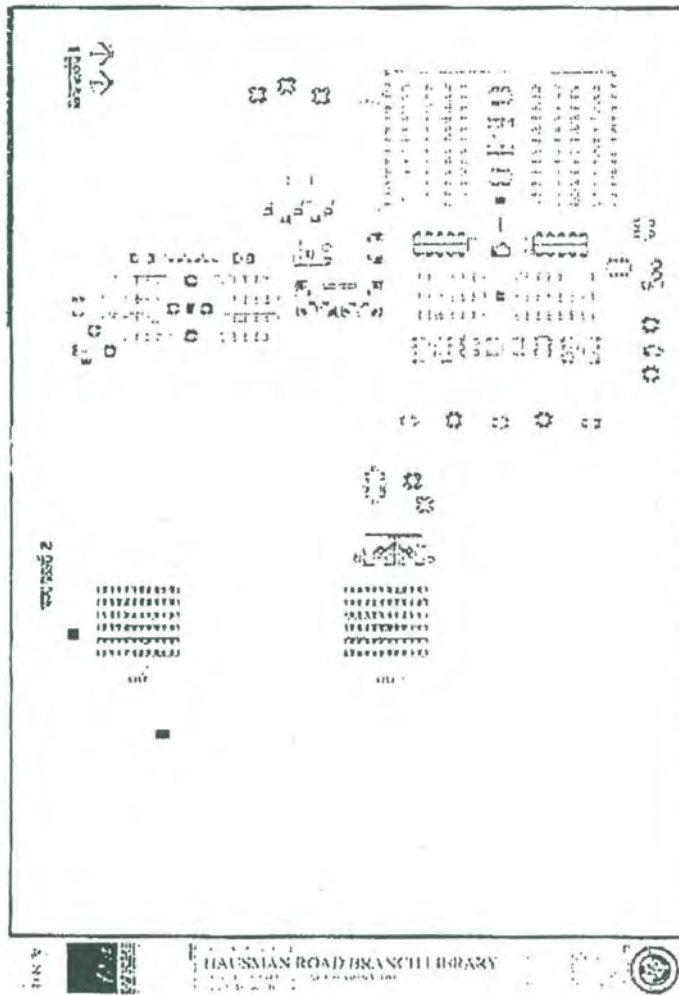
- A. This is a labor and materials contract. Contractor shall provide all necessary tools, test equipment, and transportation to and from job site.

IV. SPECIFICATIONS:

- A. Procuring and supplying the Montel Aetnastak, Inc. Shelving components on provided Price Schedule
- B. Must be an authorized Montel Aetnastak, Inc. Shelving dealer
- C. Experience with the installation with Montel Aetnastak, Inc. Shelving and components
- D. On-site professional supervision the day of the installation
- E. Final walk-through with COSA personnel on final day of installation to assure configuration matches design layout
- F. Award will be made to the low, qualified bidder.
- G. Bid prices shall include all costs associated with fulfilling requirements of contract.
- N. Any delivers of the shelving for this project must delivered between 8:00 AM & 5:00 PM.

07-137 DS Purchase, Installation of Shelving for Books at Hausman Road Branch Library

SEE ATTACHED FLOOR PLAN.



(NOT TO SCALE)

07-137-DS Purchase, Installation of Shelving for Books at Hausman Road Branch Library

PRICE SCHEDULE

ITEM QTY DESCRIPTION

1 1 EA Purchase, Installation of Shelving for Books at Hausman Road Branch Library

THIS IS A TURN KEY PROJECT

PRICE: \$ 82,306.05

Total Price must include equipment, parts, labor, and installation, trash removal, and any steel surcharges.

Equipment will be delivered and installed no later than Ninety (90) days after award of contract.

Vendors must submit a listing of all equipment being submitted with their bids to include make, model, and price below.

ITEM	QTY	DESCRIPTION	LINE PRICE	TOTAL AMOUNT
1	A / 88	Sections of Doublefaced shelving 78"h x 24"d x 36"w, base + 5 shelves per side Integral back shelf, Wire hook support, Sloped base shelf with out Canopy tops		
2	B / 24	Sections of Singlefaced shelving 78"h x 12"d x 36"w, base + 5 shelves per side Integral back shelf, Wire hook support, Sloped base shelf with out Canopy tops		
3	C / 15	Sections of Singlefaced shelving 48"h x 12"d x 36"w, base + 2 shelves per side Fixed browsing box, Pull out browsing box, Sloped divider base shelf, w/o tops		
4	D / 10	Sections of Doublefaced shelving 54"h x 24"d x 36"w, base + 3 shelves per side Integral back shelf, Wire hook support, Flat base shelf w/Canopy top supports		
5	E / 13	Sections of Doublefaced shelving 66"h x 24"d x 36"w, base + 4 shelves per side Integral back shelf, Wire hook support, Flat base shelf w/Canopy top supports		
6	F / 25	Sections of Doublefaced shelving 42"h x 24"d x 36"w, base + 2 shelves per side Divider shelf, Divider base shelf, 3 divider per shelf w/Canopy top supports		
7	G / 15	Sections of Doublefaced shelving 66"h x 24"d x 36"w, base + 4 shelves per side Divider shelf, Sloped divider base, 3 divider per shelf w/Canopy top supports		

07-137-DIS Purchase, Installation of Shelving for Books at Housman Road Branch Library

15	Sections of Singlefaced shelving 78"h x 12"d x 24"w, base + 5 shelves per side Integral back shelf, Wire book support, Sloped base shelf with out Canopy tops	11/3		
16	Sections of Singlefaced shelving 48"h x 12"d x 24"w, base + 2 shelves per side	1/1		
17	Fixed browsing box, Pull out browsing box, Sloped divider base shelf, w/o tops			
18	Sections of Singlefaced shelving 78"h x 12"d x 36"w, base + 5 shelves per side	1/2		
19	Integral back shelf, Wire book support, Sloped base shelf with out Canopy tops			
20	Sections of Doublefaced shelving 54"h x 24"d x 36"w, base + 2 shelves per side	K/7		
21	Hinged Periodical shelf, Hinged Periodical base shelf w/Canopy top supports			
22	Sections of Singlefaced shelving 90"h x 12"d x 36"w, base + 6 shelves per side	1/5		
23	Integral back shelf, Wire book support, Flat base shelf with out Canopy tops			
24				

	STOCK NUMBER/ ITEM	UNIT PRICE	TOTAL AMOUNT
25	DESCRIPTION Maple Wood End Panels 81"h x 25"w x 1 3/16", Plain w/ Arched Top		
26	Maple Wood End Panels 81"h x 25"w x 1 3/16", Plain w/ Arched Top & Slatwall		
27	Maple Wood End Panels 58"h x 25"w x 1 3/16", Plain w/ Arched Top & Slatwall		
28	Maple Wood End Panels 70"h x 25"w x 1 3/16", Plain w/ Arched Top & Slatwall		
29	Maple Wood End Panels 46"h x 25"w x 1 3/16", Plain w/ Arched Top		
30	Maple Wood End Panels 46"h x 25"w x 1 3/16", Plain w/ Arched Top & Slatwall		
31	Maple Wood End Panels 70"h x 25"w x 1 3/16", Plain w/ Arched Top		
32	Maple Wood End Panels 70"h x 25"w x 1 3/16", Plain w/ Arched Top & Slatwall		
33	Maple Wood End Panels 81"h x 14"w x 1 3/16", Plain w/ Arched Top		
34	Maple Wood End Panels 81"h x 14"w x 1 3/16", Plain w/ Arched Top		
35	Maple Wood End Panels 58"h x 26"w x 1 3/16", Plain w/ Arched Top & Slatwall		
36	Canopy Top 24"W x 252 1/4", x 1 3/16"		
37	Canopy Top 24"W x 216 1/4", x 1 3/16"		

07-137-138 Purchase, Installation of Shelving for Books at Hausman Road Branch Library

38	Canopy Top 24"W x 252 1/4"L x 1 3/16"H		
39	Canopy Top 24"W x 216 1/4"L x 1 3/16"H		
40	Canopy Top 24"W x 180"L x 1 3/16"H		
41	Canopy Top 24"W x 180"L x 1 3/16"H		
44	Canopy Top 24"W x 252 1/4"L x 1 3/16"H		

Statement:

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a completed conflict of interest questionnaire with the City Clerk not later than the 7th business day after the date that the person: (1) begins contract discussions or negotiations with the City; or (2) submits to the City an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City. The conflict of interest questionnaire form is available from the Texas Ethics Commission at www.ethics.state.tx.us <<http://www.ethics.state.tx.us>>. Completed conflict of interest questionnaires may be mailed or delivered by hand to the Office of the City Clerk. If mailing a completed conflict of interest questionnaire, mail to: Office of the City Clerk, P.O. Box 839966, San Antonio, TX 78283-3966. If delivering a completed conflict of interest questionnaire, deliver to: Office of the City Clerk, City Hall, 2nd floor, 100 Military Plaza, San Antonio, TX 78205."

07-117-DIS Purchase, Installation of Shelving for Books at Hausman Road Branch Library

This offer will not be considered timely unless this page is properly executed and returned with all required information.

Please complete the following:

Library Design Systems Inc.
Company Name

P.O. Box 250757

713-869-4075 () 713-869-4168

Address

Phone Number

Fax Number

Houston, Tx 77275
City, State, Zip Code

07-137-108 Purchase, Installation of Shelving for Books at Hansman Road Branch Library

By signing below, vendor acknowledges that he/she has read, understands and agrees to the terms and conditions contained within this request for offer.

Fred Baocom V.P.
Authorized Signature and Title

FRED BAOCOM V.P.
Printed Name and Title

8-14-07
Date Signed

LIBRARY DESIGN SYSTEMS, INC.

Quote:TX7601

ISSUED TO:

DATE:

Project:

San Antonio Public Library

1-Jun-07

Hausman Road Branch Library

600 Soledad Street, 4th floor

DATE REQ.

Kyle Searle Parkway & Hausman Rd

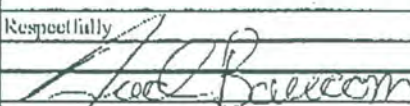
San Antonio, Texas 78205

San Antonio, Texas

Atten: Rich Walker

210-207-2637 Fax 210-207-2603

QTY. ORDERED	STOCK NUMBER/ ITEM DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
1	New Steel Shelving to Supply and Install:		
2	A Sections of Doublefaced shelving 78"h x 24"d x 36"w, base + 5 shelves per side		
3	88 Integral back shelf, Wire book support, Sloped base shelf with out Canopy tops	\$ 594.60	\$ 52,324.80
4	B Sections of Singlefaced shelving 78"h x 12"d x 36"w, base + 5 shelves per side		
5	24 Integral back shelf, Wire book support, Sloped base shelf with out Canopy tops	\$ 346.50	\$ 8,316.00
6	C Sections of Singlefaced shelving 48"h x 12"d x 36"w, base + 2 shelves per side		
7	15 Fixed browsing box, Pull out browsing box, Sloped divider base shelf, w/o tops	\$ 670.90	\$ 10,063.50
8	D Sections of Doublefaced shelving 54"h x 24"d x 36"w, base + 3 shelves per side		
9	19 Integral back shelf, Wire book support, Flat base shelf w/ Canopy top supports	\$ 400.90	\$ 7,617.10
10	E Sections of Doublefaced shelving 66"h x 24"d x 36"w, base + 4 shelves per side		
11	13 Integral back shelf, Wire book support, Flat base shelf w/ Canopy top supports	\$ 482.20	\$ 6,268.60
12	F Sections of Doublefaced shelving 42"h x 24"d x 36"w, base + 2 shelves per side		
13	25 Divider shelf, Divider base shelf, 3 divider per shelf w/ Canopy top supports	\$ 354.60	\$ 8,865.00
14	G / 3 Sections of Doublefaced shelving 66"h x 24"d x 36"w, base + 4 shelves per side		
15	15 Divider shelf, Sloped divider base, 3 divider per shelf w/ Canopy top supports	\$ 553.00	\$ 8,295.00
16	H / 1 Sections of Singlefaced shelving 78"h x 12"d x 24"w, base + 5 shelves per side		
17	3 Integral back shelf, Wire book support, Sloped base shelf with out Canopy tops	\$ 346.50	\$ 1,039.50
18	I Sections of Singlefaced shelving 48"h x 12"d x 24"w, base + 2 shelves per side		
19	1 Fixed browsing box, Pull out browsing box, Sloped divider base shelf, w/o tops	\$ 670.90	\$ 670.90
20	J / 1 Sections of Singlefaced shelving 78"h x 12"d x 36"w, base + 5 shelves per side		
21	2 Integral back shelf, Wire book support, Sloped base shelf with out Canopy tops	\$ 346.50	\$ 693.00
22	K Sections of Doublefaced shelving 54"h x 24"d x 36"w, base + 2 shelves per side		
23	7 Hinged Periodical shelf, Hinged Periodical base shelf w/ Canopy top supports	\$ 797.10	\$ 5,579.70
24	L Sections of Singlefaced shelving 90"h x 12"d x 36"w, base + 6 shelves per side		
25	5 Integral back shelf, Wire book support, Flat base shelf with out Canopy tops	\$ 378.10	\$ 1,890.50
26	1 Corner Filler L111148A	\$ 178.00	\$ 178.00
27	1 Corner Filler L111178A	\$ 219.00	\$ 219.00
28	62 Wood Canopy Supports L101WT2-LSF	\$ 5.80	\$ 359.60
29	62 Wood Canopy Supports L101WT2-RSF	\$ 5.80	\$ 359.60
30	92 Divider 6" h - 8"d / F67	\$ 3.10	\$ 285.20
31	100 Divider 6" h - 11"d / F610	\$ 3.70	\$ 370.00
32	440 Divider 6" h - 10"d / F69	\$ 3.40	\$ 1,496.00
33	Total Material List Price		\$ 114,891.00
34			

ORDERED	STOCK NUMBER / ITEM DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
35	Total Material List Price		\$ 114,891.00
36	Less TxMas Discount		\$ (71,002.64)
37	Net Material Cost		\$ 43,888.36
38	Freight		\$ 4,660.00
39	Installation		\$ 8,800.00
40	Total Steel Shelving Cost		\$ 57,348.36
41	Reference above legend and quantities to attached floor plan		
42			
43	Wood End Panels and Wood Canopy Tops to Supply and Install:		
44	8 Maple Wood End Panels 81" h x 25" w x 1 3/16" t, Plain w/ Arched Top	\$ 253.10	\$ 2,024.80
45	8 Maple Wood End Panels 81" h x 25" w x 1 3/16" t, Plain w/ Arched Top & Slatwall	\$ 286.90	\$ 2,295.20
46	6 Maple Wood End Panels 58" h x 25" w x 1 3/16" t, Plain w/ Arched Top & Slatwall	\$ 261.69	\$ 1,570.14
47	2 Maple Wood End Panels 70" h x 25" w x 1 3/16" t, Plain w/ Arched Top & Slatwall	\$ 310.70	\$ 621.40
48	4 Maple Wood End Panels 46" h x 25" w x 1 3/16" t, Plain w/ Arched Top	\$ 261.69	\$ 1,046.76
49	1 Maple Wood End Panels 46" h x 25" w x 1 3/16" t, Plain w/ Arched Top & Slatwall	\$ 217.08	\$ 217.08
50	9 Maple Wood End Panels 70" h x 25" w x 1 3/16" t, Plain w/ Arched Top	\$ 276.42	\$ 2,487.78
51	3 Maple Wood End Panels 70" h x 25" w x 1 3/16" t, Plain w/ Arched Top & Slatwall	\$ 230.30	\$ 690.90
52	3 Maple Wood End Panels 81" h x 14" w x 1 3/16" t, Plain w/ Arched Top	\$ 261.69	\$ 785.07
53	2 Maple Wood End Panels 58" h x 26" w x 1 3/16" t, Plain w/ Arched Top & Slatwall	\$ 195.83	\$ 391.66
54			
55	2 Canopy Top 24" W x 252 1/4" L x 1 3/16" t	\$ 706.15	\$ 1,412.30
56	1 Canopy Top 24" W x 252 1/4" L x 1 3/16" t	\$ 706.15	\$ 706.15
57	3 Canopy Top 24" W x 216 1/4" L x 1 3/16" t	\$ 606.14	\$ 1,818.42
58	5 Canopy Top 24" W x 180" L x 1 3/16" t	\$ 525.50	\$ 2,627.50
59	3 Canopy Top 24" W x 180" L x 1 3/16" t	\$ 525.50	\$ 1,576.50
60	Wood Material Cost		\$ 20,271.66
61	Freight		\$ 1,000.00
62	Installation		\$ 1,000.00
63	Total Wood Material Cost		\$ 22,271.66
64			
65	Reference above legend and quantities to attached drawings.		
66			
67	Project Summary for TxMas Pricing		
68	CISA Schedule		\$ 43,888.36
69	Wood End Panels & Wood Canopy Tops		\$ 20,271.66
70	Surcharge		\$ 2,570.08
71	Net Material		\$ 66,730.10
72	Freight Steel		\$ 4,694.95
73	Freight Wood		\$ 1,007.50
74	Installation		\$ 9,800.00
75	IPF Install 0.75%		\$ 73.50
76	Total		\$ 82,306.05
77			
78	Any questions that arise out of this proposal, please feel free to call and discuss.		
79			
80	Respectfully		
81			
82			
83	Fred Hatcom / Sales Manager		
84			
85			
86			
87			
88			
89			

LIBRARY DESIGN SYSTEMS, INC.

FACSIMILE TRANSMITTAL SHEET

TO: Don Smith	FROM: Fred D Baucom
COMPANY: City of San Antonio	DATE: 8-14-07
FAX NUMBER: 210 207-7270	TOTAL NO. OF PAGES INCLUDING COVER: 22
PHONE NUMBER: 210 207-4045	SENDER'S REFERENCE NUMBER:
RE:	YOUR REFERENCE NUMBER:

URGENT
 FOR REVIEW
 PLEASE COMMENT
 PLEASE REPLY
 PLEASE RECYCLE

NOTES/COMMENTS:

Mr. Don Smith

Attached is 19 page City of San Antonio contract with signatures and 2 page Itemized Material List with signature.

Any additional information needed feel free to call and request.

Respectfully

Fred Baucom V.P.

Fred Baucom / Vice President

Rebates: Pursuant to Texas Government Code § 2155.510(b), rebates generated from TXMAS contract purchases made using federal funds must be reported to the federal funding agency for reporting and reconciliation purchases. Each quarter of the State's fiscal year, TXMAS contractors rebate .75% of their TXMAS sales to the State of Texas via the Texas Building and Procurement Commission (TBPC). It is the purchasing entity's responsibility to report the amount of rebate using the above percent based on the total dollar value of the TXMAS purchase order.

Example: A purchasing entity receives and uses federal funds of \$50,000 to purchase items/services on a TXMAS contract. The purchasing entity must report to the federal fund-provider that a sales rebate of \$375 ($\$50,000 * .75\% = \375) will be paid to the State of Texas by the TXMAS contractor.



MONTEL AETNASTAK, INC.
Contract TXMAS-3-7110120

On-Line Catalog/Order Processing

OFFICE FURNITURE

Corporate Office:
 MONTEL AETNASTAK, INC.
 1170 HIGHWAY A1a
 SATELLITE BEACH FL 32937

USA

Send PO to:
 MONTEL AETNASTAK, INC.
 1170 HIGHWAY A1A
 SATELLITE BEACH FL 32937

USA

Vendor ID: 15932576729

Invoice From:
 MONTEL AETNASTAK, INC.
 1170 HIGHWAY A1A
 SATELLITE BEACH FL 32937

USA

Vendor ID:

CONTACT: JEAN-PIERRE DOUCET
 Phone 321-777-0464 x23
jpdoucet@montel.com

Delivery: 60-90 DAYS ARO

FOB Point:

Terms: NET 30

Remit To: MONTEL AETNASTAK, INC.
 1170 HIGHWAY A1A
 SATELLITE BEACH FL 32937

USA

Vendor ID:

Vendor ID: 15932576729

Business Type: Small

DUNS #: 188662704

Effective: 3/5/2003

Expires: 9/11/2007

Effective Date: This Texas Multiple Award Schedule (TXMAS) contract is effective beginning 3/5/2003 through 9/11/2007 and is automatically renewed on the date that the General Services Administration (GSA) exercises the renewal option. All State of Texas terms and conditions will continue and apply to all renewal periods by mutual agreement. The contractor has certified that the

prices reflected in the contractor's catalog are the same as the prices contained in the most current modification to GSA Contract No. GS-28F-0017M.

Placement of Orders: Purchasing entities must use both the instructions on the contractor's web page and the terms and conditions in the federal supply schedule to place orders. Purchasing entities may use either a departmental purchase order or the contractor's on-line ordering system to place orders. Purchasing entities may opt out of using the contractor's on-line ordering system if it is incompatible with the entity's purchasing procedures. The contractor is not required to accept orders below the minimum listed below. Orders between the minimum and maximum listed below are subject to GSA preferred customer pricing. For orders above the maximum, purchasing entities are entitled to negotiate for lower prices than those listed on the on-line federal supply schedule price list.

Order Limitation:

Minimum Order: \$100.00

Maximum Order: \$200,000.00

Approved Products/Services: Only products or services listed in the TBPC approved GSA contract may be purchased from this TXMAS contract, with one exception. Incidental, off-schedule items may be purchased as "best value, open market" items provided that they are necessary for product integration or product completeness. The purchasing entity is responsible for ensuring that the quoted price for such incidental items is fair and reasonable. These incidental items may be added to the TXMAS purchase order if they are clearly labeled as "open market (OM), best value" items.

State Contracts: All Texas Council for Purchasing from People with Disabilities contracts and Texas Correctional Industries (TCI) term contracts take precedence over this TXMAS contract. If similar products or services are listed on this TXMAS contract and a TBPC term contract, a determination should be made that will result in a best value purchase.

Payment Due Date: Payment will be due on the thirtieth (30) calendar day after the later of: (a) the date the State actually receives a proper invoice at the office designated in the applicable purchase order to receive it; or (b) the date the State accepts the products or services. The post mark date on the envelope for the State warrant (State's equivalent to a check) or banking information showing when a direct deposit transaction was received will be considered the date payment is made. Interest starts accruing on the first day that payment is late. The rate of interest for late payments is set at one percent per month.

Special Note: The State of Texas, including but not limited to its Agencies, cooperative purchasing members and any local governmental entity authorized by law to use the Texas Multiple Award Schedule method for purchasing is not obligated to procure any products or services from this TXMAS contract. This schedule contract shall not be construed to prevent the State from purchasing products or services using other procurement methods as authorized by law.

Keywords: Library Shelving Steel Shelving Mobile Storage System Mobile Filing System High Density Shelving High Density Storage Art Rack Museum Storage Museum Cabinet Multi Media Storage Compact Shelving Space Saving System Lateral Filing System

Contact Us

If you have any suggestions on how to improve TXMAS or this web site, please send an email to

txmas@fbpc.state.tx.us or call 512-463-8839 or 512-463-3421.

Designed using web standards, XHTML, CSS

Executive Director
Randall H. Riley



Texas Building and Procurement Commission

CHAIRMAN
Tom Beard

COMMISSIONERS
Stuart S. Coleman
Noe Fernandez
Bob Jones
Mary Ann Newman-
Buckley
Richard (Rick) Salwen

March 5, 2003

Mr. Jean-Pierre Doucet
Montel Aetnastak, Inc.
1170 Highway A1A
Satellite Beach, FL 32937

RE: Contract No. TXMAS-3-7110120
Contract Period: 03/05/03 through 02/14/07

Dear Mr. Doucet:

Your company has been awarded a contract under the Texas Multiple Award Schedule (TXMAS) program. The period of the contract is shown above and will coincide with the contract period of your contract, GS-28F-0017M, with the General Services Administration (GSA). As stated in your contract with the State of Texas, Terms and Conditions, you are responsible for notifying the Texas Building and Procurement Commission (TBPC) within thirty (30) calendar days of any change in the status of your contract with GSA or amendments to the Federal Schedule Contract.

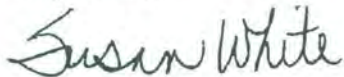
All terms and conditions set forth in the document that you signed as a part of your offer to the State are made a part of this TXMAS contract. Please note that any payment due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas. Additionally, the dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by the TBPC and the contractor to attempt to resolve all disputes arising under this contract.

As set forth in Section 8 of the Contract Terms and Conditions, a Quarterly Sales Report is required under this contract. The reporting requirement will commence for the period January through March, 2003. Subsequent reports will follow the calendar quarters (i.e., April-June, July-September, October-December, January-March).

Montel Aetnastak, Inc.
March 5, 2003
Page 2

In order to facilitate catalog access to TXMAS contractor catalogs, the TBPC will maintain a web page exclusive to your TXMAS contract. In addition to user instructions and informational details relating to the contractor, a universal resource locator (URL) address is required for the contractor's catalog. The catalog may be the same as the catalog used for the GSA Advantage e-procurement program, but it must have a TXMAS identifying cover and a URL, exclusive to the TXMAS program. It is requested that your catalog web address be established within fourteen (14) calendar days and provided by e-mail to the TXMAS Program Unit at txmas@tbpc.state.tx.us. If you have any questions regarding this or any of the other requirements relating to the TXMAS program, please contact Ted Maddry at 512-463-3384.

Respectfully,

A handwritten signature in cursive script that reads "Susan White".

Susan White, CTPM
Statewide Procurement Manager

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

THIS CONTRACT is by and between the STATE OF TEXAS ("State") acting through
The TEXAS BUILDING & PROCUREMENT COMMISSION ("TBPC"), with offices at
1711 San Jacinto Boulevard, Austin, Texas 78701 and MONTEL
AETNASTAK INC ("Contractor") with offices at 1170 HIGHWAY A1A
SATELLITE BEACH, FL. 32937

1. BACKGROUND:

The Contractor has entered into a contract with the Federal Government under the Federal Government's Supply Schedule Contract Program administered by the General Services Administration ("GSA"). That program allows a contractor and the GSA to negotiate in advance of actual purchases the terms and conditions under which a contractor will supply goods or services to the Federal Government. Such a Federal schedule contract is not a commitment to purchase any goods or services; it is only a convenient way to do so should a Federal agency so choose during the contract's term.

The Texas Building and Procurement Commission has also determined that the Contractor's Federal schedule contract offers goods or services that may be of interest to various state agencies and has therefore decided to use the Contractor's Federal contract as a basis for a state multiple award schedule contract with the Contractor. It is recognized that prices reflected on GSA schedule contracts are most favored customer prices and are maximum prices. A State Agency or Local Government may negotiate a lower price for goods and services listed on a schedule contract. This state multiple award schedule contract (the "Contract") establishes terms and conditions under which a state agency may acquire the Contractor's goods or services, but it in no manner obligates any state agency to do so.

TERMS & CONDITIONS

2. COMPOSITION OF CONTRACT:

This Contract consists of the terms of the Contractor's Federal Schedule Contract, Number GS-28F-0017M (the "Federal Schedule Contract" or "Schedule Contract"), as amended by this Contract (*see paragraph 30 "ENTIRE AGREEMENT"*). The

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

Contractor's Schedule Contract consists of all the documents and materials incorporated in that agreement with the Federal Government. Those documents include, among possible others, the Federal Government's original solicitation, the Contractor's offer to the Federal Government, with amendments, the Contractor's best and final offer letter, the final award, and the Contractor's most current version of its Authorized Schedule Price List. Additionally, all representations, clarifications, and certifications submitted by the Contractor as a part of that contracting process are also included. And it includes any laws, regulations, documents, guidelines, and other materials incorporated by reference in the Contractor's Schedule Contract, including all Federal Acquisition Regulation (FAR), Defense Federal Acquisition Regulation (DFAR), Federal Information Processing Standards Publication (FIPS PUB), Federal Standards (FED-STD) and United States Code (USC) provisions, among others. By way of example, such would include all cited FAR and DFAR provisions relating to warranties, liabilities, and rights in data, and the GSA's Price Reduction Clause, among others.

3. CERTIFICATION OF ACCURACY:

The Contractor hereby certifies that all copies of the Contractor's Authorized Schedule Price List that were submitted to the State as part of the negotiation of this Contract are true, correct, current, and complete copies of that Price List. The Contractor further represents and warrants that all future Price Lists submitted to revise this Contract will also be true, correct, current, and complete copies of the then-current Price List under the Contractor's then-current Federal Contract.

4. FEDERAL REPRESENTATIONS:

The Contractor warrants that all certifications and representations made to the Federal Government as a basis for obtaining or as a part of its GSA Schedule Contract were and still are true and accurate. The Contractor further agrees that such representations are a basis for the State entering into this Contract and that such representation and certifications inure to the State's benefit.

5. FUTURE NOTICE:

The Contractor acknowledges that any continuing obligation to notify the Federal Government of changes affecting its GSA Schedule Contract, including by way of example, notices required under the price reduction provisions of its Schedule Contract, must be provided in the same manner to the State. The State's rights under those notices will be the same as the rights of the Federal Government. Additionally, the Contractor

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

agrees to notify the State within thirty (30) calendar days of all changes in the status of or amendments to its Federal Schedule Contract.

6. PARTIES TO THE CONTRACT:

- (a) For purposes of this Contract, all references to "Government," "Federal Government," "GSA," or similar terms meaning the Federal Government in the Contractor's Schedule Contract will mean the "State." And references to the "Contracting Officer" will mean the State representative, or their successor or designee, who signed this Contract on behalf of the State. Additionally, for purposes of this Contract, all rights and obligations of the Contractor and the Federal Government under the Contractor's Schedule Contract, except to the extent that such would create an absurdity, or are otherwise clearly inappropriate, or would violate state or federal law, will be rights and obligations between the Contractor and the State.
- (b) This Contract may be relied on by any "State Agency" as defined under section 2251.001(8) of the Texas Government Code and any "Local Government" as defined under section 271.101 of the Texas Local Government Code. Whenever a Local Government relies upon this Contract to issue a purchase order, the Local Government will step into the shoes of the State under this Contract. Any order placed by a Local Government under this contract will be between the Contractor and the Local Government. The Contractor will look solely to the Local Government for performance, including but not limited to payment, and will hold the State harmless with regard to such orders. The State, however, will have the right to terminate this Contract and seek such remedies on termination as this Contract provides should the Contractor fail to honor its obligations under an order from a Local Government.
- (c) Nothing in this Contract requires the Contractor to accept an order from a Local Government where the Contractor reasonably believes that the Local Government is or will be unable to perform its obligations in relation to that order.

7. SPECIFIC CHANGES TO PROVISIONS INCLUDED IN CONTRACTOR'S SCHEDULE CONTRACT:

The State and the Contractor agree to the following changes to specific provisions of the Contractor's Federal Schedule Contract, notwithstanding anything to the contrary contained in the Contractor's Federal Contract:

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

- (a) All equipment will be new and all replacement parts will be new.
- (b) The ordering and payment addresses under this Contract will be those contained in the Contractor's offer letter to the State.
- (c) Payments and invoicing will be done according to the terms discussed under paragraph 12 "PAYMENT DUE DATE" and paragraph 13 "INVOICE REQUIREMENTS", below.
- (d) All shipping of equipment under warranty for repairs will be at the Contractor's expense.
- (e) All references to hours of the day will be deemed to be references to Central Standard/Daylight Time.
- (f) The State will not purchase goods or services for overseas delivery, or provide the Contractor with overseas support.
- (g) The Contractor will not offer to the State any products that are not Year 2000 compliant. All such items listed in the Contractor's Authorized Price List are deleted for purposes of the State.
- (h) As this Contract refers to a GSA schedule contract for convenience, orders under this Contract are not orders under the GSA schedule program. Therefore, the federal supply schedules for blanket purchase agreements, contractor team arrangements and purchase of incidental, non-schedule items, are not applicable to this Contract.
- (i) Those terms and conditions of the Contractor's offering documentation not specifically referenced by the Amendments delineated under this heading shall remain unchanged.
- (j) The contractor will provide a Universal Resource Locator (URL) address that is exclusive to the contractor's TXMAS contract and catalog. The "hot link" must allow users access to the contractor's TXMAS catalog from the TBPC website.

8. CONTRACTOR QUARTERLY SALES REPORT:

- (a) The Contractor must report the quarterly dollar value (in U.S. dollars and rounded to the nearest whole dollar) of the sales under this Contract by calendar quarter (i.e., January-March, April-June, July-September and October-December). The dollar value of the sale is the price paid by the

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

schedule user for the products and services on a schedule contract task or delivery order, as recorded by the Contractor.

- (b) The Contractor shall be required to report the quarterly dollar value of sales to the State electronically in a format provided by TBPC (see Attachment A). If no sales occur, the Contractor must show zero. The report must be submitted within thirty (30) calendar days following the completion of the reporting period.
- (c) The Contractor shall also submit a closeout report within one hundred and twenty (120) calendar days after the expiration of this Contract. The contract expires upon the physical completion of the last, outstanding task or delivery order of the Contract. The closeout report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all contract sales and reconciled all errors and credits on the final quarterly report, then the Contractor should show zero (0) sales in the closeout report.

The Contractor must submit the Quarterly Sales Report electronically to the following e-mail address:

txmas@tbpc.state.tx.us

or a diskette to the following address:

Texas Building and Procurement Commission
Texas Multiple Award Schedule Unit
P.O. Box 13047
Austin, TX 78711-3047

- (d) If the Contractor fails to submit sales reports, falsifies sales reports or fails to submit sales reports in a timely manner the State may terminate or cancel this Contract in accordance with paragraph 18 "CANCELLATION".

9. DISTRIBUTORS:

- (a) The State authorizes the Contractor to name one or more dealers to work with the State on behalf of the Contractor. But if the Contractor decides to use any dealers, the Contractor must submit the name, address, and telephone number of any such dealer, as well as the dealer's purchase order and payment address(es), Federal Employer's Identification number (FEI) and Dun and Bradstreet (DUNS) number if available. The Contractor must also submit a

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

completed W9 form for each dealer it wishes to name under this section. The Contractor's submission must be on its official letterhead, signed by an authorized representative, and addressed to the Director of Procurement. In doing so, the Contractor warrants that:

- (1) The dealer has been given a copy of this Contract, and a duly authorized representative of the dealer has agreed, in writing to be bound by the terms and conditions in this Contract.
 - (2) Such agreement specifically provides that it is for the benefit of the State as well as the Contractor.
 - (3) The Contractor agrees to remain liable under this Contract for any failure of the dealer to perform and any breach of the dealer under this Contract.
 - (4) Payments under this Contract for the services of any dealer may be made directly to that dealer, and the Contractor will look solely to the dealer for any payments due the Contractor once the State has paid the dealer.
 - (5) To the extent that there is any liability to the State arising from doing business with a dealer that has not signed the agreement required under this section with the Contractor, the Contractor will indemnify the State for such liability.
- (b) If the Contractor wants to designate a dealer that will not receive payments (a "distributor"), the Contractor may do so by identifying the person or organization as a distributor in the authorizing letter. One or more distributors may be identified in the authorizing letter. In such cases, information regarding taxpayer identification and payment addressing may be omitted, as may the distributor's W9 form and DUNS number. All other requirements and obligations for designating a dealer apply to designating a distributor.

10. POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS):

- (a) In accordance with the Texas Government Code, Sections 2161.181-182 and section 111.11 of the Texas Administrative Code (TAC), state agencies shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction, services, including professional and consulting services and commodities contracts. The Texas Building and Procurement Commission (TBPC) HUB Rules, 1 TAC 111.11-111.28 encourages the use of HUBs by implementing these policies through race-ethnic-and gender-neutral means.

STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)

- (b) The purpose of the HUB Program is to promote full and equal business opportunities for all businesses in State contracting in accordance with the goals specified in the State of Texas Disparity Study:
- (1) 11.9% for heavy construction other than building contracts;
 - (2) 26.1% for all building construction, including general contractors and operative builders contracts;
 - (3) 57.2% for all special trade construction contracts;
 - (4) 20% for professional services contracts;
 - (5) 33% for all other services contracts; and
 - (6) 12.6% for commodities contracts.
- (c) Each state agency shall make a good faith effort to meet or exceed these goals and assist HUBs in receiving a portion of the total contract value of all contracts that the agency expects to award in a fiscal year.
- (d) Contractors are urged to utilize Texas Certified HUBs as distributors or dealers whenever possible to promote full and equal business opportunities and assist state agencies in meeting the goals listed above. A random listing of Certified Texas HUB Vendors that are registered on the Texas Centralized Master Bidder List (CMBL) for the commodities included in the contract schedule is attached (see Attachment B). You are also strongly encouraged to make a good faith effort within the basic terms of the GSA contract and consider engaging the service of a HUB to meet your contractual obligation in Texas. The attached TXMAS HUB Good Faith Effort Certification must be completed and returned with this document (see Attachment C).

11. LIMITATION OF LIABILITY:

THE PARTIES AGREE THAT IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, EVEN IF THE PARTIES HAD BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

12. PAYMENT DUE DATE:

- (a) Except as provided for in section 2251.021(b) Texas Government Code payment by a State Agency or Local Government is due within thirty (30) calendar days after the later of:

STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)

- (1) the date the State Agency or Local Government receives the goods under the contract;
 - (2) the date the State Agency or Local Government receives a proper invoice (*see paragraph 13 "INVOICE REQUIREMENTS"*) for the goods or services; or
 - (3) the date the performance of the service under the contract is completed
- (b) Except as provided for in section 2251.021(b) Texas Government Code, a payment will begin to accrue interest at a rate of one percent a month on the 31st day after the later event described by subsections (a)(1) through (3). Interest stops accruing on the date the State Agency or Local Government mails (postmark) or electronically transmits the payment.

13. INVOICE REQUIREMENTS:

- (a) The Contractor must submit an original invoice with one (1) copy to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice must include the following information and/or attachments:
 - (1) Name and address of the Contractor as designated in this Contract.
 - (2) The Contractor's Texas Identification Number (TIN) as designated in this Contract.
 - (3) The Contractor's invoice remittance address as designated in this Contract.
 - (4) The purchase order number authorizing the delivery of products or services.
 - (5) A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36).
- (b) If an authorized dealer has fulfilled the purchase order, then the dealer's information should be supplied in lieu of the Contractor's information. If an invoice does not meet this section's requirements or if the Contractor fails to give proper notice of a price increase (*see paragraph 14 "NOTIFICATION OF PRICE INCREASE"*), the State will send the Contractor written notice with the improper invoice to the address designated for receipt of purchase orders within fifteen (15) calendar days after receipt of the invoice. The notice will contain a description of the defect or impropriety and any additional information the Contractor needs to correct the invoice.

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

14. NOTIFICATION OF PRICE INCREASES:

For price increases authorized under this contract, notification of such must be given to the TBPC and to the purchase order "bill to" address contained in the applicable purchase order(s) for any orders affected by the increase (e.g., existing leases, licenses, or annual maintenance programs). The Contractor must give these notices no later than thirty (30) calendar days before the effective date of the price increase. This notification must specify, when applicable, the product serial number, location, current price, increased price, and applicable purchase order number.

15. NON-APPROPRIATION OF FUNDS:

The State's funds are contingent on the availability of lawful appropriations by the Texas Legislature. If the Texas Legislature fails to continue funding for the payments due under an order referencing this Contract, the order will terminate as of the date that the funding expires, and the State will have no further obligation to make any payments.

16. PUBLIC INFORMATION:

Pursuant to Texas Government Code, Chapter 552, The Public Information Act, all information in the possession of the Texas Building and Procurement Commission is subject to disclosure in accordance with the provisions of the act.

17. TAXES:

The State is exempt from all state and local taxes and does not agree to pay any taxes.

18. CANCELLATION:

The State or the Contractor may cancel this Contract without cause on thirty (30) calendar days written notice. But, in the case of any lease of goods or services or any license of software or other intangible property entered into before the effective date of the termination, the State will have the right to continue such lease or license after termination on the same terms.

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

19. AUTOMATIC RENEWAL:

This contract is automatically renewed on the date that GSA exercises the renewal option. All State of Texas terms and conditions will continue and apply to all renewal periods unless modified by mutual agreement.

20. DELIVERIES: All deliveries will be F.O.B. Destination. *SEE EXCEPTION NO. 1
02/21/03 JRB*

21. EQUAL EMPLOYMENT OPPORTUNITY:

The Contractor will comply with all Texas laws regarding equal opportunity employment opportunity.

22. DRUG FREE WORKPLACE:

The Contractor will make a good faith effort to ensure that none of its employees are under the influence of or possess illegal drugs or alcohol or abuse prescription drugs while they are on State property.

23. CONTRACTOR AFFIRMATIONS:

- (a) The Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted contract.
- (b) Contractor hereby assigns to purchaser any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973) as amended, and the Texas Free Enterprise and Antitrust Act of 1983, Tex. Bus. & Comm. Code Sec. 15.01, et seq. (1983).
- (c) Neither the contractor nor the firm, corporation, partnership, or institution represented by the contractor, or anyone acting for such firm, corporation or institution has violated the antitrust laws of this State or Federal Antitrust laws, (see item b, above)
- (d) Pursuant to Texas Family Code 231.006 (d), (relating to child support), the Contractor certifies that the individuals or business entity named in this

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

contract is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and/or payment may be withheld if the certification is inaccurate.

- (e) Under Section 2155.004 Texas Government Code, the Contractor certifies that the individual or business entity named in this contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.
- (f) The Contractor shall defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution or performance of this contract.
- (g) Contractor agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the state of Texas.
- (h) Contractor certifies that they are in compliance with section 669.003 of the Texas Government Code, relating to contracting with executive head of a state agency. If section 669.003 applies, vendor will complete the following information in order for the offer to be evaluated:

Name of Former executive: _____

Name of State Agency: _____

Date of separation from State Agency: _____

Position with Contractor: _____

Date of Employment with Contractor: _____

24. PUBLICITY:

The Contractor will not advertise that it is doing business with the State or use this Contract as a marketing or sales tool without the prior, written consent of the State.

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

25. TRAINING REQUIREMENTS:

The Contractor will send as a minimum one corporate representative and one dealer/distributor representative from each authorized dealer/distributor for training on TXMAS procedures prior to receiving award of a TXMAS contract. The TXMAS Unit in Austin, Texas will provide training. Training dates, location and times will be coordinated with the TXMAS Unit.

26. TRAVEL EXPENSES:

Any travel or per diem required by the Contractor to do its obligations under this Contract will be at the Contractor's expense. All travel and per diem that the State requests in addition to what this Contract requires the Contractor to provide at the Contractor's expense will be paid in accordance with State of Texas Travel Allowance Guide.

27. HEADINGS:

The headings used in this Contract are for convenience only and will not be used in interpreting this Contract.

28. ASSIGNMENT:

The Contractor will not assign this Contract without the written consent of the State.

29. ORDER OF PRIORITY:

If there is any inconsistency or conflict between this document and any provision of anything incorporated by reference, this document will prevail.

30. ENTIRE AGREEMENT:

This Contract consists of the Contractor's Schedule Contract (see Composition of Contract Section 2), this Contract document, the Contractor's State Offer Letter, and, if applicable, the Contractor's letter(s) designating dealers (and/or distributors), and any price lists or catalogs specifically mentioned elsewhere in this Contract. The foregoing constitutes the entire agreement between the parties, and any changes or modifications to this Contract must be in writing.

**STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS)**

31. GOVERNING LAW:

This Contract is governed by and will be construed under Texas law, and venue for any dispute will be in a court of competent jurisdiction in Travis County, Texas.

32. SEVERABILITY:

If any part of this Master Agreement shall be declared unlawful, all other provisions not affected shall remain in full force and effect

TO SHOW THEIR AGREEMENT, the parties have executed this Contract on the date(s) below and unless otherwise indicated is effective as of the date of signature by the State.

THE CONTRACTOR

By: 

Title: VICE-PRESIDENT

Date: 2-21-03

STATE OF TEXAS,
TEXAS BUILDING & PROCUREMENT
COMMISSION
PROCUREMENT DIVISION

By: 
James R. Railey, Director

By: 
Ted R. Maddry, CTPM
Projects & Support Manager

Date: 3-05-03

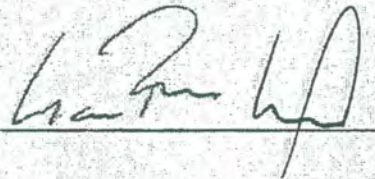
EXCEPTION NO.1 TO TXMAS CONTRACT
FEBRUARY 21, 03

Montel Aetnastak Inc. GSA contract is F.O.B. Point of Production: Montmagny, Quebec, Canada

Amend item (20) TXMAS contract to read: Deliveries: All deliveries are F.O.B. Point of Production: Montmagny, Quebec, Canada.

THE CONTRACTOR

STATE OF TEXAS,
TEXAS BUILDING & PROCUREMENT
COMMISSION
PROCUREMENT DIVISION

By: 

James R. Railey, Director

Title: VICE PRESIDENT

By: _____

Ted R. Maddy, CTPM
Projects & Support Manager

Date: 2-21-03

To Prospective Texas Multiple Award Schedule (TXMAS) Vendors

Subject: Historically Underutilized Business (HUB)
Good Faith Effort Certification

As addressed in the basic Contract Terms and Conditions, contractors are strongly encouraged to engage the services of Texas Certified HUBs as distributors or dealers whenever possible to promote full and equal business opportunities and to assist state agencies in meeting the goals specified in the State of Texas Disparity Study. The decision to utilize the services of a currently Certified Texas HUB must be based on a good faith effort and as a potential contractor you are required to show documented evidence that an active participatory role for a HUB entity was considered. Should you elect to use the services of a Minority Business Enterprise (MBE) or Disadvantaged Business Enterprise (DBE) that may be eligible for Texas Hub certification, arrangements can be made to expedite the application process.

Please answer the following questions by selecting the response that applies to your good faith effort decision. Check the appropriate response(s).

- YES NO 1. Are the services of a Certified Texas HUB being utilized to perform the contract referred to in the Terms and Conditions? **
- YES NO 2. Are the services of a MBE/DBE or equivalent that maybe eligible for Texas HUB certification being utilized to perform the contract referred to in the Terms and Conditions?
- YES NO 3. Will a Small Business as defined by regulations of the Small Business Administration (SBA) in 13 C.F.R., Section 121.201 perform the basic contract as awarded by the General Services Administration (GSA)?
- YES NO 4. Will the contract be performed by a distributor, dealer or manufacturer under existing agreements approved by GSA that do not include Small Business/MBE/DBE/HUB participation?

Note: This document will become an attachment to the Contract Terms and Conditions and is affirmed by the signature on the Contract Terms and Conditions.

** The attached randomly selected list of Certified Texas HUBs dealing in the goods and services included in this multiple award schedule contract opportunity should be considered in the selection/decision process.

TXMAS-3-7110120
Montel Aetnasta

STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) CONTRACT
TERMS AND CONDITIONS, MODIFICATION NUMBER 1

In accordance with Section 30, "Entire Agreement" of the Multiple Award Schedule (TXMAS) Contract, the following changes and modifications are hereby made to the previously executed TXMAS Contract Terms and Conditions document:

Section 7, "Specific Changes to Provisions Included in Contractor's Schedule Contract": Subsection (h) is changed and subsection (k) is added:

From:

- (h) As this Contract refers to a GSA schedule contract for convenience, orders under this Contract are not orders under the GSA schedule program. Therefore, the federal supply schedules for blanket purchase agreements, contractor team arrangements and the purchase of incidental, non-schedule items, are not applicable to this Contract.

To:

- (h) As this Contract refers to a GSA schedule contract for convenience, orders under this Contract are not orders under the GSA schedule program. Therefore, the federal supply schedules for blanket purchase agreements and contractor team arrangements are not applicable to this contract. However, for administrative convenience and to satisfy a total best value procurement requirement, a purchasing entity may, if the quoted price is determined to be fair and reasonable, purchase incidental items that are not on the GSA contract schedule. The purchase of incidental, off schedule items will be treated as an open market purchase and clearly labeled on the schedule purchase order as open market (OM) items.

Add:

- (k) In conjunction with the submission of the Contractor Quarterly Sales Report referred to in Section 8 of this document, the Contractor shall remit to the State of Texas a sales rebate which will not exceed the GSA Industrial Funding Fee (IFF) that is in effect at the time of the Quarterly Sales Report submission.

Section 8, "Contractor Quarterly Sales Report": The section is changed by revising subsections (a), (b) and (c). Subsection (c) is relettered and new subsections (c) and (d) and (f) are added or created from the previous text.

From:

- (a) The Contractor must report to the quarterly dollar value (in U.S. dollars and rounded to the nearest whole dollar) of the sales under this Contract by calendar quarter (i.e., January-March, April-June, July-September and October-December). The dollar value of the sale shall be the price paid by the

STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) CONTRACT

schedule user for the products and services on a schedule contract task or delivery order, as recorded by the Contractor.

- (b) The Contractor shall be required to report the quarterly dollar value of sales to the State electronically in a format provided by TBPC (see Attachment A). If no sales occur, the Contractor shall report zero. The report must be submitted within thirty (30) calendar days following the completion of the reporting period.
- (c) The Contractor shall also submit a closeout report within one hundred and twenty (120) calendar days after the expiration of this Contract. The contract expires upon the physical completion of the last, outstanding task or delivery order of the Contract. The closeout report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all contract sales and reconciled all errors and credits on the final quarterly report, then the Contractor should show zero (0) sales in the closeout report.

The Contractor must submit Quarterly Sales Report electronically to the following e-mail address:

txmas@tbpc.state.tx.us

or a diskette to the following address:

Texas Building and Procurement Commission
Texas Multiple Award Schedule Unit
P.O. Box 13047
Austin, TX 78711-3047

- (d) If the Contractor fails to submit sales reports, falsifies sales reports, or fails to submit sales reports in a timely manner, the State may terminate or cancel this Contract in accordance with Paragraph 18 "CANCELLATION".

To:

- (a) The Contractor shall report to the State the quarterly dollar value (in U.S. dollars and rounded to the nearest whole dollar) of the sales under this Contract by fiscal quarter (i.e., September-November, December- February, March- May, June- August). The dollar value of the sale shall be the price paid by the schedule user for the products and services on a schedule contract task or delivery order, as recorded by the Contractor.

STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) CONTRACT

- (b) The Contractor shall report the quarterly dollar value of sales electronically in the on-line format provided by TBPC (See Section 8(f), below). If no sales occur, the Contractor shall report "zero" sales. The report shall be submitted within thirty (30) calendar days following the completion of the reporting period.
- (c) As a component of the Contractor Quarterly Sales Report the Contractor shall remit a Sales Rebate that is authorized by the Texas Government Code Chapter 2155.510. The Sales Rebate shall be based on the GSA Industrial Funding Fee rate that is effective at the time of the report submission. The Sales Rebate rate that will apply to Contract Quarterly Sales Reports submitted for the fiscal quarters commencing March 2004 shall be 0.75%. This rate shall apply to all quarterly Sales Rebates until a new rate is set by GSA.
- (d) The Sales Rebate remittance should be identified as "TXMAS Sales Rebate" and made payable to TBPC. The remittance address is: Texas Building and Procurement Commission, Attn: Fiscal Division, Post Office Box 13047, Austin, TX 78711-3047
- (e) The Contractor shall also submit a final closeout report within one hundred and twenty (120) calendar days after the expiration or termination of this Contract. The contract shall expire upon the physical completion of the last outstanding task or delivery the final order under the Contract. The closeout report shall include all sales not shown in the final or most recent quarterly report and shall reconcile all errors and credits. If the Contractor reported all contract sales and reconciled all errors and credits on the final quarterly report, then the Contractor should show zero(0) sales in the closeout report.
- (f) The Quarterly Sales Report shall be submitted electronically to the following e-mail address:

txmas@tbpc.state.tx.us

or by a diskette delivered to the following address:

Texas Building and Procurement Commission
Texas Multiple Award Schedule Unit
P.O. Box 13047
Austin, TX 78711-3047
- (g) If the Contractor fails to submit sales reports, falsifies sales reports, or fails to submit sales reports in a timely manner, the State may terminate or cancel this Contract in accordance with Paragraph 19 ("CANCELLATION").

STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) CONTRACT

Section 13, "Invoice Requirements": Subsection (a) is changed:

From:

- (a) The Contractor must submit an original invoice with one (1) copy to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice must include the following information and/or attachments:
- (1) Name and address of the Contractor as designated in this Contract.
 - (2) The Contractor's Texas Identification Number (TIN) as designated in this Contract.
 - (3) The Contractor's invoice remittance address as designated in this Contract.
 - (4) The purchase order number authorizing the delivery of products or services.
 - (5) A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36).

To:

- (a) In order to receive payment, Contractor must submit an original invoice to the office designated in the purchase order as the "Bill To" address. To be a proper invoice, the invoice must include the following information and/or attachments:
- (1) Name and address of the Contractor as designated in this Contract.
 - (2) The Contractor's Texas Identification Number (TIN) as designated in this Contract.
 - (3) The Contractor's invoice remittance address as designated in this Contract.
 - (4) The purchase order number authorizing the delivery of products or services.
 - (5) A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36).

STATE OF TEXAS
TEXAS BUILDING AND PROCUREMENT COMMISSION
TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) CONTRACT

Section 14, "Audit Requirements". New section is added and subsequent sections are renumbered:

Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.

Section 20, "Deliveries". Section is renumbered Section 21 and changed:

From: All deliveries will be F.O.B. Destination.

To: Unless stated otherwise in the federal supply schedule, all deliveries will be F.O.B. Destination.

To show their agreement, the parties have executed this modification to the State of Texas, Texas Building and Procurement Commission, Texas Multiple Award Schedule (TXMAS) Contract on the dates(s) below and unless otherwise indicated is effective as of the date of signature by the State.

The Contractor
MONTEL AETNASTAK INC
TXMAS - 3-7110120

By: 

Title: VP

Date: 10/18/04

State of Texas
Texas Building and
Procurement Commission

By: 

Ted R. Maddy
Projects and Support Manager

Date: 12-01-04