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▶ CITY OF AUSTIN REVIEWS PROCESSES TO ENSURE TIMELY PAYMENTS TO SUBCONTRACTORS 1

▶ COA HONORS CONTRACTORS IN AN ANNUAL CONTRACTORS APPRECIATION CEREMONY 2

▶ ASIAN CONTRACTORS/ ENGINEERS CORNER.....3

▶ COA TOP 50 VENDORS BY AWARD AMOUNT.....4

▶ PROPOSED CONSTRUCTION PROJECTS IN 2014.....6

ACA Newsletter

City of Austin Reviews Processes to Ensure Timely Payments to Subcontractors

Austin -- The City of Austin has begun an in-depth review process to assist subcontractors in receiving timely payments from prime contractors on city projects at the behest of the Asian Contractor Association, the Austin Black Contractors Association, and the US Hispanic Contractors Association de Austin.

The issue of timely payment has long besetting the Austin minority subcontracting community when a certain number of primes delayed their payments to subs for up to six months or failed to honor their payments altogether, according to Paul Saldana, Principal of Saldana Public Relations, representing the Hispanic construction community.

Aside from primes' failure to pay, subcontractors, often elated by the new appointments, which can be far and few between, rushed to sign their contracts with primes without fully understanding the terms of payment, explained business owner Carol Hadnot, who also serves as the program manager of the Area Black Contractors Association.

Some of these payment issues to subs are also due to a century old requirement in construction contracts called "retainage," which is the withholding of a portion of each progress payment earned by a contractor or subcontractor until a construction project is complete. Retainage is calculated as a percentage of each progress payment, typically 5% to 10 % of the payment.

Small and sometimes ill-informed subcontractors, who may not have the pecuniary staying power to wait until a project is completed to be fully funded, face cash flow problems or even the threat of bankruptcy.

To help these minority subcontractors, the three minority trade associations have joined forces in urging the city to find checks and balances in their system in order to help subcontractors with their affordability and sustainability in doing business with the city.

Meanwhile, examples of sanctions to primes for failure to pay subs enforced by the cities of Fort Worth and San Antonio were brought forth to Austin city officials for further examination. As a result and a number of ensuing meetings with city officials from various departments, a detailed comparison of ordinances among the three cities was presented in a monthly meeting in November by Veronica Lara, Director of the Small and Minority Business Resources Department.

The document shows all cities have language that addresses possible sanctions against primes for failure to properly pay their subs. Fort Worth and San Antonio go

one step further with additional procedures to check and monitor actual payments from primes to subs, while the City of Austin has no current process in place to verify or ensure such payments to subs.

For example, in Fort Worth, primes face 1) suspension of contract, 2) withholding of funds, 3) rescission of contract, and 4) disqualification for failing to honor payments to subs. (Ordinance 2010-06-17-0531) In San Antonio, primes' failure to pay subs authorizes the city to withhold future payments and/reject future proposals until compliant. (Ordinance No. 20020-12-2011)

To properly monitor prime payments to subs, the City of Fort Worth utilizes B2Gnow, a financial system of record, to capture reporting of payments. The system allows subs to report back confirmation of payments or any disputes with primes. With similar de facto constraint, the City of San Antonio requires that primes present a copy of the check paid to the sub, copy of the paid invoice, or affidavit confirming payment received by the sub, according to the document.

The contract rule used for the City of Austin in the comparison states that the City of Austin "may" reject a prime's bid if there is "evidence of failure to pay subcontractors, suppliers, or employees." In the case of "failure of Contractor to make payments properly to subcontractors," another rule states, the city "may withhold or nullify the whole or part of payment," to the general contractor.

As to how and if the City of Austin will gather "evidence of failure to pay," the city's contract rules left it undefined and open for interpretations.

Ms. Lara working with Contract Management and Public Works has added new process regarding payments to subs for implementation including: 1) Public Works Accounts Payable to attend preconstruction meetings, 2) Contract language requiring primes to notify subs when their invoices are rejected, 3) Tip sheets to primes and subs to include payment and payment resolution between them.

Other actions to be considered by the city in the future include requiring primes to host preconstruction meetings with their subs to go over payment terms in the presence of city officials; city staff will evaluate and revise contract language including withholding of future work from primes until payment issue is resolved.

ACA will continue to engage in the discussions and report back to the community any progresses or changes made to improve timely payments to subs.



City of Austin Honors Contractors in an Annual Contractors Appreciation Ceremony

Austin— In its eight annual appreciation ceremony held on November 19th, the Small and Minority Resources Department (SMBR) presented a dozen awards to honor prime contractor/consultant and subcontractors who have successfully participated in the city's MBE/WBE program for the last year including two graduating from the nationally recognized diversity program.

Scores of business owners and city officials gathered in a pre-holiday festive spirit at the George Washington Carver Museum and Cultural Center Tuesday evening to celebrate the event. Among them was the newly appointed Assistant City Manager Rey Arellano, seen at the photo below, whose position oversees six city departments including SMBR.

Among the honorees are representatives from the three minority trade associations, namely, Asian Contractor Association, Austin Area Black Contractors Association, and US Hispanic Contractors Association de Austin, who are also the service providers for the city to help increase minority participation. See below photos from the event and the list of all the awardees.

Prime Contractor of the Year - BRH-Garver
Prime Consultant of the Year - CDM Smith, Inc.

Small Businesses of the Year:
Asian/Native American - Alpha Paving Industries
African American - Trini Construction
Hispanic - Viking Fence

Women Owned Enterprise - GG's Construction

Graduates:
1. Pecos Construction, LLC
2. LNV, dba LNV Engineering

Minority Trades Associations:
1. Asian Contractor Association
2. Austin Area Black Contractors Association
3. U.S. Hispanic Contractors Association de Austin



Top row left: President of Alpha Paving Andrew Kim (second from left) with Debra Dibble, the assistant director of SMBR (left), Sarah Dunn-Cantu, the office manager of Alpha Paving (second from right), and Thomas Owens, the SMBR compliance manager (right); Top row middle: Assistant City Manager Rey Arellano speaking to Carol Hadnot (left) and Aletta Banks (right); Top row right: Reginald Worlds of Trini Construction (center). Bottom row left: Reps from GG's Construction; Bottom row right: Juan Oyervides, receiving the award on behalf of Viking Fence.

Asian Contractors/Engineers Corner



Alpha Paving Industries LLC is a full service paving and pavement maintenance company that was established in January 2012. The two managing members, Andrew Kim, President, and Scott Sneed, Vice President have a combined 19 years in the commercial paving industry and have played key management roles in several successful companies.

Alpha Paving was formed in response to an overwhelming demand in the pavement maintenance market in Central Texas and the lack of professional, reputable companies with a focus on asphalt paving and maintenance. As the construction industry as a whole,



and paving industry particularly, has been known for its lack of professionalism and poor customer service, Alpha Paving seeks to stand out from the rest by offering responsive customer service, meticulous project management, utilization of the newest software and technology, and providing the most qualified crew and equipment on every job.

Working in both the public and private sector, Alpha Paving targets the Central Texas Area and proudly offers the following services:

- Asphalt Paving and Repair
- Pavement Sealcoat
- Pavement Markings and Striping

Although a relatively new company, Alpha Paving has been asked to work on many high profile projects with the most stringent experience requirements, opportunities typically never afforded to new companies. Recognized for our high standards and our ability to deliver careful project management and quality workmanship, Alpha Paving has successfully completed projects for:

- TXDOT Aviation
- US Army Corps of Engineers

Alpha Paving has also been recognized by many organization, receiving many honors rare for a new company. In only after its first year in business, Alpha Paving was ranked #13 by the Austin Business Journal on their annual list featuring the Top Minority Owned Companies in Austin. It also was recognized as one of the Small Businesses of the Year by the City of Austin SMBR Department.

Portfolio of Projects:

- City of Austin 2013 Misc Streets Fogseal
- City of Austin Lady Birdy Lake Improvements
- City of Austin South Congress Improvements
- City of Round Rock SW Downtown Improvements
- Georgetown Municipal Airport Runway Rehab
- Gillespie County Airport Runway Rehab
- Hot Pour Crackfill
- Concrete Repair
- Parking Lot Signage and ADA Compliance
- City of Austin
- City of Georgetown
- City of Jarrell
- Sears Holdings
- Freescale
- BAE Systems
- Arboretum Shopping Center Repaving
- San Marcos Premium Outlets Repaving
- Target Shopping Centers Parking Lot Repaving
- Circuit of the Americas Paving Repairs
- Freescale Semiconductor Site Improvements
- Sears Flagship Stores Parking Lot Rehab



City of Austin Top 50 Vendors by Award Amount as of 11/15/13

Row	Legal Name <i>(Click for details)</i>	Certification Type	Award Amount
1	MWH CONSTRUCTORS INC		\$359,890,790.98
2	SUN COAST RESOURCES INC		\$138,880,980.00
3	HENSEL PHELPS CONSTRUCTION CO		\$114,961,098.00
4	KEEP AUSTIN BEAUTIFUL		\$106,774,890.00
5	DPR CONSTRUCTION INC		\$60,715,276.18
6	CAROLLO ENGINEERS INC		\$60,620,174.70
7	S J LOUIS CONSTRUCTION OF TEXAS LTD		\$49,003,578.54
8	MOTOROLA SOLUTIONS INC DBA: MOTOROLA		\$47,000,454.63
9	JOHN L WORTHAM & SON L P DBA: WORTHAM INSURANCE & RISK MANAGEMENT		\$34,853,695.00
10	ABM PARKING SERVICES		\$33,653,738.30
11	CHASCO CONTRACTING LTD LLP		\$32,499,589.26
12	MATOUS CONSTRUCTION LTD DBA: MATOUS CONSTRUCTION		\$32,162,369.56
13	MUNIZ CONCRETE & CONTRACTING INC	Minority/ Disadvantaged Owned Busi- ness	\$31,164,160.05
14	OSCAR RENDA CONTRACTING INC		\$27,805,000.00
15	M.A. SMITH CONTRACTING CO INC		\$27,181,720.87
16	TEXAS STERLING CONSTRUCTION CO		\$24,664,386.72
17	JAY-REESE CONTRACTORS INC		\$24,063,328.56
18	LAUGHLIN-THYSSEN INC		\$22,521,377.68
19	T MORALES COMPANY ELECTRIC & CONTROLS LTD	Minority/ Woman Owned Busi- ness	\$21,789,725.77
20	CASH CONSTRUCTION CO INC		\$21,688,537.44
21	PEABODY GENERAL CONTRACTORS	Woman- Owned Busi- ness	\$19,452,918.01
22	MCLEAN CONSTRUCTION INC		\$19,340,835.09
23	AUSTIN FILTER SYSTEMS INC		\$18,441,758.55
24	INDUSTRIAL ASPHALT LLC	Not Certified	\$17,924,750.00
25	LAYNE HEAVY CIVIL, INC.		\$17,242,228.75

City of Austin Top 50 Vendors by Award Amount as of 11/15/13 (continued)

Row	Legal Name <i>(Click for details)</i>	Certification Type	Award Amount
26	AUSTIN WHITE LIME CO		\$16,236,000.00
27	KELLOGG BROWN & ROOT SERVICES INC & ESPEY CONSULTANTS INC JV		\$15,278,866.03
28	APAC-TEXAS INC		\$15,159,278.51
29	TOTER LLC		\$15,079,370.45
30	LANDMARK STRUCTURES I LP		\$14,811,804.19
31	URS CORP		\$13,690,251.80
32	HDR ENGINEERING INC DBA: HDR/CLAUNCH & MILLER		\$13,550,588.65
33	ZACHRY CONSTRUCTION CORPORATION		\$12,744,577.20
34	RODRIGUEZ BARR INC DBA: THE BARR CO AIA	Not Certified	\$12,455,574.35
35	TRC ENVIRONMENTAL CORP INC DBA: TRC		\$11,986,699.00
36	TIBH INDUSTRIES, INC DBA: TIBH OR TIBH INDUSTRIES OR TIBH CENTRAL STORE		\$11,795,699.50
37	W W GRAINGER INC DBA: GRAINGER		\$11,615,360.00
38	SUMMUS INDUSTRIES, INC. DBA: SUMMUS INDUSTRIES	Minority-Owned Business	\$11,368,553.23
39	AUSTIN CONVENTION & VISITORS		\$11,032,841.00
40	PHILPOTT MOTORS LTD DBA: PHILPOTT MOTORS		\$10,876,023.33
41	DENUCCI CONSTRUCTORS L L C		\$10,764,272.24
42	SOUTHLAND/SJ LOUIS JV		\$10,605,554.36
43	JERDON ENTERPRISE, LP		\$10,555,443.31
44	REDFLEX TRAFFIC SYSTEMS		\$9,704,415.52
45	WORKSOURCE GREATER AUSTIN AREA WORKFORCE BOARD		\$9,274,368.00
46	INSITUFORM TECHNOLOGIES INC		\$8,810,041.00
47	UNITED HEALTHCARE INSURANCE COMPANY		\$8,763,000.00
48	TRITECH SOFTWARE SYSTEMS		\$8,636,008.76
49	UNIMERICA INSURANCE COMPANY		\$8,449,000.00
50	WACHS VALVE AND HYDRANT SERVICES LLC		\$8,165,638.50

Proposed Construction Projects Bidding Between 12/1/13 and 8/31/14

Avertise-ment Date	Project	Cost Estimate
Dec-13	Yett Creek Neighborhood Park - Parking and Off-leash Trail Development	TBD
Dec-13	Lamar Senior Activity Center - Renovations	TBD
Dec-13	Lott Avenue Site Improvements	\$ 1,939,000
Dec-13	SE Allandale Neighborhood Water and Wastewater Improvements	\$ 2,700,000
Dec-13	Parking Operation Improvements	\$ 1,613,000
Dec-13	Harris Branch Interceptor lower A	\$ 5,620,000
Jan-14	UT Campus Area Utility Improvements	TBD
Jan-14	Lindshire LS Relief	TBD
Jan-14	Lockheed LS Relief	TBD
Jan-14	Veterans Park Improvements	TBD
Jan-14	Little Stacy Neighborhood Park - Playscape Improvements	TBD
Jan-14	Barrington Way FM Reroute and Gravity System Upgrade	TBD
Jan-14	Lockheed Rehab & Other Shaft Warranty Inspections	TBD
Jan-14	Nelray and Evans Utility Improvements	\$ 3,000,000
Jan-14	Linger Lane Lift Station	\$ 3,400,000
Jan-14	RA - NW Brentwood - Karen and Payne Area - Nghbrhd Water System Upgrades	\$ 2,400,000
Jan-14	Waller Creek Tunnel - 8th St. Site Restoration	\$ 150,000
Feb-14	Waller Creek Tunnel - 4th St. Site Restoration	\$ 150,000
Feb-14	Barton Springs - Sunken Garden Imps Phase 1	\$ 170,000
Feb-14	Davis WTP Power Distribution Upgrade	\$ 21,969,000
Feb-14	Bowie Underpass	\$ 4,200,000
Mar-14	East Austin SSO-Ongoing Rehab	\$ 1,692,000
Mar-14	Parking Expansion: Far South Clinic & Montopolis Neighborhood Center	\$ 550,000
Mar-14	Plaza Saltillo Water Rehab Phase 2	\$ 2,209,000
Mar-14	Rio Grande Street Reconstruction and Utility Adjustment from 24th to 29th	\$ 7,000,000
Mar-14	Mains to Capitol Complex / AISD	\$ 2,775,000
Mar-14	Buttermilk Creek WW Reroute	\$ 500,000
Mar-14	Waller Creek Tunnel - Waterloo Park Site Restoration	\$ 2,000,000
Apr-14	Walnut Creek Pumping System Improvements	TBD
Apr-14	Elroy Rd Water Rehabilitation Ph 3	\$ 1,750,000
Apr-14	RA - Concordia & SW Cherrywood Neighborhood WSU	TBD
Jun-14	Old Lampasas #3	\$ 2,000,000
Jun-14	RA - Austin Heights Neighborhood Water System Upgrades	\$ 2,200,000
Jun-14	3rd Street Reconstruction and Utility Adjustment - Phase IV	TBD
Jun-14	Terminal East Infill Project	\$ 56,000,000
Jul-14	Onion Creek Tunnel Corrosion Protection Installation	TBD
Jul-14	Little Walnut Creek - Creek flood hazard reduction from Metric to Rutland	\$ 8,000,000
Aug-14	Gp 8 - Phase II Street Reconstruction & Utility Adjustment	\$ 4,606,000
Aug-14	Betty Dunkerley Campus Infrastructure Improvements	\$ 1,394,000