

STATE USE CONTRACT

This Contract for vegetation and litter control is entered into by and between the Receiving Party and the Performing Party, based upon negotiated price and specifications and certified by TIBH Industries, Inc., as a contract under the provisions of Chapter 122 of the Human Resources Code.

AGREEMENT

In consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

ARTICLE 1. CONTRACTING PARTIES

Receiving Party: City of San Marcos, Texas
Performing Party: Easter Seals – Central Texas
Certifying Party: TIBH Industries, Inc.

ARTICLE 2. CONTRACT PERIOD

The contract period for this Agreement begins on October 1, 2017, and will end on September 30, 2018.

ARTICLE 3. SERVICES TO BE PERFORMED

The Performing Party will perform the following services:

| Services To Be Performed | Annual Cycles |
|--|---------------|
| a) Downtown alleys – mow, trim, and litter pickup | 12 |
| b) San Marcos Consolidated School District Right of Way (“ROW”) – mow, trim, and litter pickup | 12 |
| c) City wide alleys/ROW (exclusive of the downtown alleys) – mow, trim, and litter pickup | 6 |
| d) City lots – mow, trim, and litter pickup | 12 |
| e) Craddock Avenue medians – mow, trim, and litter pickup | 12 |
| f) City Property behind Sam’s Club/Davis Lane – mow | 4 |
| g) City wide drainage/easement – mow, trim, and litter pickup | 5 |
| h) City wide flower beds (billed by the man hour as requested) | |
| i) Athletic fields – mow and trim | 66 |
| j) Downtown sweeping (billed by the man hour as requested) | |
| k) Downtown trash receptacles – empty all trash and recycle cans (4 days per week) | 52 |
| l) Litter pickup at Rio Vista Dam and Capes Dam (billed by the man hour as requested) | |
| m) San Marcos roadway area litter pickup (per acre) | 24 |

| | |
|--|----|
| n) McCarty Lane – mow, trim, litter pickup, and flower bed | 12 |
| o) Wonder World Drive – mow, trim, and litter pickup | 4 |
| p) Interstate Highway 35 (inside city limits) – mow, trim, and litter pickup | 10 |
| q) Neighborhood Parks – mow, trim, and litter pickup | 18 |
| r) Five Mile Dam Complex – 66 cycles of mowing soccer fields | 66 |
| s) Five Mile Dam Complex - mow, trim maintain flower beds | 24 |
| t) Blanco Shoals – 6 cycles of mowing | 6 |

The Performing Party will observe all safety requirements established by the Texas Department of Transportation during the pick-up process. In addition, the Performing Party will haul all trash to the City's facility on River Road and will provide all necessary equipment to accomplish its services. In those areas that require the use of a mower, the height of the blades will be set at a maximum of two (2) to three (3) inches. For those areas requiring the use of weed-eaters, the Performing Party will strive to maintain a uniform height of approximately four (4) inches. In addition, the Performing Party will chip all wooded material at the City's compost site and make use of the existing roll-off container provided by the City. These services are to be performed in locations identified by the Receiving Party. The Performing Party will perform all services in accordance with the descriptions contained in this Agreement and as further detailed in Attachment A. The schedule for work identified in this Agreement is tentative. Should the Receiving Party wish to modify this schedule, the Performing Party will adjust the schedule to meet the Receiving Party's needs.

ARTICLE 4. CONTRACT AMOUNT

The total amount to be paid by the Receiving Party to the Performing Party for services under this contract will be the annual sum of \$1,110,238.67, in accordance with **Attachment A**. Should the Performing Party be required to haul materials to a disposal location other than the City's compost site, the City will be billed at a rate of \$16.50 per cubic yard.

ARTICLE 5. PAYMENT FOR SERVICES

The Receiving Party will pay TIBH Industries, Inc., as assignee and servicing agent of the Performing Party's interest in the payment under this contract (as directed) for goods and services received. Upon receipt of a proper invoice or voucher submitted by TIBH Industries, Inc., such payment will be made within thirty (30) calendar days from receipt of same.

Payment by the Receiving Party to TIBH Industries, Inc., as assignee to the Performing Party will be based upon bills presented monthly, with billing based upon the actual performance of the specified work by location.

ARTICLE 6. TERMINATION

This Agreement may be terminated under any one of the following conditions:

- a) By mutual agreement and consent of both parties.

- b) By the Receiving Party giving written notice to the Performing Party and the Certifying Party as a consequence of failure by the Performing Party to satisfactorily perform the services and obligations set forth in this Agreement, with proper allowances being made for circumstances beyond the control of the Performing Party.
- c) By either party upon thirty (30) calendar days written notice to the other.

ARTICLE 7. REMEDIES

Violation or breach of contract terms by the Performing Party will be grounds for termination of this Agreement, and any increased costs arising from the Performing Party's default, breach of contract, or violation of terms will be paid by the Performing Party. This Agreement will not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and will be cumulative.

ARTICLE 8. SUBLETTING

The Performing Party will not sublet or transfer any portion of its responsibilities and obligations under this Agreement unless specifically authorized to do so in writing by the Receiving Party.

ARTICLE 9. SUCCESSORS AND ASSIGNS

The Performing Party will not assign or otherwise transfer its rights or obligations under this Agreement except with the prior written consent of the Receiving Party.

ARTICLE 10. LEGAL CONSTRUCTION

In the event that any one or more of the provisions contained in this Agreement will for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provisions thereof and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

ARTICLE 11. GOVERNING LAWS AND VENUE

This Agreement will be construed under and in accordance with the laws of the State of Texas. Any legal actions regarding the parties' obligations and any matters whatsoever arising from this Agreement will be filed and maintained in Hays County, Texas.

ARTICLE 12. PRIOR AGREEMENTS SUPERSEDED

This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting to this subject matter.

ARTICLE 13. FUNDING OUT

As applicable to this Agreement, the Performing Party understands that funds for the payment for work performed by the Performing Party under this Agreement have been provided through the City's budget approved by the City Council for the current fiscal year only. State statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. The City cannot guarantee the availability of funds and enters into this Agreement only to the extent such funds are made available. The Performing Party acknowledges and agrees that it will have no recourse against the City for its failure to appropriate funds for the purposes for this Agreement in any fiscal year other than the year in which this Agreement was executed. The fiscal year for the City extends from October 1st of each calendar year to September 30th of the following calendar year.

ARTICLE 14. INSURANCE AND INDEMNITY

The Performing Party will hold harmless, indemnify, and defend the Receiving Party and its employees, agents, officers, and servants from any and all lawsuits, claims, demands, and causes of action of any kind arising from the negligent or intentional acts, errors, or omissions of the Performing Party, its officers, employees, or agents. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the Receiving Party in favor of any party, including the amounts of any damages or awards resulting from claims, demands, and causes of action for personal injuries, death, or damages to property.

The Performing Party will procure and maintain, at its expense, insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Performing Party or its agents, subcontractors, or employees. Before commencing the work, the Performing Party will furnish to the Receiving Party a certificate or certificates in a form satisfactory to the Receiving Party showing that the Performing Party has complied with this paragraph. All certificates will provide that the policy will not be changed or cancelled until at least thirty (30) calendar days written notice will have been given to the Receiving Party. Commercial general liability insurance and motor vehicle insurance will be written with the City of San Marcos, Texas, as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City. The kinds and amounts of insurance required are as follows:

Workers' Compensation Insurance: In accordance with the provisions of the Workers' Compensation Act of the State of Texas.

Liability Insurance: (1) Commercial general liability insurance with a combined single limit of \$1,000,000 for each occurrence and \$1,000,000 in the aggregate; and (2) motor vehicle liability insurance in an amount not less than \$1,000,000 for injuries to any one person, \$1,000,000 on account of any one accident, and in an amount of not less than \$1,000,000 for property damage.

The stated limits of insurance required by this Paragraph are **minimum only** and it will be the Performing Party's responsibility to determine what limits are adequate. These limits may be met by basic policy limits or any combination of basic limits and umbrella limits. The Receiving

Party's acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Performing Party from compliance with these requirements.

ARTICLE 15. NOTICE TO PARTIES

Notice to be effective under this contract must be in writing and received by the party against whom it is to operate. Notice is received by a party as follows: (1) when it is delivered to the party personally; (2) on the date shown on the return receipt if mailed by registered or certified mail, return receipt requested, to the party's address specified in this Article 15 and signed on behalf of the party; or (3) three business days after its deposit in the United States mail, with first-class postage affixed, addressed to the party's address specified in this Article 15. Any party may change its address by providing notice of such change in accordance with the requirements of this Article 15.

The Receiving Party's address is as follows:

Rodney Cobb, Executive Director
Parks and Recreation Department
City of San Marcos
630 East Hopkins Street
San Marcos, Texas 78666

The Performing Party's address is as follows:

Richard Fogelson, Senior Director of Paid Job Training
Easter Seals Central Texas
8505 Cross Park
Austin, Texas 78754

The Certifying Party's address is as follows:

Abby Monk, Regional Marketing Manager
TIBH Industries, Inc.
1011 East 53 ½ Street
Austin, Texas 78751

ARTICLE 16. MISCELLANEOUS

Each individual signing this contract on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

This Agreement represents the entire Agreement of the parties, and an amendment to it is not effective for any purpose unless in writing and signed by all parties.

This contract is binding on and inures to the benefit of the parties' successors in interest.

IN WITNESS WHEREOF, the parties have signed duplicate originals of this Agreement as follows:

CERTIFICATIONS

THE UNDERSIGNED PARTIES do hereby certify that (1) the services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected parties of Local and State Government, and (2) the services, goods on contract are not supplied by Section 21 of Article XVI of the Constitution of the State of Texas to be supplied under contract given to the lowest responsible bidder.

RECEIVING PARTY

Receiving Party further certifies that it has authority to contract for the above services by authority granted by Chapter 122, Human Resources Code.

CITY OF SAN MARCOS

By: _____
City Manager

PERFORMING PARTY

The undersigned signatory for the Performing Party hereby represents and warrants that he or she is an officer of the organization for which he or she has executed this contract, and that such officer has full and complete authority to enter into this contract on behalf of the Performing Party, and the Performing Party has legal authority to perform the activities provided for herein.

PERFORMING PARTY:
EASTER SEALS CENTRAL TEXAS

By: _____
Authorized Signature

Printed Name, Title

CERTIFYING PARTY

The undersigned signatory for the Certifying Party hereby represents and warrants that he or she is an officer of the organization for which he or she has executed this contract, and that such officer has full and complete authority to enter into this contract on behalf of the Certifying Party, and the Certifying Party has legal authority to perform the activities provided for herein.

CERTIFYING PARTY:
TIBH INDUSTRIES, INC.

By: _____
Authorized Signature

Printed Name, Title

ATTACHMENT A



Easter Seals Central Texas
315 East St. Elmo
Austin, Texas 78745
(512) 440-7819
www.centraltx.easterseals.com

May 23, 2017

Mr. Ken Claybourn / Community Services Business Operations Manager
City of San Marcos, Community Services Department
630 East Hopkins
San Marcos, Texas 78666

RE: Proposed Rate Increase and Amendments to the FY2017 Vegetation Control, Debris Removal, and Landscape Maintenance Contract.

Dear Mr. Claybourn:

We would like to submit our proposed rate and amendments increase to the FY2017 Vegetation Control, Debris Removal, and Landscape Maintenance Contract, for the upcoming FY2018 service contract.

The proposed rate increase from the current FY2017 contract to the new FY2018 contract is \$11,470.13. This rate change increases the total contract cost to \$1,054,536.53

The proposed amendments increase the new FY 2018 contract by \$55,702.14. The amendments to the new FY2018 contract are as follows:

--Add 66 cycles of mowing the soccer fields at the 5 Mile Dam Complex. This is a new mowing service. Cost will be \$437.61 per cycle for a total increase to the contract of \$28,882.26.

--Add 24 cycles of mowing, trimming, and maintenance, to the flower beds in the non-playing area of the 5 Mile Dam Complex. This is a new service. Cost will be \$794.33 per cycle for a total increase to the contract of \$19,063.92.

--Add 6 cycles of mowing at Blanco Shoals. To include four river access cuts, two on both sides of the river for a cost of \$1,292.66 per cycle. The total cost increase for this service is \$7,755.96.

The total proposed service cost for the FY2018 Vegetation Control, Debris Removal, and Landscape Maintenance Contract will be **\$1,110,238.67**.





Easter Seals Central Texas
315 East St. Elmo
Austin, Texas 78745
(512) 440-7819
www.centraltx.easterseals.com

Page 2

Should you have any questions or need additional information, please feel free to contact Abby Monk with TIBH at (512) 451-8145, William Smeeton or myself at (512) 440-7819.

Sincerely,

A handwritten signature in purple ink, appearing to read "Richard Fogelson", is written over a faint, larger outline of the same signature.

Richard Fogelson
Senior Director of Paid Job Training
Easter Seals Central Texas
Office – 512-440-7819





Easter Seals Central Texas
 315 East St. Elmo
 Austin, Texas 78745
 (512) 440-7819
 (512) 441-6632 fax
www.centraltx.easterseals.com

VEGETATION CONTROL, DEBRIS REMOVAL, AND LANDSCAPE MAINTENANCE

FOR SAN MARCOS FY2018 portion of contract

| Description | | PROPOSED | FY2018 Total | |
|--|--------|------------------|---------------------|-----------------|
| | Cycles | Square Feet | Proposed Rate | Total Amt |
| Downtown Alleys mow, trim, and litter pickup | 12 | 176,208.00 | \$ 0.00464 | \$ 9,811.27 |
| SMCISD ROW's mow, trim, and litter pickup | 12 | 220,656.20 | \$ 0.00464 | \$ 12,286.14 |
| City Wide Alleys/ROW's -- mow, trim and litter pickup | 6 | 7,157,318.40 | \$ 0.00464 | \$ 199,259.74 |
| City lots -- mow, trim and litter pickup | 12 | 283,184.00 | \$ 0.00464 | \$ 15,767.69 |
| Craddock Medians -- mow, trim, and litter pickup | 12 | 104,999.50 | \$ 0.00464 | \$ 5,846.37 |
| City Property behind Sam's Club/ Davis Lane Mow | 4 | (acre) 44.4 | \$ 16.48 | \$ 2,926.85 |
| City Wide drainage / easement mow, trim and litter pickup | 5 | 4,213,021.00 | \$ 0.01683 | \$ 354,525.72 |
| City Wide Flowerbeds (billed by the man-hour) | | 900.00 | \$ 18.43 | \$ 16,587.00 |
| Athletic Fields mow and trim | 66 | 989506.00 | \$ 0.000525 | \$ 34,286.38 |
| Downtown Sweeping (billed by the man-hour) | | 2316.5 | \$ 16.41 | \$ 38,013.77 |
| Downtown Trash recepticals (empty all trash and recyle cans 4xwk) | 52 | (4 days week) | \$ 394.00 | \$ 20,488.00 |
| Litter pickup @ Rio Vista & Capes Dam (billed by the M/H) | | \$ 3,181.81 | \$ 22.83 | \$ 72,640.72 |
| S.M. Roadway area litter pickup (acre) | 24 | (acre) 354.38 | \$ 9.00 | \$ 76,546.78 |
| McCarty Lane -- mow, trim, and litter pickup, flowerbed | 12 | 430000.00 | \$ 0.00360 | \$ 18,576.00 |
| Wonder World -- mow, trim, and litter pickup | 4 | 1610400.00 | \$ 0.00360 | \$ 23,189.76 |
| IH35 -- mow/trim city limits | 10 | 12310435.00 | 0.00065777 | \$ 80,974.35 |
| Neighborhood Parks -- mow, trim, and litter pickup | 18 | | \$ 4,045.00 | \$ 72,810.00 |
| 2018 Amendment | | see cover letter | | \$ 55,702.14 |
| | | | FY2018 Total | \$ 1,110,238.67 |
| | | | 2017 total | \$ 1,043,066.40 |
| | | | increase | \$ 67,172.27 |



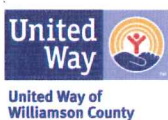


Easter Seals Central Texas
 315 East St. Elmo
 Austin, Texas 78745
 (512) 440-7819
 (512) 441-6632 fax
www.centraltx.easterseals.com

2018 San Marcos Contract changes + Amendments

Rate changes from 2017 contract

| | | | |
|--|-----------------------------|--|---------------------|
| City Wide Flowerbeds | | | |
| Price increase of \$2.43 man hour to \$18.43 | increased # hrs. to 900 | for a net increase to contract of | \$ 2,367.64 |
| Downtown Sweeping | | | |
| Price increase of \$0.41 man hour to \$16.41 | increased # hrs. to 2316.50 | for a net increase to contract of | \$ 2,613.77 |
| Down Town Trash and Recycle Containers | | | |
| Number of receptical has increased plus the city has required us to use different bags for trash and recycle. | | | |
| increased Weekly rate from \$302 to \$394 | | for a net increase to contract of | \$ 3,848.00 |
| Litter @ Rio Vista and Capes Dam changes | | | |
| Price increase of \$0.83 a man hour to \$22.83 | | for a net increase to contract of | \$ 2,640.72 |
| All Other parts of the contract remain the same as 2017 | | | |
| 2018 Amendments | | | |
| Add 66 cycles of mowing the soccer fields at the 5 mile Dam complex. | | | |
| Add 24 cycles of mowing, trimming, and maintaining the flower beds in the non-playing area of the 5 mile dam complex | | for a net increase to contract of | \$ 28,882.26 |
| Add 6 cycles of the area currently being maintained at the Blanco Shoals part of the river, plus cut 4 river access points on both sides | | for a net increase to contract of | \$ 19,063.92 |
| | | for a net increase to contract of | \$ 7,755.96 |
| | | Total Increase to 2018 Contract | \$ 67,172.27 |





Easter Seals Central Texas
315 East St. Elmo
Austin, Texas 78745
(512) 440-7819
www.centraltx.easterseals.com

May 23, 2017

Downtown Sweeping 2018

We will run the Tenant Sweepers or blow the sidewalks and parking areas around the square (only) 4 days a week (Monday, Tuesday, Thursday, and Friday). We will also clean trash from the Flower Beds and empty ash trays. We will clean and blow to the street for the Sweeper to clean up: all trash and debris along curbs and sidewalks in an expanded area.

Area A consists of a 4 block area bordered by Hopkins on the South, University on the North, Guadalupe on the West, and Edward Gary on the East. This area will be cleaned on Mondays and Thursdays

Area B consists of a 4 block area including a sq. block west of the Square bordered by Hopkins/Fredericksburg/San Antonio/ Guadalupe, another sq. block east of the Square bordered by Hopkins/LBJ/San Antonio/Edward Gary, and a 2 sq. block area bordered by San Antonio/Guadalupe/MLK/ LBJ. This area will be cleaned on Tuesdays and Fridays.

Also, all parking areas along Hutchison between CM Allen and Guadalupe, Hopkins between Fredericksburg and LBJ, San Antonio between Fredericksburg and LBJ, MLK between Guadalupe and LBJ, Guadalupe between San Antonio and University, LBJ between MLK and University, Grant Harris parking lot, and City Park Plaza parking will be cleaned with the City sweeper once a week.

The City is billed at the rate of \$16.41 per man hour for this work.

Total price will be \$38,013.77

Down Town Trash Receptacles

Empty all Trash and recycle containers in the Downtown area 4 times a week (Monday, Wednesday, Friday, and Saturday)

Total price for this service will be \$98.50 per cycle or \$20,488.00 per year





Easter Seals Central Texas
 315 East St. Elmo
 Austin, Texas 78745
 (512) 440-7819
www.centraltx.easterseals.com

May 23, 2017

San Marcos Parks Locations 2018

| PARK | ADDRESS | PRICE PER CUT |
|------------------------|----------------------------|---------------|
| Paul Pena | 1209 Crystal River Parkway | \$260.00 |
| El Camino Real | 401 Cottonwood | \$240.00 |
| El Camino Soccer | Capistrano Dr. | \$40.00 |
| Veterans Park | 320 Mariposa | \$310.00 |
| Victory Gardens | 300 Roosevelt St. | \$90.00 |
| Willow Springs Pk | Ellis Street | \$160.00 |
| Dunbar Park | 801 W. MLK | \$390.00 |
| Franklin Sq. Pk | N Bishop | \$340.00 |
| Purgatory Natural area | Wonder World Dr. | \$310.00 * |
| Ring Tail Natural Area | 1804 Old RR 12 | \$160.00 * |
| Schulle Canyon | 1420 Alamo | \$50.00 * |
| Blanco Shoals | 1201 E River Ridge | \$90.00 * |
| Clock Tower | W River Ridge | \$240.00 |
| Reyes Park | 116 Lockwood | \$110.00 |
| Conway Park | 506 Bliss Ln. | \$110.00 |
| Swift Memorial Park | 200 Monterrey | \$90.00 |
| Eddy Durham Park | 214 Centre | \$90.00 |
| Jaycees Park | 1906 Lancaster | \$275.00 |
| Mill Street Park | 215 Mill St | \$160.00 |
| Haynes Street | Haynes Street | \$20.00 |
| Stokes Park | Cape Road @ River | \$180.00 |
| Spring lake | Lime Kiln Rd. | \$140.00 * |
| Hillside Ranch 2 | Holland @ LBJ | \$40.00 * |
| Old Train Station | MLK @ LBJ | \$90.00 |
| Top Part Purg N A | Wonder World Dr. | \$60.00 * |

* indicates entrance only)

\$4045.00





Easter Seals Central Texas
315 East St. Elmo
Austin, Texas 78745
(512) 440-7819
www.centraltx.easterseals.com

May 23, 2017

SMCISD ROW's

Hernandez Elementary -- Stagecoach
Miller Middle School--Foxtail Run
Miller Trace

San Marcos Litter area's

- 1- RR12 (Rodgers St. to City Limits)
- 2- Hunter Rd (Dixon st. to City Limits)
- 3- Wonder World Dr. (Hunter Rd. to IH 35)
- 4- Wonder World Dr. (Hospital to Hwy 123)
- 5- Hwy 123 (Wonder World to IH 35)
- 6- Hwy 80 (River Rd to Hwy 21)
- 7- Post Rd. (Out Post apt. to Aquarena Springs Dr.)
- 8 IH35 within San Marcos City Limits

McCarty Lane

East of IH 35 to Old Bastrop Road

Wonder World Drive

North of Hunter Road to City Limits





Easter Seals Central Texas
315 East St. Elmo
Austin, Texas 78745
(512) 440-7819
www.centraltx.easterseals.com

May 23, 2017

City Lots

104 Knox
208 Knox
218 Knox
217 MLK
607 Arizona
Community Gardens
Alamo Street
Lot
Holland@Meadow Creek

11 Lots on Valley and Centre Streets

| 11 Lots on Valley and Centre Streets | | |
|---|------------------------------------|------------------------|
| 1 | Fredrickburg @ Centre | |
| 2 | Comanche @ Centre | |
| 3 | Herndon @ Centre | |
| | Centre @ Luck | |
| 4 & 5 | Alley | (both sides) |
| | Valley @ Luck | |
| 6 | Alley | |
| 7 | Valley behind Mitchel Center | |
| 8 & 9 | Valley @Jackman | (both sides of Street) |
| 10 & 11 | Valley Street behind Tutles Lumber | |

