



Amendment No. 7
to
Contract No. NA110000113
For
HVAC Maintenance and Repair Services
between
Fox Service Company, Inc.
dba Fox Service Company
and the
City of Austin

1.0 The Contract is hereby amended as follows: Change the vendor name as requested and documented by the vendor.

	From	To
Vendor Name	Fox Service Company, Inc. dba Fox Service Company	Inoca Holdco II, LLC dba Fox Service Company II, LLC
Vendor Code	V00000920265	
FEIN	<div></div>	<div></div>

2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

BY THE SIGNATURE affixed below, this Amendment No. 7 is hereby incorporated into and made a part of the Contract.

A handwritten signature in cursive script that reads "Linell Goddin-Brown".

Linell Goddin-Brown, Contract Compliance Supervisor
City of Austin, Purchasing Office

1-10-17

Date



Amendment No. 7
to
Contract No. NA110000113
for
PARD HVAC
between
Inoca Holdco II, LLC
dba Fox Service Company II, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective July 5, 2016 through July 4, 2017. Zero options remain.
- 2.0 The total contract amount is increased by \$540,000.00 for the extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 07/05/2011 – 07/04/2012	\$510,000.00	\$510,000.00
Amendment No. 1: Option 1 07/05/2012 – 07/04/2013	\$535,000.00	\$1,045,000.00
Amendment No. 2: Option 2 07/05/2013 – 07/04/2014	\$535,000.00	\$1,580,000.00
Amendment No. 3: Name Change 03/10/2014	\$0.00	\$1,580,000.00
Amendment No. 4: Option 3 07/05/2014 – 07/04/2015	\$540,000.00	\$2,120,000.00
Amendment No. 5: Option 4 07/05/2015 – 07/04/2016	\$540,000.00	\$2,660,000.00
Amendment No. 6: Name Change 09/08/15	\$0.00	\$2,660,000.00
Amendment No. 7: Option 5 07/05/2016 – 07/04/2017	\$550,000.00	\$3,210,000.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign:

Printed Name: Rober Nagel, President and CEO
Authorized Representative

Inoca Holdco II, LLC
dba Fox Service Company II, Inc.
4300 South Congress Avenue
Austin, Texas 78745
(512) 442-6782

Sign:

Shawn Willett
City of Austin
Deputy Purchasing Officer
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Amendment No. 6
to
Contract No. NA110000113
for
PARD HVAC
Between
Inoca Holdco II, LLC
dba Fox Service Company II, LLC
and the
City of Austin

1.0 The Contract is hereby amended as follows: Change the vendor information as requested and documented by the vendor.

	From	To
Vendor Name	Inoca Holdco II, LLC dba Fox Service Company, Inc.	Fox Service Company II, LLC dba Fox Service Company
Vendor Code	V00000920265	V00000920265
FEIN	[REDACTED]	[REDACTED]

2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

BY THE SIGNATURE affixed below, this Amendment No. 6 is hereby incorporated into and made a part of the Contract.


Joe Barrios
Acting Contract Compliance Supervisor
City of Austin, Purchasing Office

Date 9/8/15



Amendment No. 5
to
Contract No. NA110000113
for
PARD HVAC
between
Inoca Holdco II, LLC
dba Fox Service Company, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective July 5, 2015 through July 4, 2016. One option remains.
- 2.0 The total contract amount is increased by \$540,000.00 for the extension period. The total contract authorization is recapped below:

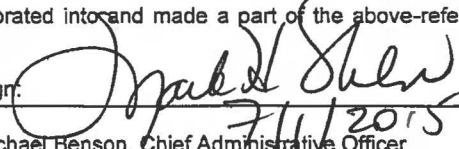
Action	Action Amount	Total Contract Amount
Initial Term: 07/05/2011 – 07/04/2012	\$510,000.00	\$510,000.00
Amendment No. 1: Option 1 07/05/2012 – 07/04/2013	\$535,000.00	\$1,045,000.00
Amendment No. 2: Option 2 07/05/2013 – 07/04/2014	\$535,000.00	\$1,580,000.00
Amendment No. 3: Name Change 03/10/2014	\$0.00	\$1,580,000.00
Amendment No. 4: Option 3 07/05/2014 – 07/04/2015	\$540,000.00	\$2,120,000.00
Amendment No. 5: Option 4 07/05/2015 – 07/04/2016	\$540,000.00	\$2,660,000.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign: 
Printed Name: ROBERT NAGEL
Authorized Representative

Inoca Holdco II, LLC
dba Fox Service Company, Inc.
4300 South Congress Avenue
Austin, Texas 78745
(512) 442-6782

Sign: 
Michael Benson, Chief Administrative Officer
City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701
7/11/2015
MARK H WALSH
IT DATA
ALAN IRBY



Amendment No. 4
to
Contract No. NA110000113
for
PARD HVAC
between
Inoca Holdco II, LLC
dba Fox Service Company, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective July 5, 2011 through July 4, 2012. Two options remain.
Cu 14 Cu 15
- 2.0 The total contract amount is increased by \$540,000.00 for the extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 07/05/2011 – 07/04/2012	\$510,000.00	\$510,000.00
Amendment No. 1: Option 1 07/05/2012 – 07/04/2013	\$535,000.00	\$1,045,000.00
Amendment No. 2: Option 2 07/05/2013 – 07/04/2014	\$535,000.00	\$1,580,000.00
Amendment No. 3: Name Change 03/10/2014	\$0.00	\$1,580,000.00
Amendment No. 4: Option 3 07/05/2014 – 07/04/2015	\$540,000.00	\$2,120,000.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: *Robert Nagel* *05/21/2014*
Printed Name: ROBERT NAGEL
Authorized Representative

Sign/Date: *Teresa Ready* *6/11/14*
Teresa Ready
Corp. Contract Compliance Manager

Inoca Holdco II, LLC dba Fox Service Company, Inc.
4300 South Congress Avenue
Austin, Texas 78745
(512) 442-6782
sales@foxservice.com

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Amendment No. 3
to
Contract No. NA110000113
For
HVAC Maintenance and Repair Services
between
Fox Service Company, Inc.
dba Fox Service Company
and the
City of Austin

1.0 The Contract is hereby amended as follows: Change the vendor name as requested and documented by the vendor.

	From	To
Vendor Name	Fox Service Company, Inc. dba Fox Service Company	Inoca Holdco II, LLC dba Fox Service Company II, LLC
Vendor Code	FOX1922000	V000000920265 Dmd.
FEIN	[REDACTED]	[REDACTED]

2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

BY THE SIGNATURE affixed below, this Amendment No. 4 is hereby incorporated into and made a part of the Contract.

Corporate Contract Compliance Manager
City of Austin, Purchasing Office

3/10/14

Date



Amendment No. 2
of
Contract No. NA110000113
for
HVAC Maintenance and Repair Services
between
Fox Service Company
and the
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective July 5, 2013 the term for the extension option will be July 5, 2013 to July 4, 2014 and there are three remaining options.
- 2.0 The total contract amount is increased by \$535,000.00 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 07/05/11 – 07/04/12	\$510,000.00	\$510,000.00
Amendment No. 1: Option 1 07/05/12– 07/04/13	\$535,000.00	\$1,045,000.00
Amendment No. 2: Option 2 07/05/13– 07/04/14	\$535,000.00	\$1,580,000.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature and Date: Robert Magel 6/26/13

Printed Name: Robert Magel, President and CEO
Authorized Representative

Signature and Date: Debbie DePaul 6/26/13

Debbie DePaul, Contract Compliance Supervisor
City of Austin
Purchasing Office

Fox Service Company
4300 S. Congress Ave
Austin, TX 78745

SW
6/26/13



Amendment No. 1
of
Contract No. NA110000113
for
HVAC Maintenance and Repair Services
between
Fox Service Company
and the
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective July 5, 2012 the term for the extension option will be July 5, 2012 to July 4, 2013 and there are four remaining options.
- 2.0 The total contract amount is increased by \$535,000.00 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 07/05/11 – 07/04/12	\$510,000.00	\$510,000.00
Amendment No. 1: Option 1 07/05/12– 07/04/13	\$535,000.00	\$1,045,000.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature and Date:

Printed Name: Robert Nagel
Authorized Representative President and CEO

Signature and Date:

Debbie DePaul, Contract Compliance Supervisor
City of Austin
Purchasing Office

Fox Service Company
4300 S. Congress Ave
Austin, TX 78745



Financial and Administrative Service Department
Purchasing Office
PO Box 1088, Austin, Texas, 78767

June 28, 2011

Fox Service Company
4300 S. Congress Avenue
Austin, Texas 78745

The City has awarded a contract to your company for the HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES for the City of Austin, Parks and Recreation Department in accordance with the referenced documents.

Responsible Department:	PARD
Department Contact:	George Maldonado
Department Contact Phone and email:	512-974-9525, george.maldonado@ci.austin.tx.us
Project Name:	HVAC
Contractor Name:	Fox Service Company
Contract Number:	MA 8600-NA110000113
Contract Period:	July 5, 2011 through July 4, 2012
Contract Amount:	\$510,000
Extension Options:	Five (5) – Twelve (12) month extension options
Extension Amount Per Option:	(1) \$535,000 (2) \$535,000 (3) \$540,000 (4) \$540,000 ; (5) \$550,000
Requisition Number:	RQM 8600-11011900142
Solicitation Number:	CB30101
Agenda Item Number:	66
Council Approval Date:	June 23, 2011

A copy of the contract/purchase order will be forwarded by mail.

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person.

Sincerely,

Cruz Banda, Buyer II
Purchasing Office
Finance and Administrative Service Department

cc:

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")
AND
Fox Service Company ("Contractor")
for
Heating, Ventilating & Air Conditioning Maintenance and Repair Services
Contract No. MA-8600-NA110000113**

The City accepts the Contractor's Offer (as referenced in Section 1.1.3 below) for the above requirement and enters into the following Contract.

This Contract is between Fox Service Company having offices at 4300 S. Congress Avenue, Austin, Texas 78745 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City ("Effective Date").

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number IFB CB30101.

1.1 This Contract is composed of the following documents:

- 1.1.1 This Contract
- 1.1.2 The City's Solicitation, Invitation for Bid (IFB), CB30101 including all documents incorporated by reference
- 1.1.3 Fox Service Company's Offer, dated 4-26-11, including subsequent clarifications

1.2 Order of Precedence. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order:

- 1.2.1 This Contract
- 1.2.2 The City's Solicitation as referenced in Section 1.1.2, including all documents incorporated by reference
- 1.2.3 The Contractor's Offer as referenced in Section 1.1.3, including subsequent clarifications

1.3 Quantity of Work. There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order.

1.4 Term of Contract. The Contract will be in effect for an initial term of twelve (12) months and may be extended thereafter for up to five (5) twelve (12) month extension option(s), subject to the approval of the Contractor and the City Purchasing Officer or his designee. See the Term of Contract provision in Section 0400 for additional Contract requirements.

1.5 Compensation. The Contractor shall be paid a total Not-to-Exceed amount of \$510,000 for the initial Contract term and \$535,000 1st option, \$535,000 2nd option, \$540,000 3rd option, \$540,000 4th option, and \$550,000 5th option. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.

1.6 This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be

altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

CITY OF AUSTIN

Printed Name of
Authorized Person:

Stephen T. Aden

Signature:



Title:

Corporate Purchasing Manager

Date

6/28/11



**INVITATION FOR BID (IFB) ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN**

HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES

IFB No. CB30101

Addendum No. 1

Date: 04/20/11

This addendum is to incorporate the following changes into the above specified solicitation.

1.0 The section 0500 – Scope of Work, page 1, paragraph 1.0 PURPOSE AND SCOPE, the following section is REVISED to read as follows:

1.1 Purpose

The purpose of this Invitation for Bid is to solicit bids for Heating, Ventilating and Air Conditioning (HVAC) services including maintenance, repair and minor renovations for a twelve (12) month contract with five (5), twelve (12) month extension options. These services shall be provided for the City of Austin, Parks and Recreation Department (PARC), and possibly other City of Austin Departments. The City of Austin will be awarding this contract to one qualified Contractor.

2.0 The section 0500 – Scope of Work, page 2, paragraph 4.0 GENERAL OVERVIEW, the following sections are CORRECTED to read as follow:

4.1.1 Minor building or equipment modifications required to complete HVAC repairs:

And

4.1.4 Secure HVAC permits as required by city/state codes and ordinances.

3.0 The section 0500 – Scope of Work, page 6, paragraph 6.0 PERFORMANCE REQUIREMENTS, the following sections are REVISED to read as follow:

6.1.1 Emergency service shall be available twenty-four (24) hours per day, three hundred sixty-five (365) days a year with a maximum response time of two (2) hours and a four (4) hour on-site response time.

4.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURES affixed below, Addendum No. 1 is hereby incorporated into and made a part of the above referenced Request for Qualification Statement.

Approved By: _____
Cruz Banda, Buyer II
Purchasing Office

Acknowledged By:

Bidder's Name of Company

Authorized Signature

Return one (1) copy to the Purchasing Office, City of Austin, prior to opening or with your sealed statement. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION OF YOUR OFFER.

CITY OF AUSTIN, TEXAS

Purchasing Office INVITATION FOR BID (IFB) Offer Sheet

SOLICITATION NO: CB30101

COMMODITY/SERVICE DESCRIPTION: HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES

DATE ISSUED: APRIL 4, 2011

PRE-BID CONFERENCE TIME AND DATE: MANDATORY PREBID CONFERENCE, APRIL 12, 2011 AT 10:00 AM, CST.

REQUISITION NO.: 860011011900142

COMMODITY CODE: 94155

LOCATION: PARKS AND RECREATION DEPARTMENT, PARD ANNEX BLDG., 919 W.28 1/2 ST., AUSTIN, TEXAS 78741

FOR CONTRACTUAL AND TECHNICAL ISSUES CONTACT:

BID DUE PRIOR TO: APRIL 26, 2011 AT 10:00 AM, CST.

CRUZ BANDA

COMPLIANCE PLAN DUE PRIOR TO: N/A

BID OPENING TIME AND DATE: APRIL 26, 2011 AT 10:00 AM

Buyer II

LOCATION: MUNICIPAL BUILDING, 124 W 8th STREET
RM 310, AUSTIN, TEXAS 78701

Phone: (512) 974-2133

It is the policy of the City of Austin to involve certified Minority Owned Business Enterprises (MBEs) and Woman Owned Business Enterprises (WBEs) in City contracting. MBE and WBE goals for this Solicitation are contained in Section 0900.

All Contractors and Subcontractors must be registered to do business with the City prior to submitting a response to a City Solicitation. In the case of Joint Ventures, each individual business in the joint venture must be registered with the City prior to submitting a response to a City solicitation. If the Joint Venture is awarded a contract, the Joint Venture must register to do business with the City. Prime Contractors are responsible for ensuring that their Subcontractors are registered. Registration can be done through the City's on-line vendor registration system. Log onto <https://www.cityofaustin.org/purchase> and follow the directions.

SUBMIT 1 ORIGINAL AND 1 SIGNED COPIES OF RESPONSE

SOLICITATION TO:

Insert Vendor Name & Address

Signature of Person Authorized to Sign Offer

Signer's Name and Title: (please print or type)

FEDERAL TAX ID NO. _____

Date: _____

Company Name: _____

Address: _____

City, State, Zip Code _____

Phone No. ()

Fax No. ()

BELOW INFO MUST MATCH THE NAME AND ADDRESS ON INVOICE AND IN COMPANY PROFILE WITH CITY

Company "Remit To" Name: _____

Remit to Address: _____

City, State, Zip Code _____

Email Address _____

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0815	LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION	1
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All other Sections may be viewed at: <https://www.cityofaustin.org/purchase> by clicking the link to "Vendor Self Service (VSS)", sign in if registered, register, or use public access to follow the links to "Business Opportunities" and "Search for Solicitation."

RETURN FOLLOWING DOCUMENTS WITH BID/PROPOSAL/QUOTE/RESPONSE/SUBMITTAL **

- Cover Page Offer Sheet
- Section 0600 Bid Sheet(s)
- Section 0700 Reference Sheet (if required)
- Sections 0800 - 0835 Certifications and Affidavits (return all applicable Sections)
- Section 0900 MBE/WBE Procurement Program Package or No Goals Utilization Plan, if applicable
- Bid Guaranty (if required)

**** See also Section 0200, Solicitation Instructions, Section 0400, Supplemental Purchase Provisions, and Section 0500, Scope of Work/Specification, for additional documents that must be submitted with the Offer.**

NOTES:

The Vendor agrees, if this Offer is accepted within 120 calendar days after the Due Date, to fully comply in strict accordance with the Solicitation, specifications and provisions attached thereto for the amounts shown on the accompanying Offer.

*** INCORPORATION OF DOCUMENTS.** Section 0100, Standard Purchase Definitions; Section 0200, Standard Solicitation Instructions; and Section 0300, Standard Purchase Terms and Conditions are hereby incorporated into this Solicitation by reference, with the same force and effect as if they were incorporated in full text. The full text versions of these Sections are available, on the Internet at the following online address: <http://www.ci.austin.tx.us/purchase/standard.htm>.

If you do not have access to the Internet, you may obtain a copy of these Sections from the City of Austin Purchasing Office at the below address. Please have the Solicitation number available so that the staff can select the proper documents. These documents can be mailed, expressed mailed, or faxed to you.

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

P.O. Address for US Mail	Street Address for Hand Delivery or Courier Service
City of Austin	City of Austin, Purchasing Office
Purchasing Office	Municipal Building
P.O. Box 1088	124 W 8 th Street, Rm 310
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

Notes: Offers (including Compliance Plans) that are not submitted in a sealed envelope or container will not be considered. Unless authorized in the Solicitation, telegraphic or facsimile Offers will not be accepted.

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

The following Supplemental Purchasing Provisions apply to this solicitation:

1. **EXPLANATIONS OR CLARIFICATIONS** (reference paragraph 5 in Section 0200)

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by April 19, 2011 via fax at 512-974-2388 or email at cruz.banda@ci.austin.tx.us. A **MANDATORY PRE-BID** conference will be held at the Parks and Recreation Department, PARD ANNEX, 919 W. 28 ½ ST/ Austin, Texas 78741 at 10:00 AM on April 12, 2011.

2. **INSURANCE.** Insurance is required for this solicitation.

A. **General Requirements.** See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for general insurance requirements.

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award
- ii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iii. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.
- iv. The Certificate of Insurance, and updates, shall contain the solicitation number and the Buyer's name and shall be mailed to the following address:

City of Austin Purchasing Office
Attn: Cruz Banda
P. O. Box 1088
Austin, Texas 78767

B. **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

- i. **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
 - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Form WC 420304, or equivalent coverage

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

- (b) Thirty (30) days Notice of Cancellation, Form WC 420601, or equivalent coverage
 - ii. Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries).
 - (1) The policy shall contain the following provisions:
 - (a) Blanket contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
 - (b) Independent Contractor's Coverage.
 - (c) Products/Completed Operations Liability for the duration of the warranty period.
 - (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and Underground Coverage (X,C,U).
 - (2) The policy shall also include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
 - iii. Business Automobile Liability Insurance. The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
 - (1) The policy shall include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage.
- C. Endorsements. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.
- D. Certificate: **The following statement must be shown on the Certificate of Insurance.**

The City of Austin is an Additional Insured on the general liability and the auto liability policies. A Waiver of Subrogation is issued in favor of the City of Austin for general liability, auto liability and workers compensation policies.

3. TERM OF CONTRACT

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- A. The Contract shall be in effect for an initial term of twelve (12) months and may be extended thereafter for up to five (5) additional twelve (12) month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.
- B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
- C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above. A price increase, subject to the provisions of this Contract, may be requested by the Contractor (for each period of extension) for approval by the City's Purchasing Officer or his designee.

THIS IS A TWELVE (12) MONTH CONTRACT.

FIRM PRICES ARE TO BE SUBMITTED FOR THE FIRST TWELVE (12) MONTH PERIOD

4. QUANTITIES

The quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.

5. DELIVERY REQUIREMENTS

Location: Parks and Recreation Department	Days: Monday through Friday
Various Building Locations within the City of Austin	

- A. All services/ orders must be shipped complete unless arrangements for partial shipments are made in advance.
- B. The Contractor shall provide, with each delivery, a Shipping or Delivery Ticket showing the description of each item, quantity, and unit price.
- C. The Contractor shall confirm the quantity to be shipped on all orders within two (2) hours of notification by phone from the City.
- D. Unless requested by the City, deliveries shall not be made on City-recognized legal holidays (see paragraph 52 in Section 0300).

6. INVOICES and PAYMENT (reference paragraphs 12 and 13 in Section 0300)

- A. Invoices shall contain a non-duplicated invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.

Invoices shall be mailed to the below address:

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	City of Austin
Department	Parks and Recreation Department
Attn:	Accounts Payable
Address	200 S. Lamar Blvd.
City, State Zip Code	Austin, Texas 78701

- B. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer (EFT) for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.

7. RESTOCKING FEES

- A. The Contractor may bill the City restocking fees (if included in their Offer) for parts that are ordered by the City under the contract and returned for refund. The Contractor is not obligated to accept for refund any part that is not resalable and/or not in the same condition as when purchased.
- B. Restocking fees may be charged to the City when multiple parts or groups of parts are returned for refund at one time due to the City inventory warehouse cleaning, unless these parts are returned at an annual pre-arranged date. The date for the annual return shall be mutually agreed upon between the City and the Contractor.

8. RETAINAGE

The City MAY withhold 10 percent (%) retainage until completion of all work required by the Contract. The Contractor's invoice shall indicate the amount due, less the retainage. Upon final acceptance of the work, the Contractor shall submit an invoice for the retainage to the City and payment will be made as specified in the Contract. Payment of the retainage by the City shall not constitute nor be deemed a waiver or release by the City of any of its rights and remedies against the Contractor for recovery of amounts improperly invoiced or for defective, incomplete or non-conforming work under the Contract.

9. HAZARDOUS MATERIALS

- A. If this Solicitation involves hazardous materials, the Offeror shall furnish with the Offer Material Safety Data Sheets (MSDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.
- B. Failure to submit the MSDS as part of the Offer may subject the Offer to disqualification from consideration for award.
- C. The MSDS, instructions and information required in paragraph "a " must be included with each shipment under the contract.

10. LIVING WAGES AND BENEFITS (applicable to procurements involving the use of labor)

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- A. In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a “living wage” and affordable health care protection. Currently, the minimum wage for City employees is \$11.00 per hour. This minimum wage is required for any Contractor employee directly assigned to this City Contract, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. Additionally, the City provides health insurance for its employees, and for a nominal rate, employees may obtain coverage for their family members. Contractors must offer health insurance with optional family coverage for all Contractor employees directly assigned to this contract. Proof of the health care plan shall be provided prior to award of a Contract. In addition, an insurance certificate for Workers’ Compensation Insurance Coverage must be provided if required by the solicitation.
- C. The City requires Contractors submitting Offers on this Contract to provide a signed certification (**see the Living Wages and Benefits Contractor Certification included in the Solicitation**) with their Offer certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$11.00 per hour and are offered a health care plan. The certification shall include a list of all employees directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- D. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA). Basic employment records shall at a minimum include:
- i. employee’s full name, as used for social security purposes, and on the same record, the employee’s identifying symbol or number if such is used in place of name on any time, work, or payroll records;
 - ii. time and date of week when employee’s workweek begins;
 - iii. hours worked each day and total hours worked each workweek;
 - iv. basis on which employee’s wages are paid;
 - v. regular hourly pay rate;
 - vi. total daily or weekly straight-time earnings;
 - vii. total overtime earnings for the workweek;
 - viii. all additions to or deductions from the employee’s wages;
 - ix. total wages paid each pay period; and
 - x. date of payment and the pay period covered by the payment.
- E. The Contractor shall provide with the first invoice and as requested by the Department’s Contract Manager, individual Employee Certifications (**see the Living Wages and Benefits Employee Certification included in the Solicitation**) for all employees directly assigned to the contract containing:
- i. the employee’s name and job title;
 - ii. a statement certifying that the employee is paid at a rate equal to or greater than the Living Wage of \$11.00 per hour;
 - iii. a statement certifying that the employee is offered a health care plan with optional family coverage.

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Employee Certifications shall be signed by each employee directly assigned to the contract.

- A. Contractor shall submit employee certifications quarterly with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract.
- G. The Department's Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records identified in paragraph D above to verify compliance with this provision.

11. NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING

- A. The Austin City Council adopted Ordinance No. 20071206-045 on December 6, 2007, adding a new Article 6 to Chapter 2-7 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services exceeding \$5,000. During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the person designated in the Solicitation as the contact for questions and comments regarding the Solicitation.
- B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. The City requires Offerors submitting Offers on this Solicitation to provide a signed affidavit certifying that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance (**see the Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit included in the Solicitation**).

12. NON-SOLICITATION

- A. During the term of the Contract, and for a period of six (6) months following termination of the Contract, the Contractor, its affiliate, or its agent shall not hire, employ, or solicit for employment or consulting services, a City employee employed in a technical job classification in a City department that engages or uses the services of a Contractor employee.
- B. In the event that a breach of Paragraph A occurs the Contractor shall pay liquidated damages to the City in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation; or (ii) _____ percent of the employee's annual compensation while employed by the City. The Contractor shall reimburse the City for any fees and expenses incurred in the enforcement of this provision.
- C. During the term of the Contract, and for a period of six (6) months following termination of the Contract, a department that engages the services of the Contractor or uses the services of a Contractor employee will not hire a Contractor employee while the employee is performing work under a Contract with the City unless the City first obtains the Contractor's approval.
- D. In the event that a breach of Paragraph C occurs, the City shall pay liquidated damages to the Contractor in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation or (ii) _____ percent of the employee's annual compensation while employed by the Contractor.

13. WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID)

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- A. Contractors are required to obtain a certified criminal background report with fingerprinting (referred to as the "report") for all persons performing on the contract, including all Contractor, Subcontractor, and Supplier personnel (for convenience referred to as "Contractor's personnel").
- B. The report may be obtained by reporting to one of the below governmental entities, submitting to fingerprinting and requesting the report [requestors may anticipate a two-week delay for State reports and up to a four to six week delay for receipt of a Federal report.].
 - i. Texas Department of Public Safety for any person currently residing in the State of Texas and having a valid Texas driver's license or photo ID card;
 - ii. The appropriate governmental agency from either the U.S. state or foreign nation in which the person resides and holds either a valid U.S. state-issued or foreign national driver's license or photo ID card; or
 - iii. A Federal Agency. A current Federal security clearance obtained from and certified by a Federal agency may be substituted.
- C. Contractor shall obtain the reports at least 30 days prior to any onsite work commencement. Contractor also shall attach to each report the project name, Contractor's personnel name(s), current address(es), and a copy of the U.S. state-issued or foreign national driver's license or photo ID card.
- D. Contractor shall provide the City Certified Criminal Background Report affirming that Contractor has conducted required security screening of Contractor's personnel to determine those appropriate for execution of the work and for presence on the City's property. A list of all Contractor Personnel requiring access to the City's site shall be attached to the affidavit.
- E. Upon receipt by the City of Contractor's affidavit described in (D) above and the list of the Contractor's personnel, the City will provide each of Contractor's personnel a contractor ID badge that is required for access to City property that shall be worn at all times by Contractor's personnel during the execution of the work.
- F. The City reserves the right to deny an ID badge to any Contractor personnel for reasonable cause, including failure of a Criminal History background check. The City will notify the Contractor of any such denial no more than twenty (20) days after receipt of the Contractor's reports. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the contract, the Contractor shall so notify the City's Contract Manager, in writing, within ten (10) calendar days of the receipt of notification of denial.
- G. Contractor's personnel will be required to wear the ID badge at all times while on the work site. Failure to wear or produce the ID badge may be cause for removal of an individual from the work site, without regard to Contractor's schedule. Lost ID badges shall be reported to the City's Contract Manager. Contractor shall reimburse the City for all costs incurred in providing additional ID badges to Contractor Personnel.
- H. ID badges to enter and/or work on the City property may be revoked by the City at any time. ID badges must be returned to the City at the time of project completion and acceptance or upon removal of an individual from the work site.

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- I. Contractor is not required to obtain reports for delivery personnel, including but not limited to FedEx, UPS, Roadway, or other materials delivery persons, however all delivery personnel must present company/employer-issued photo ID and be accompanied by at least one of Contractor's personnel at all times while at the work site.
- J. The Contractor shall retain the reports and make them available for audit by the City during regular business hours (reference paragraph 17 in Section 0300, entitled Right to Audit).

14. ECONOMIC PRICE ADJUSTMENT

- A. Prices shown in this contract shall remain firm for the first 12 month period of the contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor subject to the following considerations:

- B. Price Increases

- i. Requests for price increases must be made in writing and submitted to the appropriate Buyer in the City's Purchasing Office. The letter must be signed by a person with the authority to bind the Contractor contractually, shall reference the contract number, and include the following documentation:

- (1) an itemized, revised price list with the effective date of the proposed increase;
 - (2) copies of the documentation provided by the manufacturer regarding the proposed price increase if the contractor is not the manufacturer of the products. If the Contractor is the manufacturer of the products, a letter so stating must be provided;

Contractor shall submit, as a part of the request for increase, the version of the U.S. Department of Labor Employment Cost Index for Wages and Salaries for all Private Industry Workers (the "Index") current as of the date of the Contractor's Offer; and a copy of the index for the most current period.

- (3) Proposed price increases must be solely for the purpose of accommodating increases in the Contractor's costs for the products or services provided. Prices for products or services unaffected by verifiable cost trends shall not be subject to change.
 - ii. Requests for price increases must be made in writing and submitted to the appropriate Contract Manager prior to each yearly anniversary date of contract. Prices will only be considered for an increase at that time. Once received, the City will have 60 calendar days to review and approve/disapprove the requested increase. Should the City not agree with the requested increase, Contractor may either maintain the prices currently in effect, negotiate an acceptable increase with the City or terminate the contract.
 - iii. The proposed percentage change between the current contract price and the requested price shall not exceed the percentage change between the Index in effect at the beginning of the current review period and the one in effect at the time the price increase is requested. Except in the case of emergency situations, the requested index related or non-index related price increase shall not exceed Twenty-five percent (25%) for any single line item, and in no event shall the total amount of the contract be automatically increased as a result of the increase in any one or more line items made pursuant to this provision.

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- iv. Since the perceived need for price increases may be due in whole or in part to factors other than index changes, the City may consider approving fully-documented increase requests which, in the Contractor's opinion, justify price increases for one or more line items in the contract. If index changes are responsible in part for the requested change, those changes shall be documented as previously described above.

C. Price Decreases

- i. Proposed price decreases may be offered to the City at any time, and become effective upon acceptance by the City unless a different effective date is specified by the Contractor. Price decrease offers may also be subject to negotiation.
- ii. Price decreases based on relevant factors may be requested by the City at any time. Such requests shall be accompanied by a complete statement of the City's justification for the request. The Contractor shall have 60 calendar days to respond to the City's request. Following receipt of the Contractor's agreement with the requested decrease, the City may implement the decrease at any time. Should the Contractor not agree with the requested decrease, the City may either maintain the prices currently in effect, negotiate with the contractor, or terminate the contract.

15. INTERLOCAL PURCHASING AGREEMENTS (applicable to competitively procured goods/services contracts).

- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions to other eligible governmental agencies that have an interlocal agreement with the City.
- B. The City does not accept any responsibility or liability for the purchases by other governmental agencies through an interlocal cooperative agreement.

16. CONTRACT MANAGER

The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

GENE FAULK, PARKS AND RECREATION DEPARTMENT
919 W. 28 ½ ST.
Austin, Texas 78741
Phone 512-974-9482
GENE.FAULK@CI.AUSTIN.TX.US
Phone 512-974-3972

*Note: The above listed Contract Manager is not the authorized Contact Person for purposes of the **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING Provision** of this Section; and therefore, contact with the Contract Manager is prohibited during the no contact

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period.

**CITY OF AUSTIN
SCOPE OF WORK
FOR
HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR
SERVICES**

1.0 PURPOSE AND SCOPE

1.1 Purpose

The purpose of this Invitation for Bid is to solicit bids for Heating, Ventilating and Air Conditioning (HVAC) services including maintenance, repair and minor renovations for a twelve (12) month contract with five (5), twelve (12) month extension options. These services shall be provided for the City of Austin, Parks and Recreation Department (PARC), and possibly other City of Austin Departments. The City of Austin will be awarding this contract to one qualified Contractor.

The contract awarded as a result of this solicitation will cover commercial HVAC maintenance and repair services; minor renovations on an as needed basis. The City may elect to allow multiple City departments to utilize the contract. All services shall be rendered at the location at the time of order.

1.2 Scope

The HVAC maintenance, repair and minor renovation services shall be provided for approximately 50 Austin Parks and Recreation Department facilities; other City facilities shall vary in quantity. A list of locations per department shall be made available at the post award meeting or upon request to the successful Contractor.

2.0 DEFINITIONS

- 2.1** TDLR- Texas Department of Licensing and Regulation
- 2.2** OSHA- Occupational Safety and Health Administration
- 2.3** PARC- Parks and Recreation Department
- 2.4** POC- Point of Contact
- 2.5** SMBR- Small and Minority Business Resources Department
- 2.6** OEM- Original Equipment Manufacturer
- 2.7** The City- City of Austin
- 2.8** CM- Contract Manager
- 2.9** DO- Delivery Order
- 2.10** HVAC- Heating, Ventilating, Air Conditioning
- 2.11** BAS- Building Automation System

3.0 APPLICABLE SPECIFICATION

- 3.1** The services provided under this agreement must comply with all City of Austin, Federal and State of Texas standards, regulations and laws concerning this type of work, applicable and effective during the term of this agreement including safety that applies both to private industry and governmental agencies such as compliance with applicable OSHA safety requirements: <http://www.osha.gov/>

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- 3.2 Contractor shall be licensed by the State of Texas in accordance with TDLR for Class A Air Conditioning and Refrigeration assignments. <http://www.license.state.tx.us/>

4.0 GENERAL OVERVIEW

- 4.1 The service agreement goal of this contract is for a Contractor to provide all HVAC maintenance, repairs and minor renovations that are associated under the terms of this agreement, Types of services and items covered by this agreement include, but are not limited to:**

- 4.1.1 HVAC installation and repair
- 4.1.2 Minor building or equipment modifications required to complete HVAC repairs:
 - 4.1.2A Carpentry/Painting
 - 4.1.2B Sheet Metal Fabrication
 - 4.1.2C Building Automation Controls
 - 4.1.2D Manufacturer Technical Support
- 4.1.3 Temporary HVAC services to facility
- 4.1.4 Secure HVAC permits as required by city/state codes and ordinances
- 4.1.5 Tools and equipment
- 4.1.6 Supervision
- 4.1.7 Manpower
- 4.1.8 Training of employees
- 4.1.9 Employee safety
- 4.1.10 Lifts, ladders and related equipment
- 4.1.11 Equipment rentals
- 4.1.12 Transportation
- 4.1.13 Preventative maintenance

5.0 CONTRACTOR REQUIREMENTS

5.1 Experience

- 5.1.1 To be considered a qualified Bidder, Contractor shall have a minimum of five (5) years experience in performing commercial HVAC maintenance and/or renovation as a prime provider and a minimum of two (2) years experience in City of Austin permitting.
 - 5.1.1A Proof of permitting experience must be a minimum of ten (10) permits per year to be considered substantial.
 - 5.1.1B Refer to Attachment A to provide documentation of HVAC and permitting experience.

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5.1.2 Contractor and technicians shall possess any license(s) required by the City of Austin, State of Texas, Federal agency or any other applicable regulatory agency requirements with jurisdiction over the City. The Contractor have no TDLR violations three (3) years prior to solicitation date.

5.1.3 Copies of Licenses shall be provided with the bid. (Examples: Class A License, Registration of Air Conditioning Technicians, etc. as defines by TDLR)

5.1.3A Refer to Attachment B to provide documentation of resumes and TDLR licenses and registration.

5.2 References

5.2.1 Bidder shall provide three (3) commercial references for similar work and types of systems as outlined in these specifications. Reference attachment 0700.

5.2.2 References shall validate satisfactory service and number of years of experience and must span the full five (5) years of experiences as a prime provider of commercial HVAC maintenance and/or renovation.

5.3 Business Requirements

5.3.1 Contractor shall operate and have a full-time, permanent business address, email address, telephone and fax machine.

5.3.2 The City may make site visits to each Contractor prior to and during the time of contract.

5.4 Staffing Requirements

5.4.1 Contractor shall have an adequate number of trained and licensed personnel required to provide services according to these specifications. Contractor shall employ a minimum of five (5) registered HVAC technicians during the period of this contract.

5.4.2 Contractor shall employ skilled, responsible persons who in appearance, manner and character are suitable to a business administering to the type of customers found at City facilities.

5.4.3 The City shall have the right to require that the Contractor remove any employee whose conduct is improper, inappropriate or offensive; and such employee shall not be assigned to provide services for the remainder of the contract term without written consent.

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- 5.4.4 Contractor shall ensure that all personnel are continuously trained to meet the latest technology and industry standards.

5.5 Point of Contact (POC)

- 5.5.1 The Contractor shall provide a single POC, who is skilled, knowledgeable, and experienced in HVAC installation, maintenance and repair. The POC must have the authority to dispatch for emergency services.
- 5.5.2 The POC shall be available and on-call twenty-four (24) hours daily including weekends and holidays. Contractor shall provide the office number, email address, pager and cell phone number for the POC.

5.6 Personnel Requirements

- 5.6.1 Personnel assigned to any contract awarded as a result of this solicitation shall meet all applicable certification requirements of any regulatory agency having jurisdiction.
- 5.6.2 All HVAC technicians employed by the Contractor must be registered with the State of Texas in accordance with TDLR and have no violations three (3) years prior to solicitation date.
- 5.6.3 All personnel assigned to the project shall wear a uniform, including safety equipment and company issued photo identification. Uniforms must be alike and have the Contractor and employee's name clearly displayed on the front of the shirt and seasonal outerwear.
- 5.6.4 The Contractor shall furnish certification papers and documentation of the assigned personnel's qualifications upon request by the City POC. The Contractor may change personnel only with equally classified and qualified personnel. The City POC may request that the Contractor remove any personnel whose work is unsatisfactory.
- 5.6.5 The Contractor shall assign at least one fluent English speaker to each job performed under this contract as a supervisor or team leader.

5.7 Hours of Service and Compensation

- 5.7.1 Contractor is expected to perform HVAC services within normal working hours, defined as Monday through Friday from 7:00 AM to 7:00 PM. After hours is defined as Monday through Friday from 7:01 PM to 6:59 AM and Saturday and Sunday. Official City holidays are considered after hours. Contractor may invoice

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150% of the normal labor rate for work performed after hours.
<http://www.ci.austin.tx.us/help/holidays.htm>

5.8 Subcontracting Opportunities

- 5.8.1 All subcontractors shall be approved by the City. The Contractor shall insure that subcontractors meet all applicable sections of this solicitation and current City of Austin requirements. The use of HVAC subcontractors shall be at no additional cost to the city.
- 5.8.2 The Contractor will contact SMBR to identify a team of minority subcontractors that are qualified to perform the subsidiary and finish-work services to deliver a turn-key project. The hourly rate and scope of work for each subcontractor must be submitted with the job quote and approved by the City POC. The types of subcontracting work include but are not limited to:
 - 5.8.2A Carpentry/Painting
 - 5.8.2B Sheet Metal Fabrication
 - 5.8.2C Insulators
 - 5.8.2D Pipe Fitters
- 5.8.3 Subcontracting goals will be estimated at the time of contract but opportunities will be established on a job-by-job basis.

6.0 PERFORMANCE REQUIREMENTS

6.1 General

- 6.1.1 The Contractor shall provide all labor, supervision, diagnostics, parts, materials, tools, equipment, instruments, incidentals, expendable items, personnel protective equipment and training required for responsive service.
- 6.1.2 The Contractor shall provide a published price list or materials catalog which will be used to purchase materials for the servicing of facilities.
- 6.1.3 All materials used must be factory new and free of defects in materials and workmanship. Repair parts and components must conform to OEM specifications.
- 6.1.4 All service shall be scheduled as directed by the City POC. Once the City POC requests a job proposal with an itemized quote, the Contractor has two (2) business days to submit the quote unless otherwise specified by the City POC at the time of submittal.

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- 6.1.5 Emergency service shall be available twenty-four (24) hours per day, three hundred sixty-five (365) days a year with a maximum response time of two (2) hours and a four (4) hour on-site response time.
- 6.1.6 It shall be the responsibility of the Contractor to inspect the job sites prior to the submission of each job proposal.
- 6.1.6A The Contractor shall review the HVAC requirements for each project and provide a job proposal. The City will issue a written Notice to Proceed upon approval of the project quote and the Contractor must begin the work within one (1) business day of the Notice to Proceed unless otherwise specified by the City POC at time of submittal. Contractor shall submit an invoice for all labor, in accordance with the labor rates per section 0600 – Bid sheet and materials, in accordance with section 6.1.2 of this scope of work, upon project completion.
- 6.1.6B Submission of the job proposal is evidence that the contractor is familiar with the nature and extent of the work and any local conditions that may, in any manner, affect the scope of work, including equipment, materials and labor required.
- 6.1.6C Each job proposal will be per hourly bid rate for each job title (Project Manager/Supervisor, HVAC Mechanical Technician) submitted by contractor plus materials, rentals and subcontractors.
- 6.1.6D The Contractor is allowed to mark-up materials and rentals by no more than thirty-five (35) percent.
- 6.1.6E Contractor may invoice the City for cost of subcontracting (other than HVAC) by no more than ten (10) percent including BAS staff and/or Manufacturer's Technical support.
- 6.1.6F Contractor is responsible for acquiring all necessary permits to perform the work, of which the cost will be fully reimbursed upon submittal of the final invoice.
- 6.1.6G The job proposal will **not** include a separate charge for administrative, overhead, per diem and transportation (i.e. mileage and fuel) costs. These expenses will be included in the hourly bid rates.
- 6.1.6H The Contractor shall submit Change Orders Request for unknown conditions that affect the project quote by more than +/- ten (10) percent and/or not to exceed \$500.

**CITY OF AUSTIN
SCOPE OF WORK
FOR
HEATIN, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR
SERVICES**

6.2 Parts and Equipment

- 6.2.1 Contractor shall dispose of all worn/defective parts, oils, solvents, in accordance with all applicable laws, rules and regulations. The City reserves the right to retain ownership of any or all HVAC equipment purchased under this agreement at the City's discretion.
- 6.2.2 Contractor shall provide the manifest ticket for hazardous materials or other proof of proper disposal on request or at the time of invoicing.
- 6.2.3 Contractor shall handle, transport, and dispose of worn/defective parts, oils, solvents, waste or hazardous materials in such a manner as to ensure the highest level of safety to the environment and public health at no additional cost to the City.
- 6.2.4 Contractor shall not store worn or defective parts on City premises at the end of the work day unless otherwise specified by the City POC.

6.3 Coordinate Performance

- 6.3.1 Upon completion of service call to the facility, Contractor will submit a final invoice for work performed, which includes an itemized record of all labor, materials, rentals and subcontractors with proof of receipt, and the City POC will approve the invoice for final payment.
- 6.3.2 In addition to the invoice, the Contractor shall provide a detailed report describing services and parts repaired or replaced for each service performed. The Contractor shall advise the CM of developments relating to the performance of this agreement.
- 6.3.3 Contractor shall provide documentation of manufacturer's warranty along with the final invoice. Contractor shall provide a written warranty for all parts and labor and workmanship upon completion of each job. Warranty shall be guaranteed for a minimum of one year from completion date and shall be warranted against any malfunctions or defects in products, parts and against faulty services. If the manufacturer's warranty is longer for any part(s) provided in repair, service work performed, then the longest warranty shall apply.
- 6.3.4 Contractor shall warrant all materials and workmanship for a period of one (1) year from acceptance of the work (approval of project invoice) by the City POC.

BID SHEET CITY OF AUSTIN SOLICITATION NAME: HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIRS S					
IFB NO.	CB30101				
RQM NO.	860011011900142				
ISSUE DATE:	April 4, 2011				
BUYER	CRUZ BANDA				
Copies of Bid: Vendor must submit two copies of its signed quote - one original and one copy.					
Special Instructions: Be advised that exceptions taken to any portion of the solicitations may jeopardize acceptance of the quote. Est expenditures for these services is \$510,000 NOTE: This amount includes an estimated dollar amount for additional departments in ac 0500 - Scope of Work, paragraph 1.1 There is no guarantee additional departments will be added.					
ITEM NO.	ITEM DESCRIPTION	*ESTIMATED QUANTITY	UNIT	**HOURLY LABOR RATE	EXTF
1.1	Labor Cost - Service Manager/ Supervisor	550	Hours	\$	\$
1.2	Labor Cost - HVAC Technician	2,000	Hours	\$	\$
*Estimated Quantity to be used ONLY for bid evaluation.					
**Hourly Labor Rate will be used for Contractor labor rates in accordance with the 0500 -Scope of Work, for the duration of the contract and extension options.					
TOTAL PRICE					\$

ALL DELIVERY TERMS: DELIVERY IS TO BE FOB DESTINATION, PREPAID AND ALLOWED

COMPANY NAME: _____

SIGNATURE OF AUTHORIZED REPRESENTATIVE: _____

PRINTED NAME: _____

EMAIL ADDRESS: _____

**CITY OF AUSTIN
PURCHASING OFFICE
REFERENCE SHEET**
Please Complete and Return This Form with the Offer

SOLICITATION NUMBER: CB30101

OFFEROR'S NAME: _____ **DATE:** _____

The Offeror shall furnish, with the Offer, the following information, for at least insert # recent customers to whom products and/or services have been provided that are similar to those required by this Solicitation.

1. Company's Name _____
Name and Title of Contact _____
Present Address _____
City, State, Zip Code _____
Telephone Number () Fax Number ()
Email Address _____
2. Company's Name _____
Name and Title of Contact _____
Present Address _____
City, State, Zip Code _____
Telephone Number () Fax Number ()
Email Address _____
3. Company's Name _____
Name and Title of Contact _____
Present Address _____
City, State, Zip Code _____
Telephone Number () Fax Number ()
Email Address _____
4. Company's Name _____
Name and Title of Contact _____
Present Address _____
City, State, Zip Code _____
Telephone Number () Fax Number ()
Email Address _____
5. Company's Name _____
Name and Title of Contact _____
Present Address _____
City, State, Zip Code _____
Telephone Number () Fax Number ()
Email Address _____

City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NONDISCRIMINATION CERTIFICATION
SOLICITATION NO. CB30101

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

Chapter 5-4 of the Code of the City of Austin (Discrimination in Employment by City Contractors) requires that at all times while acting as a Contractor (as defined under Chapter 5-4) a Contractor must agree:

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

Please check one of the following:

- ☐ Our firm's nondiscrimination policy conforms to the requirements of City Code, Chapter 5-4-2-B, items (1) through (7) and will be sent to the City upon request.
- ☐ Our firm does not have an established nondiscrimination policy and will adopt the City's minimum standard shown below. Our firm will send the adopted policy on company letterhead to the City upon request.

Minimum Standard Nondiscrimination in Employment Policy:

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

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

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

Sanctions:

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

Contractor's Name: _____

Signature of Officer or
Authorized
Representative: _____

Date: _____

Printed Name: _____

Title _____

City of Austin, Texas
NON-SUSPENSION OR DEBARMENT CERTIFICATION
SOLICITATION NO. CB30100

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name:

Signature of Officer
or Authorized
Representative:

Date:

Printed Name:

Title

**CITY OF AUSTIN
NON-COLLUSION,
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT
SOLICITATION NO. CB30101**

**FOR
HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES**

State of Texas

County of Travis

The undersigned “Affiant” is a duly authorized representative of the Offeror for the purpose of making this Affidavit, and, after being first duly sworn, has deposed and stated and hereby deposes and states, to the best of his or her personal knowledge and belief as follows:

The term “**Offeror**”, as used herein, includes the individual or business entity submitting the Offer and for the purpose of this Affidavit includes the directors, officers, partners, managers, members, principals, owners, agents, representatives, employees, other parties in interest of the Offeror, and anyone or any entity acting for or on behalf of the Offeror, including a subcontractor in connection with this Offer.

1. **Anti-Collusion Statement.** The Offeror has not in any way directly or indirectly:
 - a. colluded, conspired, or agreed with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.
 - b. paid or agreed to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.
2. **Preparation of Solicitation and Contract Documents.** The Offeror has not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, the Offeror has not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Offerors, so as to have an unfair advantage over other Offerors, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
3. **Participation in Decision Making Process.** The Offeror has not participated in the evaluation of Offers or other decision making process for this Solicitation, and, if Offeror is awarded a Contract hereunder, no individual, agent, representative, consultant, subcontractor, or subconsultant associated with Offeror, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
4. **Present Knowledge.** Offeror is not presently aware of any potential or actual conflicts of interest regarding this Solicitation, which either enabled Offeror to obtain an advantage over other Offerors or would prevent Offeror from advancing the best interests of the City in the course of the performance of the Contract.
5. **City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a substantial interest in Offeror is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.
6. **Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local Government Code, the Offeror:
 - a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;

**CITY OF AUSTIN
NON-COLLUSION,
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT**

- b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$250 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that OWNER is considering doing business with the Offeror.
- c. as required by Chapter 176 of the Texas Local Government Code, Offeror must file a Conflict of Interest Questionnaire with the Office of the City Clerk no later than 5:00 P.M. on the seventh (7th) business day after the commencement of contract discussions or negotiations with the City or the submission of an Offer, or other writing related to a potential Contract with the City. The questionnaire is available on line at the following website for the City Clerk:
<http://www.ci.austin.tx.us/cityclerk/coi.htm>

There are statutory penalties for failure to comply with Chapter 176.

If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation in the space provided below or, as necessary, on separate pages to be annexed hereto.

7. **Anti-Lobbying Ordinance.** As set forth in the Solicitation Instructions, Section 0200, paragraph 7N, between the date that the Solicitation was issued and the date of full execution of the Contract, Offeror has not made and will not make a representation to a member of the City Council, a member of a City Board, or any other official, employee or agent of the City, other than the Authorized Contact Person for the Solicitation, except as permitted by the Ordinance.

OFFEROR'S EXPLANATION:

Contractor's Name: _____

Printed
Name: _____

Title _____

Signature of Officer or Authorized Representative: _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public

My Commission Expires _____

CITY OF AUSTIN, TEXAS
LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION
(Please duplicate as needed)

SOLICITATION NO. CB30101

Pursuant to the Living Wages and Benefits provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour.

I hereby certify under penalty of perjury that all of the below listed employees of the Contractor who are directly assigned to this contract:

- (1) are compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) are offered a health care plan with optional family coverage.

Employee Name	Employee Job Title

- (3) all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.00 per hour and offered a health care plan with optional family coverage.

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

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

Contractor's Name: _____

Signature of Officer
or Authorized
Representative: _____

Date: _____

Printed Name: _____

Title _____

**CITY OF AUSTIN, TEXAS
LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION**

Contract Number:	Description of Services: HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES
Contractor Name:	

Pursuant to the Living Wages and Benefits provision of the contract (reference Section 0400, Supplemental Purchase Provisions), the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

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

(Witness Signature)

(Printed Name)

City of Austin, Texas
NONRESIDENT BIDDER PROVISIONS
SOLICITATION NO. CB30101

- A. Bidder must answer the following questions in accordance with Vernon's Texas Statutes and Codes Annotated Government Code 2252.002, as amended:

Is the Bidder that is making and submitting this Bid a "Resident Bidder" or a "Non-resident Bidder"?

Answer: _____

(1) Texas Resident Bidder – A Bidder whose principal place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

(2) Nonresident Bidder – A Bidder who is not a Texas Resident Bidder.

- B. If the Bidder is a "Nonresident Bidder" does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the Bid of a Resident Bidder of that state in order for the nonresident Bidder of that state to be awarded a Contract on such bid in said state.

Answer: _____ Which State: _____

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: _____

Bidder's Name: _____

Signature of Officer or
Authorized
Representative: _____ Date: _____

Printed Name: _____

Title _____

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)
PROCUREMENT PROGRAM
NO GOALS FORM**

SOLICITATION NUMBER: CB30101

PROJECT NAME: HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES

The City of Austin has determined that no goals are appropriate for this project. Even though no goals have been established for this solicitation, the Bidder/Proposer is required to comply with the City's MBE/WBE Procurement Program, if areas of subcontracting are identified.

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

Will subcontractors or sub-consultants or suppliers be used to perform portions of this Contract?

No _____ If no, please sign the No Goals Form and submit it with your Bid/Proposal in a sealed envelope.

Yes _____ If yes, please contact SMBR to obtain further instructions and an availability list and perform Good Faith Efforts. Complete and submit the No Goals Form and the No Goals Utilization Plan with your Bid/Proposal in a sealed envelope.

After Contract award, if your firm subcontracts any portion of the Contract, it is a requirement to complete Good Faith Efforts and the No Goals Utilization Plan, listing any subcontractor, subconsultant, or supplier. Return the completed Plan to the Project Manager or the Contract Manager.

I understand that even though no goals have been established, I must comply with the City's MBE/WBE Procurement Program if subcontracting areas are identified. I agree that this No Goals Form and No Goals Utilization Plan shall become a part of my Contract with the City of Austin.

Company Name

Name and Title of Authorized Representative (Print or Type)

Signature

Date

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)
PROCUREMENT PROGRAM
NO GOALS UTILIZATION PLAN**
(Please duplicate as needed)

SOLICITATION NUMBER: CB30101

PROJECT NAME: HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES

PRIME CONTRACTOR/CONSULTANT COMPANY INFORMATION

Name of Contractor/Consultant			
Address			
City, State Zip			
Phone		Fax Number	
Name of Contact Person			
Is company City certified?	Yes <input type="checkbox"/> No <input type="checkbox"/>	MBE <input type="checkbox"/> WBE <input type="checkbox"/>	MBE/WBE Joint Venture <input type="checkbox"/>

I certify that the information included in this No Goals Utilization Plan is true and complete to the best of my knowledge and belief. I further understand and agree that the information in this document shall become part of my Contract with the City of Austin.

Name and Title of Authorized Representative (Print or Type)

Signature

Date

Provide a list of all proposed subcontractors/subconsultants/suppliers that will be used in the performance of this Contract. **Attach Good Faith Efforts documentation if non MBE/WBE firms will be used.**

Sub-Contractor/Consultant			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/>	Ethnic/Gender Code:	<input type="checkbox"/> NON-CERTIFIED
Vendor ID Code			
Contact Person	Phone Number:		
Amount of Subcontract	\$		
List commodity codes & description of services			

Sub-Contractor/Consultant			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/>	Ethnic/Gender Code:	<input type="checkbox"/> NON-CERTIFIED
Vendor ID Code			
Contact Person	Phone Number:		
Amount of Subcontract	\$		
List commodity codes & description of services			

FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:

Having reviewed this plan, I acknowledge that the proposer (HAS) or (HAS NOT) complied with City Code Chapter 2-9A/B/C/D, as amended.

Reviewing Counselor _____ Date _____ Director/Deputy Director _____ Date _____

**CITY OF AUSTIN
PURCHASING OFFICE
"NO OFFER" REPLY FORM**

SOLICITATION NUMBER: CB30101

Please Complete and Return This Form to the following address to Indicate a "No Offer" Reply

City of Austin
Purchasing Office
P.O. Box 1088
Austin, Texas 78767-8845

(DO NOT RETURN ALONG WITH OFFER)

Please check the appropriate box to indicate why your firm is submitting a "no offer" response. Failure to respond to three (3) consecutive solicitations may result in your company being removed from the source list for this commodity or service. Completion of this form will assist us in maintaining an accurate, up-to-date source list.

COMMODITY CODE: 94155

DESCRIPTION: HVAC SYSTEMS MAINTENANCE AND
REPAIR SERVICES

- ☐ Unable to supply item(s) specified. Remove my company from the source list for the Commodity / Service Group
- ☐ Unable to supply item(s) specified. Retain my company on the vendor list for this commodity / service.
- ☐ Cannot meet the Scope of Work / Specifications.
- ☐ Cannot provide required Insurance.
- ☐ Cannot provide required Bonding.
- ☐ Job too small.
- ☐ Job too large.
- ☐ Do not wish to do business with the City. Remove my company from the City's Vendor list.
- ☐ Other reason (please state why you will not submit a bid):

Contractor's Name:

Street Address

City, State, Zip Code

Signature of Officer or
Authorized

Representative:

Date:

Printed Name:

Title

Attachment A
CONTRACTOR'S EXPERIENCE

(To be returned with the Bid)

- A. **Name of Contractor:** _____
- B. **Class A License #:** _____
- C. **Contractor's Permanent Address:** _____
- D. **Contractor's Phone No.:** () _____ - _____
- E. **Number of years in business as a prime provider of commercial HVAC maintenance/renovation services:** _____

(Note: Contractor must have been in existence for a minimum of one (1) year under its current company name. Changes in company name during the experience period are acceptable, if the continuity of the company structure can be demonstrated. Attach separate documentation, if applicable.)

- F. **Number of years experience in City of Austin permit process:** _____

(Note: Contractor shall be required to provide documentation of permit history subsequent to bid submittal)

If Bidder answers "YES" for any of questions F – J, Bidder must attach separate sheets with a brief description or explanation of the answer and provide pertinent contact information (parties' names, addresses and telephone numbers).

- G. **Has the Bidder ever defaulted on a contract?**
YES () NO ()
- H. **Are there currently any pending judgments, claims, or lawsuits against the Bidder?**
YES () NO ()
- I. **Does Bidder currently have any pending claims, judgments or lawsuits against any prior client?**
YES () NO ()
- J. **Is the Bidder or its principals involved in any bankruptcy or reorganization proceedings?**
YES () NO ()
- J. **Does the Bidder have any violations on record with the Texas Department of Licensing and Regulation (TDLR) during the three (3) year period prior to the solicitation date?**
YES () NO ()

Attachment B
STATEMENT OF EXPERIENCE
(To be returned with the Bid)

Contractor must attach resumes for the key staff, which includes but is not limited to Project Manager/Supervisor and HVAC Mechanical Technician(s) who will be assigned to this contract. The resumes must demonstrate that these individuals have worked on at least three (3) similar, successful service contracts in the capacity of Project Manager or other responsible supervisory capacity, as applicable, during the last 10 years. The Project Manager/Supervisor must have been employed by the Vendor for a minimum of three (3) years.

Assigned Project Manager/Supervisor must have a minimum of ten (10) years of experience supervising commercial HVAC maintenance and/or renovation and a minimum of two (2) years experience in City of Austin permitting.

Business Name: _____

(Name & TDLR License #): _____

Project Manager/Supervisor: _____

Name _____

HVAC Mechanical Technician: _____

Name _____

HVAC Mechanical Technician: _____

Name _____

HVAC Mechanical Technician: _____

Name _____

HVAC Mechanical Technician: _____

Name _____

HVAC Mechanical Technician: _____

Name _____

(Insert Resumes & Experience)



INVITATION FOR BID (IFB) ADDENDUM
PURCHASING OFFICE
CITY OF AUSTIN

HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES

IFB No. CB30101

Addendum No. 1

Date: 04/20/11

This addendum is to incorporate the following changes into the above specified solicitation.

1.0 The section 0500 – Scope of Work, page 1, paragraph 1.0 PURPOSE AND SCOPE, the following section is REVISED to read as follows:

1.1 Purpose

The purpose of this Invitation for Bid is to solicit bids for Heating, Ventilating and Air Conditioning (HVAC) services including maintenance, repair and minor renovations for a twelve (12) month contract with five (5), twelve (12) month extension options. These services shall be provided for the City of Austin, Parks and Recreation Department (PARC), and possibly other City of Austin Departments. The City of Austin will be awarding this contract to one qualified Contractor.

2.0 The section 0500 – Scope of Work, page 2, paragraph 4.0 GENERAL OVERVIEW, the following sections are CORRECTED to read as follow:

4.1.1 Minor building or equipment modifications required to complete HVAC repairs:

And

4.1.4 Secure HVAC permits as required by city/state codes and ordinances.


3.0 The section 0500 – Scope of Work, page 6, paragraph 6.0 PERFORMANCE REQUIREMENTS, the following sections are REVISED to read as follow:

6.1.1 Emergency service shall be available twenty-four (24) hours per day, three hundred sixty-five (365) days a year with a maximum response time of two (2) hours and a four (4) hour on-site response time.

4.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.


BY THE SIGNATURES affixed below, Addendum No. 1 is hereby incorporated into and made a part of the above referenced Request for Qualification Statement.

Approved By:


Cruz Banda, Buyer II
Purchasing Office

Acknowledged By:

Fox Service Company
Bidder's Name of Company


Authorized Signature

Return one (1) copy to the Purchasing Office, City of Austin, prior to opening or with your sealed statement. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION OF YOUR OFFER.

CITY OF AUSTIN, TEXAS

Purchasing Office INVITATION FOR BID (IFB) Offer Sheet

SOLICITATION NO: CB30101

DATE ISSUED: APRIL 4, 2011

REQUISITION NO.: 860011011900142

COMMODITY CODE: 94155

**FOR CONTRACTUAL AND TECHNICAL
ISSUES CONTACT:**

CRUZ BANDA

Buyer II

Phone: (512) 974-2133

COMMODITY/SERVICE DESCRIPTION: HEATING, VENTILATING &
AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES

PRE-BID CONFERENCE TIME AND DATE: MANDATORY PREBID
CONFERENCE, APRIL 12, 2011 AT 10:00 AM, CST.

LOCATION: PARKS AND RECREATION DEPARTMENT, PARD
ANNEX BLDG., 919 W.28 1/2 ST., AUSTIN, TEXAS 78741

BID DUE PRIOR TO: APRIL 26, 2011 AT 10:00 AM, CST.

COMPLIANCE PLAN DUE PRIOR TO: N/A

BID OPENING TIME AND DATE: APRIL 26, 2011 AT 10:00 AM

LOCATION: MUNICIPAL BUILDING, 124 W 8th STREET
RM 310, AUSTIN, TEXAS 78701

It is the policy of the City of Austin to involve certified Minority Owned Business Enterprises (MBEs) and Woman Owned Business Enterprises (WBEs) in City contracting. MBE and WBE goals for this Solicitation are contained in Section 0900.

All Contractors and Subcontractors must be registered to do business with the City prior to submitting a response to a City Solicitation. In the case of Joint Ventures, each individual business in the joint venture must be registered with the City prior to submitting a response to a City solicitation. If the Joint Venture is awarded a contract, the Joint Venture must register to do business with the City. Prime Contractors are responsible for ensuring that their Subcontractors are registered. Registration can be done through the City's on-line vendor registration system. Log onto <https://www.cityofaustin.org/purchase> and follow the directions.

SUBMIT 1 ORIGINAL AND 1 SIGNED COPIES OF RESPONSE

SOLICITATION TO:

Fox Service Company

Signature of Person Authorized to Sign Offer

ROBERT NAGEL Pres. & CEO

Signer's Name and Title: (please print or type)

FEDERAL TAX ID NO. [REDACTED]

Date: 04-26-2011

Company Name: Fox Service Company

Address: 4300 S. Congress Avenue

City, State, Zip Code Austin, TX 78745

Phone No. (512) 442-6782

Fax No. (512) 443-8533

BELOW INFO MUST MATCH THE NAME AND ADDRESS ON INVOICE AND IN COMPANY PROFILE WITH CITY

Company "Remit To" Name: Fox Service Company

Remit to Address: PO Box 19047

City, State, Zip Code Austin, TX 78760

Email Address servcall@foxservice.com

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All other Sections may be viewed at: <https://www.cityofaustin.org/purchase> by clicking the link to "Vendor Self Service (VSS)", sign in if registered, register, or use public access to follow the links to "Business Opportunities" and "Search for Solicitation."

RETURN FOLLOWING DOCUMENTS WITH BID/PROPOSAL/QUOTE/RESPONSE/SUBMITTAL**

- Cover Page Offer Sheet
- Section 0600 Bid Sheet(s)
- Section 0700 Reference Sheet (if required)
- Sections 0800 - 0835 Certifications and Affidavits (return all applicable Sections)
- Section 0900 MBE/WBE Procurement Program Package or No Goals Utilization Plan, if applicable
- Bid Guaranty (if required)

** See also Section 0200, Solicitation Instructions, Section 0400, Supplemental Purchase Provisions, and Section 0500, Scope of Work/Specification, for additional documents that must be submitted with the Offer.

NOTES:

The Vendor agrees, if this Offer is accepted within 120 calendar days after the Due Date, to fully comply in strict accordance with the Solicitation, specifications and provisions attached thereto for the amounts shown on the accompanying Offer.

* **INCORPORATION OF DOCUMENTS.** Section 0100, Standard Purchase Definitions; Section 0200, Standard Solicitation Instructions; and Section 0300, Standard Purchase Terms and Conditions are hereby incorporated into this Solicitation by reference, with the same force and effect as if they were incorporated in full text. The full text versions of these Sections are available, on the Internet at the following online address: <http://www.ci.austin.tx.us/purchase/standard.htm>.

If you do not have access to the Internet, you may obtain a copy of these Sections from the City of Austin Purchasing Office at the below address. Please have the Solicitation number available so that the staff can select the proper documents. These documents can be mailed, expressed mailed, or faxed to you.

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

P.O. Address for US Mail	Street Address for Hand Delivery or Courier Service
City of Austin	City of Austin, Purchasing Office
Purchasing Office	Municipal Building
P.O. Box 1088	124 W 8 th Street, Rm 310
Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

Notes: Offers (including Compliance Plans) that are not submitted in a sealed envelope or container will not be considered. Unless authorized in the Solicitation, telegraphic or facsimile Offers will not be accepted.

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By submitting an Offer in response to the Solicitation, the Contractor agrees that the Contract shall be governed by the following terms and conditions. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a Solicitation to purchase Goods, and Sections 9, 10, 11 and 22 shall apply only to a Solicitation to purchase Services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.
3. **CONTRACTOR TO PACKAGE DELIVERABLES**: The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.
5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.
9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which

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could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

10. WORKFORCE

- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
- B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property .
 - i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or
 - ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.
- C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

- 11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

12. INVOICES:

- A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
- B. **Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
- C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

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13. **PAYMENT:**

- A. All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.
- B. **If payment is not timely made, (per paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
 - i. delivery of defective or non-conforming deliverables by the Contractor;
 - ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
 - iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
 - iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
 - v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
 - vi. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
 - vii. failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. Payment will be made bycheck unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
- G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. **TRAVEL EXPENSES:** All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

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<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of detailed itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

15. FINAL PAYMENT AND CLOSE-OUT:

- A. If an MBE/WBE Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Project manager or Contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.
- B. The making and acceptance of final payment will constitute:
 - i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and
 - ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

16. SPECIAL TOOLS & TEST EQUIPMENT: If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

17. RIGHT TO AUDIT:

- A. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.
- B. The Contractor shall include section a. above in all subcontractor agreements entered into in connection with this Contract.

18. SUBCONTRACTORS:

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and

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Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

- B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:
- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
 - ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
 - iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
 - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
 - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

19. WARRANTY-PRICE:

- A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.
- B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

20. **WARRANTY – TITLE:** The Contractor warrants that it has good and indefeasible title to all deliverables furnished under the Contract, and that the deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the deliverables.

21. **WARRANTY – DELIVERABLES:** The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and

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regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.

- A. Recycled deliverables shall be clearly identified as such.
 - B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
 - C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
 - D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.
 - E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
22. **WARRANTY – SERVICES:** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
 - B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
 - C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.
23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES:** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior

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to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

24. **RIGHT TO ASSURANCE:** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
25. **STOP WORK NOTICE:** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.
26. **DEFAULT:** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
28. **TERMINATION WITHOUT CAUSE:** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
29. **FRAUD:** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.
30. **DELAYS:**
- A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an

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adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 49. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

- B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. INDEMNITY:

A. Definitions:

- i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:
- (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or
 - (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),
- ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

- B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

32. INSURANCE: (reference Section 0400 for specific coverage requirements). The following insurance requirement applies. (Revised 6/01/98).

A. General Requirements.

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated in Section 0400, Supplemental Purchase Provisions, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverages and endorsements required in Section 0400, Supplemental Purchase Provisions, to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.

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- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.
- xii. The Contractor shall endeavor to provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.
- xiii. The insurance coverages specified in Section 0400, Supplemental Purchase Provisions, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

B. Specific Coverage Requirements: Specific insurance requirements are contained in Section 0400, Supplemental Purchase Provisions

33. **CLAIMS:** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit,

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or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

34. **NOTICES**: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the Contract Administrator.
35. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
36. **NO WARRANTY BY CITY AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such deliverables will not impact such warranties of Contractor.
37. **CONFIDENTIALITY**: In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
38. **OWNERSHIP AND USE OF DELIVERABLES**: The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

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- A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.
- B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 38 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.
- C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligation to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 38 a., b., and c. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 37 above.
39. **PUBLICATIONS**: All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.
40. **ADVERTISING**: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.
41. **NO CONTINGENT FEES**: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
42. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City

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shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

43. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.
44. **INDEPENDENT CONTRACTOR**: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.
45. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.
46. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.
47. **MODIFICATIONS**: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.
48. **INTERPRETATION**: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.
49. **DISPUTE RESOLUTION**:
- A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

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- B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.
50. **JURISDICTION AND VENUE:** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.
51. **INVALIDITY:** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.
52. **HOLIDAYS:** The following holidays are observed by the City:

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

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

53. **SURVIVABILITY OF OBLIGATIONS:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.
54. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**

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The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

55. EQUAL OPPORTUNITY

- A. **Equal Employment Opportunity:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.
- B. **Americans with Disabilities Act (ADA) Compliance:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

56. BUY AMERICAN ACT-SUPPLIES (Applicable to certain Federally funded requirements)

- A. Definitions. As used in this paragraph –
- i. "Component" means an article, material, or supply incorporated directly into an end product.
 - ii. "Cost of components" means -
 - (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
 - (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
 - iii. "Domestic end product" means-
 - (1) An unmanufactured end product mined or produced in the United States; or
 - (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
 - iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
 - v. "Foreign end product" means an end product other than a domestic end product.
 - vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

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- B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
- C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
- D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

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The following Supplemental Purchasing Provisions apply to this solicitation:

1. **EXPLANATIONS OR CLARIFICATIONS** (reference paragraph 5 in Section 0200)

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by April 19, 2011 via fax at 512-974-2388 or email at cruz.banda@ci.austin.tx.us. A **MANDATORY PRE-BID** conference will be held at the Parks and Recreation Department, PARD ANNEX, 919 W. 28 ½ ST/ Austin, Texas 78741 at 10:00 AM on April 12, 2011.

2. **INSURANCE.** Insurance is required for this solicitation.

A. **General Requirements.** See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for general insurance requirements.

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award
- ii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iii. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.
- iv. The Certificate of Insurance, and updates, shall contain the solicitation number and the Buyer's name and shall be mailed to the following address:

City of Austin Purchasing Office
Attn: Cruz Banda
P. O. Box 1088
Austin, Texas 78767

B. **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

- i. **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.

(1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:

- (a) Waiver of Subrogation, Form WC 420304, or equivalent coverage
- (b) Thirty (30) days Notice of Cancellation, Form WC 420601, or equivalent coverage

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- ii. Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries).
- (1) The policy shall contain the following provisions:
- (a) Blanket contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
 - (b) Independent Contractor's Coverage.
 - (c) Products/Completed Operations Liability for the duration of the warranty period.
 - (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and Underground Coverage (X,C,U).
- (2) The policy shall also include these endorsements in favor of the City of Austin:
- (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
- iii. Business Automobile Liability Insurance. The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
- (1) The policy shall include these endorsements in favor of the City of Austin:
- (a) Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage
 - (c) The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage.
- C. Endorsements. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.
- D. Certificate: **The following statement must be shown on the Certificate of Insurance.**
- The City of Austin is an Additional Insured on the general liability and the auto liability policies. A Waiver of Subrogation is issued in favor of the City of Austin for general liability, auto liability and workers compensation policies.**

3. TERM OF CONTRACT

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

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- B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
- C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above. A price increase, subject to the provisions of this Contract, may be requested by the Contractor (for each period of extension) for approval by the City's Purchasing Officer or his designee.

THIS IS A TWELVE (12) MONTH CONTRACT.

FIRM PRICES ARE TO BE SUBMITTED FOR THE FIRST TWELVE (12) MONTH PERIOD

4. QUANTITIES

The quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.

5. DELIVERY REQUIREMENTS

Location: Parks and Recreation Department	Days: Monday through Friday
Various Building Locations within the City of Austin	

- A. All services/ orders must be shipped complete unless arrangements for partial shipments are made in advance.
- B. The Contractor shall provide, with each delivery, a Shipping or Delivery Ticket showing the description of each item, quantity, and unit price.
- C. The Contractor shall confirm the quantity to be shipped on all orders within two (2) hours of notification by phone from the City.
- D. Unless requested by the City, deliveries shall not be made on City-recognized legal holidays (see paragraph 52 in Section 0300).

6. INVOICES and PAYMENT (reference paragraphs 12 and 13 in Section 0300)

- A. Invoices shall contain a non-duplicated invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.

Invoices shall be mailed to the below address:

	City of Austin
Department	Parks and Recreation Department
Attn:	Accounts Payable

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Address	200 S. Lamar Blvd.
City, State Zip Code	Austin, Texas 78701

- B. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer (EFT) for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.

7. RESTOCKING FEES

- A. The Contractor may bill the City restocking fees (if included in their Offer) for parts that are ordered by the City under the contract and returned for refund. The Contractor is not obligated to accept for refund any part that is not resalable and/or not in the same condition as when purchased.
- B. Restocking fees may be charged to the City when multiple parts or groups of parts are returned for refund at one time due to the City inventory warehouse cleaning, unless these parts are returned at an annual pre-arranged date. The date for the annual return shall be mutually agreed upon between the City and the Contractor.

8. RETAINAGE

The City MAY withhold 10 percent (%) retainage until completion of all work required by the Contract. The Contractor's invoice shall indicate the amount due, less the retainage. Upon final acceptance of the work, the Contractor shall submit an invoice for the retainage to the City and payment will be made as specified in the Contract. Payment of the retainage by the City shall not constitute nor be deemed a waiver or release by the City of any of its rights and remedies against the Contractor for recovery of amounts improperly invoiced or for defective, incomplete or non-conforming work under the Contract.

9. HAZARDOUS MATERIALS

- A. If this Solicitation involves hazardous materials, the Offeror shall furnish with the Offer Material Safety Data Sheets (MSDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.
- B. Failure to submit the MSDS as part of the Offer may subject the Offer to disqualification from consideration for award.
- C. The MSDS, instructions and information required in paragraph "a " must be included with each shipment under the contract.

10. LIVING WAGES AND BENEFITS (applicable to procurements involving the use of labor)

- A. In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a "living wage" and affordable health care protection. Currently, the minimum wage for City employees is \$11.00 per hour. This minimum wage is required for any Contractor employee directly assigned to this City Contract,

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unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.

- B. Additionally, the City provides health insurance for its employees, and for a nominal rate, employees may obtain coverage for their family members. Contractors must offer health insurance with optional family coverage for all Contractor employees directly assigned to this contract. Proof of the health care plan shall be provided prior to award of a Contract. In addition, an insurance certificate for Workers' Compensation Insurance Coverage must be provided if required by the solicitation.
- C. The City requires Contractors submitting Offers on this Contract to provide a signed certification (**see the Living Wages and Benefits Contractor Certification included in the Solicitation**) with their Offer certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$11.00 per hour and are offered a health care plan. The certification shall include a list of all employees directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- D. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA). Basic employment records shall at a minimum include:
 - i. employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;
 - ii. time and date of week when employee's workweek begins;
 - iii. hours worked each day and total hours worked each workweek;
 - iv. basis on which employee's wages are paid;
 - v. regular hourly pay rate;
 - vi. total daily or weekly straight-time earnings;
 - vii. total overtime earnings for the workweek;
 - viii. all additions to or deductions from the employee's wages;
 - ix. total wages paid each pay period; and
 - x. date of payment and the pay period covered by the payment.
- E. The Contractor shall provide with the first invoice and as requested by the Department's Contract Manager, individual Employee Certifications (**see the Living Wages and Benefits Employee Certification included in the Solicitation**) for all employees directly assigned to the contract containing:
 - i. the employee's name and job title;
 - ii. a statement certifying that the employee is paid at a rate equal to or greater than the Living Wage of \$11.00 per hour;
 - iii. a statement certifying that the employee is offered a health care plan with optional family coverage.

Employee Certifications shall be signed by each employee directly assigned to the contract.

- A. Contractor shall submit employee certifications quarterly with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract.

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- G. The Department's Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records identified in paragraph D above to verify compliance with this provision.

11. NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING

- A. The Austin City Council adopted Ordinance No. 20071206-045 on December 6, 2007, adding a new Article 6 to Chapter 2-7 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services exceeding \$5,000. During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the person designated in the Solicitation as the contact for questions and comments regarding the Solicitation.
- B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. The City requires Offerors submitting Offers on this Solicitation to provide a signed affidavit certifying that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance (**see the Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit included in the Solicitation**).

12. NON-SOLICITATION

- A. During the term of the Contract, and for a period of six (6) months following termination of the Contract, the Contractor, its affiliate, or its agent shall not hire, employ, or solicit for employment or consulting services, a City employee employed in a technical job classification in a City department that engages or uses the services of a Contractor employee.
- B. In the event that a breach of Paragraph A occurs the Contractor shall pay liquidated damages to the City in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation; or (ii) _____ percent of the employee's annual compensation while employed by the City. The Contractor shall reimburse the City for any fees and expenses incurred in the enforcement of this provision.
- C. During the term of the Contract, and for a period of six (6) months following termination of the Contract, a department that engages the services of the Contractor or uses the services of a Contractor employee will not hire a Contractor employee while the employee is performing work under a Contract with the City unless the City first obtains the Contractor's approval.
- D. In the event that a breach of Paragraph C occurs, the City shall pay liquidated damages to the Contractor in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation or (ii) _____ percent of the employee's annual compensation while employed by the Contractor.

13. WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID)

- A. Contractors are required to obtain a certified criminal background report with fingerprinting (referred to as the "report") for all persons performing on the contract, including all Contractor, Subcontractor, and Supplier personnel (for convenience referred to as "Contractor's personnel").

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- B. The report may be obtained by reporting to one of the below governmental entities, submitting to fingerprinting and requesting the report [requestors may anticipate a two-week delay for State reports and up to a four to six week delay for receipt of a Federal report].
 - i. Texas Department of Public Safety for any person currently residing in the State of Texas and having a valid Texas driver's license or photo ID card;
 - ii. The appropriate governmental agency from either the U.S. state or foreign nation in which the person resides and holds either a valid U.S. state-issued or foreign national driver's license or photo ID card; or
 - iii. A Federal Agency. A current Federal security clearance obtained from and certified by a Federal agency may be substituted.
- C. Contractor shall obtain the reports at least 30 days prior to any onsite work commencement. Contractor also shall attach to each report the project name, Contractor's personnel name(s), current address(es), and a copy of the U.S. state-issued or foreign national driver's license or photo ID card.
- D. Contractor shall provide the City Certified Criminal Background Report affirming that Contractor has conducted required security screening of Contractor's personnel to determine those appropriate for execution of the work and for presence on the City's property. A list of all Contractor Personnel requiring access to the City's site shall be attached to the affidavit.
- E. Upon receipt by the City of Contractor's affidavit described in (D) above and the list of the Contractor's personnel, the City will provide each of Contractor's personnel a contractor ID badge that is required for access to City property that shall be worn at all times by Contractor's personnel during the execution of the work.
- F. The City reserves the right to deny an ID badge to any Contractor personnel for reasonable cause, including failure of a Criminal History background check. The City will notify the Contractor of any such denial no more than twenty (20) days after receipt of the Contractor's reports. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the contract, the Contractor shall so notify the City's Contract Manager, in writing, within ten (10) calendar days of the receipt of notification of denial.
- G. Contractor's personnel will be required to wear the ID badge at all times while on the work site. Failure to wear or produce the ID badge may be cause for removal of an individual from the work site, without regard to Contractor's schedule. Lost ID badges shall be reported to the City's Contract Manager. Contractor shall reimburse the City for all costs incurred in providing additional ID badges to Contractor Personnel.
- H. ID badges to enter and/or work on the City property may be revoked by the City at any time. ID badges must be returned to the City at the time of project completion and acceptance or upon removal of an individual from the work site.
- I. Contractor is not required to obtain reports for delivery personnel, including but not limited to FedEx, UPS, Roadway, or other materials delivery persons, however all delivery personnel must present company/employer-issued photo ID and be accompanied by at least one of Contractor's personnel at all times while at the work site.
- J. The Contractor shall retain the reports and make them available for audit by the City during regular business hours (reference paragraph 17 in Section 0300, entitled Right to Audit).

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14. ECONOMIC PRICE ADJUSTMENT

A. Prices shown in this contract shall remain firm for the first 12 month period of the contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor subject to the following considerations:

B. Price Increases

i. Requests for price increases must be made in writing and submitted to the appropriate Buyer in the City's Purchasing Office. The letter must be signed by a person with the authority to bind the Contractor contractually, shall reference the contract number, and include the following documentation:

- (1) an itemized, revised price list with the effective date of the proposed increase;
- (2) copies of the documentation provided by the manufacturer regarding the proposed price increase if the contractor is not the manufacturer of the products. If the Contractor is the manufacturer of the products, a letter so stating must be provided;

Contractor shall submit, as a part of the request for increase, the version of the U.S. Department of Labor Employment Cost Index for Wages and Salaries for all Private Industry Workers (the "Index") current as of the date of the Contractor's Offer; and a copy of the index for the most current period.

- (3) Proposed price increases must be solely for the purpose of accommodating increases in the Contractor's costs for the products or services provided. Prices for products or services unaffected by verifiable cost trends shall not be subject to change.

ii. Requests for price increases must be made in writing and submitted to the appropriate Contract Manager prior to each yearly anniversary date of contract. Prices will only be considered for an increase at that time. Once received, the City will have 60 calendar days to review and approve/disapprove the requested increase. Should the City not agree with the requested increase, Contractor may either maintain the prices currently in effect, negotiate an acceptable increase with the City or terminate the contract.

iii. The proposed percentage change between the current contract price and the requested price shall not exceed the percentage change between the Index in effect at the beginning of the current review period and the one in effect at the time the price increase is requested. Except in the case of emergency situations, the requested index related or non-index related price increase shall not exceed Twenty-five percent (25%) for any single line item, and in no event shall the total amount of the contract be automatically increased as a result of the increase in any one or more line items made pursuant to this provision.

iv. Since the perceived need for price increases may be due in whole or in part to factors other than index changes, the City may consider approving fully-documented increase requests which, in the Contractor's opinion, justify price increases for one or more line items in the contract. If index changes are responsible in part for the requested change, those changes shall be documented as previously described above.

C. Price Decreases

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- i. Proposed price decreases may be offered to the City at any time, and become effective upon acceptance by the City unless a different effective date is specified by the Contractor. Price decrease offers may also be subject to negotiation.
- ii. Price decreases based on relevant factors may be requested by the City at any time. Such requests shall be accompanied by a complete statement of the City's justification for the request. The Contractor shall have 60 calendar days to respond to the City's request. Following receipt of the Contractor's agreement with the requested decrease, the City may implement the decrease at any time. Should the Contractor not agree with the requested decrease, the City may either maintain the prices currently in effect, negotiate with the contractor, or terminate the contract.

15. **INTERLOCAL PURCHASING AGREEMENTS** (applicable to competitively procured goods/services contracts).

- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions to other eligible governmental agencies that have an interlocal agreement with the City.
- B. The City does not accept any responsibility or liability for the purchases by other governmental agencies through an interlocal cooperative agreement.

16. **CONTRACT MANAGER**

The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

GENE FAULK, PARKS AND RECREATION DEPARTMENT
919 W. 28 ½ ST.
Austin, Texas 78741
Phone 512-974-9482
<u>GENE.FAULK@CI.AUSTIN.TX.US</u>
Phone 512-974-3972

*Note: The above listed Contract Manager is not the authorized Contact Person for purposes of the **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING Provision** of this Section; and therefore, contact with the Contract Manager is prohibited during the no contact period.

**CITY OF AUSTIN
SCOPE OF WORK
FOR
HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR
SERVICES**

1.0 PURPOSE AND SCOPE

1.1 Purpose

The purpose of this Invitation for Bid is to solicit bids for Heating, Ventilating and Air Conditioning (HVAC) services including maintenance, repair and minor renovations for a twelve (12) month contract with five (5), twelve (12) month extension options. These services shall be provided for the City of Austin, Parks and Recreation Department (PARD), and possibly other City of Austin Departments.

The contract awarded as a result of this solicitation will cover commercial HVAC maintenance and repair services; minor renovations on an as needed basis. The City may elect to allow multiple City departments to utilize the contract. All services shall be rendered at the location at the time of order.

1.2 Scope

The HVAC maintenance, repair and minor renovation services shall be provided for approximately 50 Austin Parks and Recreation Department facilities; other City facilities shall vary in quantity. A list of locations per department shall be made available at the post award meeting or upon request to the successful Contractor.

2.0 DEFINITIONS

- 2.1 TDLR- Texas Department of Licensing and Regulation
- 2.2 OSHA- Occupational Safety and Health Administration
- 2.3 PARD- Parks and Recreation Department
- 2.4 POC- Point of Contact
- 2.5 SMBR- Small and Minority Business Resources Department
- 2.6 OEM- Original Equipment Manufacturer
- 2.7 The City- City of Austin
- 2.8 CM- Contract Manager
- 2.9 DO- Delivery Order
- 2.10 HVAC- Heating, Ventilating, Air Conditioning
- 2.11 BAS- Building Automation System

3.0 APPLICABLE SPECIFICATION

- 3.1 The services provided under this agreement must comply with all City of Austin, Federal and State of Texas standards, regulations and laws concerning this type of work, applicable and effective during the term of this agreement including safety that applies both to private industry and governmental agencies such as compliance with applicable OSHA safety requirements: <http://www.osha.gov/>

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- 3.2 Contractor shall be licensed by the State of Texas in accordance with TDLR for Class A Air Conditioning and Refrigeration assignments. <http://www.license.state.tx.us/>

4.0 GENERAL OVERVIEW

- 4.1 The service agreement goal of this contract is for a Contractor to provide all HVAC maintenance, repairs and minor renovations that are associated under the terms of this agreement, Types of services and items covered by this agreement include, but are not limited to:**

- 4.1.1 HVAC installation and repair
- 4.1.2 Minor building or equipment modifications required to complete plumbing repairs:
 - 4.1.2A Carpentry/Painting
 - 4.1.2B Sheet Metal Fabrication
 - 4.1.2C Building Automation Controls
 - 4.1.2D Manufacturer Technical Support
- 4.1.3 Temporary HVAC services to facility
- 4.1.4 Secure plumbing permits as required by city/state codes and ordinances
- 4.1.5 Tools and equipment
- 4.1.6 Supervision
- 4.1.7 Manpower
- 4.1.8 Training of employees
- 4.1.9 Employee safety
- 4.1.10 Lifts, ladders and related equipment
- 4.1.11 Equipment rentals
- 4.1.12 Transportation
- 4.1.13 Preventative maintenance

5.0 CONTRACTOR REQUIREMENTS

5.1 Experience

- 5.1.1 To be considered a qualified Bidder, Contractor shall have a minimum of five (5) years experience in performing commercial HVAC maintenance and/or renovation as a prime provider and a minimum of two (2) years experience in City of Austin permitting.
 - 5.1.1A Proof of permitting experience must be a minimum of ten (10) permits per year to be considered substantial.
 - 5.1.1B Refer to Attachment A to provide documentation of HVAC and permitting experience.

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5.1.2 Contractor and technicians shall possess any license(s) required by the City of Austin, State of Texas, Federal agency or any other applicable regulatory agency requirements with jurisdiction over the City. The Contractor have no TDLR violations three (3) years prior to solicitation date.

5.1.3 Copies of Licenses shall be provided with the bid. (Examples: Class A License, Registration of Air Conditioning Technicians, etc. as defines by TDLR)

5.1.3A Refer to Attachment B to provide documentation of resumes and TDLR licenses and registration.

5.2 References

5.2.1 Bidder shall provide three (3) commercial references for similar work and types of systems as outlined in these specifications. Reference attachment 0700.

5.2.2 References shall validate satisfactory service and number of years of experience and must span the full five (5) years of experiences as a prime provider of commercial HVAC maintenance and/or renovation.

5.3 Business Requirements

5.3.1 Contractor shall operate and have a full-time, permanent business address, email address, telephone and fax machine.

5.3.2 The City may make site visits to each Contractor prior to and during the time of contract.

5.4 Staffing Requirements

5.4.1 Contractor shall have an adequate number of trained and licensed personnel required to provide services according to these specifications. Contractor shall employ a minimum of five (5) registered HVAC technicians during the period of this contract.

5.4.2 Contractor shall employ skilled, responsible persons who in appearance, manner and character are suitable to a business administering to the type of customers found at City facilities.

5.4.3 The City shall have the right to require that the Contractor remove any employee whose conduct is improper, inappropriate or offensive; and such employee shall not be assigned to provide services for the remainder of the contract term without written consent.

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- 5.4.4 Contractor shall ensure that all personnel are continuously trained to meet the latest technology and industry standards.

5.5 Point of Contact (POC)

- 5.5.1 The Contractor shall provide a single POC, who is skilled, knowledgeable, and experienced in HVAC installation, maintenance and repair. The POC must have the authority to dispatch for emergency services.
- 5.5.2 The POC shall be available and on-call twenty-four (24) hours daily including weekends and holidays. Contractor shall provide the office number, email address, pager and cell phone number for the POC.

5.6 Personnel Requirements

- 5.6.1 Personnel assigned to any contract awarded as a result of this solicitation shall meet all applicable certification requirements of any regulatory agency having jurisdiction.
- 5.6.2 All HVAC technicians employed by the Contractor must be registered with the State of Texas in accordance with TDLR and have no violations three (3) years prior to solicitation date.
- 5.6.3 All personnel assigned to the project shall wear a uniform, including safety equipment and company issued photo identification. Uniforms must be alike and have the Contractor and employee's name clearly displayed on the front of the shirt and seasonal outerwear.
- 5.6.4 The Contractor shall furnish certification papers and documentation of the assigned personnel's qualifications upon request by the City POC. The Contractor may change personnel only with equally classified and qualified personnel. The City POC may request that the Contractor remove any personnel whose work is unsatisfactory.
- 5.6.5 The Contractor shall assign at least one fluent English speaker to each job performed under this contract as a supervisor or team leader.

5.7 Hours of Service and Compensation

- 5.7.1 Contractor is expected to perform HVAC services within normal working hours, defined as Monday through Friday from 7:00 AM to 7:00 PM. After hours is defined as Monday through Friday from 7:01 PM to 6:59 AM and Saturday and Sunday. Official City holidays are considered after hours. Contractor may invoice

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150% of the normal labor rate for work performed after hours.
<http://www.ci.austin.tx.us/help/holidays.htm>

5.8 Subcontracting Opportunities

- 5.8.1 All subcontractors shall be approved by the City. The Contractor shall insure that subcontractors meet all applicable sections of this solicitation and current City of Austin requirements. The use of HVAC subcontractors shall be at no additional cost to the city.
- 5.8.2 The Contractor will contact SMBR to identify a team of minority subcontractors that are qualified to perform the subsidiary and finish-work services to deliver a turn-key project. The hourly rate and scope of work for each subcontractor must be submitted with the job quote and approved by the City POC. The types of subcontracting work include but are not limited to:
 - 5.8.2A Carpentry/Painting
 - 5.8.2B Sheet Metal Fabrication
 - 5.8.2C Insulators
 - 5.8.2D Pipe Fitters
- 5.8.3 Subcontracting goals will be estimated at the time of contract but opportunities will be established on a job-by-job basis.

6.0 PERFORMANCE REQUIREMENTS

6.1 General

- 6.1.1 The Contractor shall provide all labor, supervision, diagnostics, parts, materials, tools, equipment, instruments, incidentals, expendable items, personnel protective equipment and training required for responsive service.
- 6.1.2 The Contractor shall provide a published price list or materials catalog which will be used to purchase materials for the servicing of facilities.
- 6.1.3 All materials used must be factory new and free of defects in materials and workmanship. Repair parts and components must conform to OEM specifications.
- 6.1.4 All service shall be scheduled as directed by the City POC. Once the City POC requests a job proposal with an itemized quote, the Contractor has two (2) business days to submit the quote unless otherwise specified by the City POC at the time of submittal.

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- 6.1.5 Emergency service shall be available twenty-four (24) hours per day, three hundred sixty-five (365) days a year with a maximum response time of two (2) hours.
- 6.1.6 It shall be the responsibility of the Contractor to inspect the job sites prior to the submission of each job proposal.
- 6.1.6A The Contractor shall review the HVAC requirements for each project and provide a job proposal. The City will issue a written Notice to Proceed upon approval of the project quote and the Contractor must begin the work within one (1) business day of the Notice to Proceed unless otherwise specified by the City POC at time of submittal. Contractor shall submit an invoice for all labor, in accordance with the labor rates per section 0600 – Bid sheet and materials, in accordance with section 6.1.2 of this scope of work, upon project completion.
- 6.1.6B Submission of the job proposal is evidence that the contractor is familiar with the nature and extent of the work and any local conditions that may, in any manner, affect the scope of work, including equipment, materials and labor required.
- 6.1.6C Each job proposal will be per hourly bid rate for each job title (Project Manager/Supervisor, HVAC Mechanical Technician) submitted by contractor plus materials, rentals and subcontractors.
- 6.1.6D The Contractor is allowed to mark-up materials and rentals by no more than thirty-five (35) percent.
- 6.1.6E Contractor may invoice the City for cost of subcontracting (other than HVAC) by no more than ten (10) percent including BAS staff and/or Manufacturer's Technical support.
- 6.1.6F Contractor is responsible for acquiring all necessary permits to perform the work, of which the cost will be fully reimbursed upon submittal of the final invoice.
- 6.1.6G The job proposal will **not** include a separate charge for administrative, overhead, per diem and transportation (i.e. mileage and fuel) costs. These expenses will be included in the hourly bid rates.
- 6.1.6H The Contractor shall submit Change Orders Request for unknown conditions that affect the project quote by more than +/- ten (10) percent and/or not to exceed \$500.

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6.2 Parts and Equipment

- 6.2.1 Contractor shall dispose of all worn/defective parts, oils, solvents, in accordance with all applicable laws, rules and regulations. The City reserves the right to retain ownership of any or all HVAC equipment purchased under this agreement at the City's discretion.
- 6.2.2 Contractor shall provide the manifest ticket for hazardous materials or other proof of proper disposal on request or at the time of invoicing.
- 6.2.3 Contractor shall handle, transport, and dispose of worn/defective parts, oils, solvents, waste or hazardous materials in such a manner as to ensure the highest level of safety to the environment and public health at no additional cost to the City.
- 6.2.4 Contractor shall not store worn or defective parts on City premises at the end of the work day unless otherwise specified by the City POC.

6.3 Coordinate Performance

- 6.3.1 Upon completion of service call to the facility, Contractor will submit a final invoice for work performed, which includes an itemized record of all labor, materials, rentals and subcontractors with proof of receipt, and the City POC will approve the invoice for final payment.
- 6.3.2 In addition to the invoice, the Contractor shall provide a detailed report describing services and parts repaired or replaced for each service performed. The Contractor shall advise the CM of developments relating to the performance of this agreement.
- 6.3.3 Contractor shall provide documentation of manufacturer's warranty along with the final invoice. Contractor shall provide a written warranty for all parts and labor and workmanship upon completion of each job. Warranty shall be guaranteed for a minimum of one year from completion date and shall be warranted against any malfunctions or defects in products, parts and against faulty services. If the manufacturer's warranty is longer for any part(s) provided in repair, service work performed, then the longest warranty shall apply.
- 6.3.4 Contractor shall warrant all materials and workmanship for a period of one (1) year from acceptance of the work (approval of project invoice) by the City POC.

**BID SHEET
CITY OF AUSTIN**

SOLICITATION NAME: HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIRS SERVICES

IFB NO.	CB30101
RQM NO.	860011011900142
ISSUE DATE:	April 4, 2011
BUYER	CRUZ BANDA

Copies of Bid: Vendor must submit two copies of its signed quote - one original and one copy.

Special Instructions: Be advised that exceptions taken to any portion of the solicitations may jeopardize acceptance of the quote. Estimated annual expenditures for these services is \$510,000 **NOTE:** This amount includes an estimated dollar amount for additional departments in accordance with 0500 - Scope of Work, paragraph 1.1 There is no guarantee additional departments will be added.

ITEM NO.	ITEM DESCRIPTION	*ESTIMATED QUANTITY	UNIT	**HOURLY LABOR RATE	EXTENDED PRICE
1.1	Labor Cost - Service Manager/ Supervisor	550	Hours	\$68.00	\$37,400.00
1.2	Labor Cost - HVAC Technician	2,000	Hours	\$64.00	\$128,000.00
*Estimated Quantity to be used ONLY for bid evaluation.					
**Hourly Labor Rate will be used for Contractor labor rates in accordance with the 0500 -Scope of Work, for the duration of the contract and extension options.					
TOTAL PRICE					\$165,400.00

ALL DELIVERY TERMS: DELIVERY IS TO BE FOB DESTINATION, PREPAID AND ALLOWED

COMPANY NAME: Fox Service Company

SIGNATURE OF AUTHORIZED REPRESENTATIVE: Sean Weaver

PRINTED NAME: Sean Weaver

EMAIL ADDRESS: sweaver@foxservice.com

City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NONDISCRIMINATION CERTIFICATION
SOLICITATION NO. CB30101

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

Chapter 5-4 of the Code of the City of Austin (Discrimination in Employment by City Contractors) requires that at all times while acting as a Contractor (as defined under Chapter 5-4) a Contractor must agree:

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

Please check one of the following:

- ☒ Our firm's nondiscrimination policy conforms to the requirements of City Code, Chapter 5-4-2-B, items (1) through (7) and will be sent to the City upon request.
- ☐ Our firm does not have an established nondiscrimination policy and will adopt the City's minimum standard shown below. Our firm will send the adopted policy on company letterhead to the City upon request.

Minimum Standard Nondiscrimination in Employment Policy:

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

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

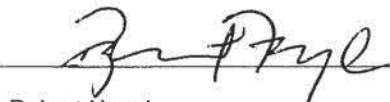
Employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative.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

Sanctions:

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

Contractor's Name: Fox Service Company

Signature of Officer or
Authorized
Representative:



Date:

04-26-2011

Printed Name:

Robert Nagel

Title

President and CEO

City of Austin, Texas
NON-SUSPENSION OR DEBARMENT CERTIFICATION
SOLICITATION NO. CB30100

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name: Fox Service Company

Signature of Officer
or Authorized
Representative:



Date: 04-26-2011

Printed Name:

Robert Nagel

Title

President and CEO

CITY OF AUSTIN
NON-COLLUSION,
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT
SOLICITATION NO. CB30101

FOR
HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES

State of Texas

County of Travis

The undersigned "Affiant" is a duly authorized representative of the Offeror for the purpose of making this Affidavit, and, after being first duly sworn, has deposed and stated and hereby deposes and states, to the best of his or her personal knowledge and belief as follows:

The term "**Offeror**", as used herein, includes the individual or business entity submitting the Offer and for the purpose of this Affidavit includes the directors, officers, partners, managers, members, principals, owners, agents, representatives, employees, other parties in interest of the Offeror, and anyone or any entity acting for or on behalf of the Offeror, including a subcontractor in connection with this Offer.

1. **Anti-Collusion Statement.** The Offeror has not in any way directly or indirectly:
 - a. colluded, conspired, or agreed with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.
 - b. paid or agreed to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.
2. **Preparation of Solicitation and Contract Documents.** The Offeror has not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, the Offeror has not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Offerors, so as to have an unfair advantage over other Offerors, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
3. **Participation in Decision Making Process.** The Offeror has not participated in the evaluation of Offers or other decision making process for this Solicitation, and, if Offeror is awarded a Contract hereunder, no individual, agent, representative, consultant, subcontractor, or subconsultant associated with Offeror, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
4. **Present Knowledge.** Offeror is not presently aware of any potential or actual conflicts of interest regarding this Solicitation, which either enabled Offeror to obtain an advantage over other Offerors or would prevent Offeror from advancing the best interests of the City in the course of the performance of the Contract.
5. **City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a substantial interest in Offeror is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.
6. **Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local Government Code, the Offeror:
 - a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;

**CITY OF AUSTIN
NON-COLLUSION,
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT**

- b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$250 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that OWNER is considering doing business with the Offeror.
- c. as required by Chapter 176 of the Texas Local Government Code, Offeror must file a Conflict of Interest Questionnaire with the Office of the City Clerk no later than 5:00 P.M. on the seventh (7th) business day after the commencement of contract discussions or negotiations with the City or the submission of an Offer, or other writing related to a potential Contract with the City. The questionnaire is available on line at the following website for the City Clerk:
<http://www.ci.austin.tx.us/cityclerk/coi.htm>

There are statutory penalties for failure to comply with Chapter 176.

If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation in the space provided below or, as necessary, on separate pages to be annexed hereto.

7. **Anti-Lobbying Ordinance.** As set forth in the Solicitation Instructions, Section 0200, paragraph 7N, between the date that the Solicitation was issued and the date of full execution of the Contract, Offeror has not made and will not make a representation to a member of the City Council, a member of a City Board, or any other official, employee or agent of the City, other than the Authorized Contact Person for the Solicitation, except as permitted by the Ordinance.

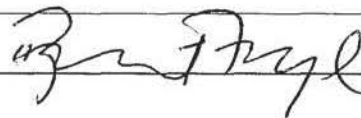
OFFEROR'S EXPLANATION:

Contractor's Name: Fox Service Company

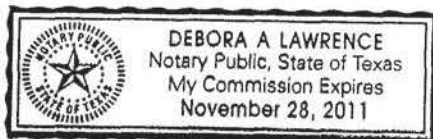
Printed
Name: Robert Nagel

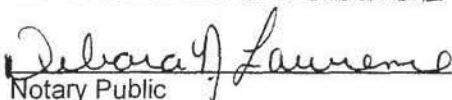
Title President and CEO

Signature of Officer or Authorized Representative:



Subscribed and sworn to before me this 25th day of April, 2011.




Notary Public

My Commission Expires 11/28/2011

CITY OF AUSTIN, TEXAS
LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION
(Please duplicate as needed)

SOLICITATION NO. CB30101

Pursuant to the Living Wages and Benefits provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour.

I hereby certify under penalty of perjury that all of the below listed employees of the Contractor who are directly assigned to this contract:

- (1) are compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) are offered a health care plan with optional family coverage.

Employee Name	Employee Job Title
Brandon Eitzen	HVAC Service Technician
Servando Gonzalez	HVAC Service Technician
Peter R. Lawton	HVAC Service Technician
Bill Prosser	HVAC Service Technician
Bill Vincik	HVAC Service Technician

- (3) all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.00 per hour and offered a health care plan with optional family coverage.
- (4) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

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

Contractor's Name: Fox Service Company

Signature of Officer
or Authorized
Representative:

Venus Andrews

Date: 04-26-2011

Printed Name: Venus Andrews

Title: Human Resource Manager

C TW

City of Austin, Texas
NONRESIDENT BIDDER PROVISIONS
SOLICITATION NO. CB30101

- A. Bidder must answer the following questions in accordance with Vernon's Texas Statutes and Codes Annotated Government Code 2252.002, as amended:

Is the Bidder that is making and submitting this Bid a "Resident Bidder" or a "Non-resident Bidder"?

Answer: Resident Bidder

- (1) Texas Resident Bidder – A Bidder whose principal place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.
- (2) Nonresident Bidder – A Bidder who is not a Texas Resident Bidder.

- B. If the Bidder is a "Nonresident Bidder" does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the Bid of a Resident Bidder of that state in order for the nonresident Bidder of that state to be awarded a Contract on such bid in said state.

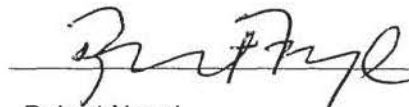
Answer: _____ Which State: _____

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: _____

Bidder's Name: Fox Service Company

Signature of Officer or
Authorized
Representative:



Date: 04-26-2011

Printed Name: Robert Nagel

Title: President and CEO

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)
PROCUREMENT PROGRAM
NO GOALS FORM**

SOLICITATION NUMBER: CB30101

PROJECT NAME: HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES

The City of Austin has determined that no goals are appropriate for this project. Even though no goals have been established for this solicitation, the Bidder/Proposer is required to comply with the City's MBE/WBE Procurement Program, if areas of subcontracting are identified.

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

Will subcontractors or sub-consultants or suppliers be used to perform portions of this Contract?

No X If no, please sign the No Goals Form and submit it with your Bid/Proposal in a sealed envelope.

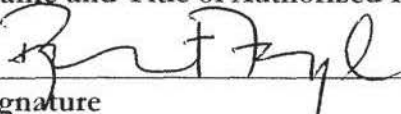
Yes If yes, please contact SMBR to obtain further instructions and an availability list and perform Good Faith Efforts. Complete and submit the No Goals Form and the No Goals Utilization Plan with your Bid/Proposal in a sealed envelope.

After Contract award, if your firm subcontracts any portion of the Contract, it is a requirement to complete Good Faith Efforts and the No Goals Utilization Plan, listing any subcontractor, subconsultant, or supplier. Return the completed Plan to the Project Manager or the Contract Manager.

I understand that even though no goals have been established, I must comply with the City's MBE/WBE Procurement Program if subcontracting areas are identified. I agree that this No Goals Form and No Goals Utilization Plan shall become a part of my Contract with the City of Austin.

Fox Service Company
Company Name

Robert Nagel, President and CEO
Name and Title of Authorized Representative (Print or Type)


Signature

04-26-2011
Date

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)
PROCUREMENT PROGRAM
NO GOALS UTILIZATION PLAN**
(Please duplicate as needed)

SOLICITATION NUMBER: CB30101

PROJECT NAME: HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE AND REPAIR SERVICES

PRIME CONTRACTOR/CONSULTANT COMPANY INFORMATION

Name of Contractor/Consultant	Fox Service Company		
Address	4300 S. Congress Avenue		
City, State Zip	Austin, TX 78745		
Phone	512-442-6782	Fax Number	512-443-8533
Name of Contact Person	Sean Weaver, Account Manager		
Is company City certified?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture <input type="checkbox"/>		

I certify that the information included in this No Goals Utilization Plan is true and complete to the best of my knowledge and belief. I further understand and agree that the information in this document shall become part of my Contract with the City of Austin.

Robert Nagel, President and CEO

Name and Title of Authorized Representative (Print or Type)

Signature

04-26-2011

Date

Provide a list of all proposed subcontractors/subconsultants/suppliers that will be used in the performance of this Contract. **Attach Good Faith Efforts documentation if non MBE/WBE firms will be used.**

Sub-Contractor/Consultant			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/>	Ethnic/Gender Code:	<input type="checkbox"/> NON-CERTIFIED
Vendor ID Code			
Contact Person	Phone Number:		
Amount of Subcontract	\$		
List commodity codes & description of services			

Sub-Contractor/Consultant			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/>	Ethnic/Gender Code:	<input type="checkbox"/> NON-CERTIFIED
Vendor ID Code			
Contact Person	Phone Number:		
Amount of Subcontract	\$		
List commodity codes & description of services			

FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:

Having reviewed this plan, I acknowledge that the proposer (HAS) or (HAS NOT) complied with City Code Chapter 2-9A/B/C/D, as amended.

Reviewing Counselor _____ Date _____ Director/Deputy Director _____ Date _____

Banda, Cruz

From: Castro, Carolyn
Sent: Thursday, June 23, 2011 11:27 AM
To: Osborne, Mick; Ceder, Sydney; Cocke, Steven; Helgren, Brenda; Patterson, Sharon; Banda, Cruz; Athey, Colleen; Acuna, Art; Castillo, Dolores; Guerrero, Gabriel; Xoomsai, Sai
Cc: Aden, Steve; Mueller, Lynn; Ledesma, Rosemary; Harris, Shawn; Thorpe, Lynda; Washington, Bea; Walsh, Mark
Subject: COUNCIL ACTION 6/23/2011 - ALL PURCHASING ITEMS APPROVED

Due to the new agenda management system, there is a slight change in how you can access the final RCA. Please see Audit Note for instructions. Let me know if you have any questions. Thank You.

AUDIT NOTE: You are responsible for ensuring a copy of the final RCA and Council's approval are included in the contract file. This email can serve as notification of Council approval. To access the final RCA, click anywhere on the underlined agenda item; click on the PDF icon; and print the final RCA.

AUSTIN CITY COUNCIL June 23, 2011

Purchasing Office

49. Authorize award, negotiation, and execution of Amendment No. 12 to the contract with MOTOROLA SOLUTIONS, INC., Austin, TX, for the purchase of subscriber radio equipment, add-on radios for new positions and vehicles, budgeted system upgrades, replacement units, and related equipment and services for City departments in an amount not to exceed \$3,293,000, for a revised total contract amount not to exceed \$102,193,732.

50. Approve ratification of a contract with FERGUSON ENTERPRISES, INC., Georgetown, TX for the purchase of pipe and appurtenances for the emergency construction of a by-pass line for the Austin Water Utility for a total contract amount not to exceed \$90,126.17.

51. Authorize award and execution of two 24-month requirement supply contracts for ductile iron fittings and pipe joint restraints for the Austin Water Utility with MUNICIPAL WATER WORKS, Royse City, TX in an amount not to exceed \$185,827.50, with two 12-month extension options in amounts not to exceed \$92,913.75 per extension option, for a total agreement amount not to exceed \$371,655 and with HD SUPPLY WATER WORKS, Round Rock, TX in an amount not to exceed \$88,851.80, with two 12-month extension options in amounts not to exceed \$44,425.90 per extension option, for a total agreement amount not to exceed

\$177,703.60.

52. Authorize award, negotiation, and execution of Amendment No. 4 to a contract with SUMMUS INDUSTRIES, INC., (MBE/MB) Sugarland, TX, for additional Microsoft licenses in an amount not to exceed \$157,354.72 for a revised total contract amount not to exceed \$15,161,585.50.

53. Authorize award and execution of a 36-month supply agreement with DENVER KOKEL TOWING, Austin, Texas, for towing services for the Public Works Department in an amount not to exceed \$245,250 with three 12-month extension options in an amount not to exceed \$81,750 for each option, for a total contract amount not to exceed \$490,500.

54. Authorize award and execution of Amendment No. 7 to a contract with PRINCIPAL DECISION SYSTEMS INTERNATIONAL, Irvine, CA, for maintenance and support of TeleStaff personnel scheduling software to add four 12-month extension options to the contract in an amount not to exceed \$23,800 for the first extension option, \$26,200 for the second extension option, \$28,800 for the third extension option, and \$31,700 for the fourth extension option, for a revised total contract amount not to exceed \$300,504.

55. Authorize award and execution of a 12-month service agreement contract with ONSITE HEALTH DIAGNOSTICS, Irving, TX or one of the other qualified bidders for IFB-BV No. JSD0201, to provide preventive health services (fingerstick blood test, venipuncture blood test, bone density scans, and influenza vaccinations) for City of Austin employees, retirees, and other eligible participants in an estimated amount not to exceed \$327,500, with two one year extension options in an estimated amount not to exceed \$327,500 per extension option, for a total estimated contract amount not to exceed \$982,500.

56. Authorize award, negotiation, and execution of a two 36-month service agreement contracts with Assurant, Inc., Kansas City, MO or one of the other qualified proposers to RFP JSD0103 to provide a Dental Maintenance Organization (DMO) dental plan for City of Austin retirees with three 12-month extension options for a total estimated contract amount not to exceed \$1,609,000; and Authorize award, negotiation, and execution of a 36-month service agreement contract with Delta Dental Insurance Company, Alpharetta, GA, or one of the other qualified proposers to RFP JSD0103 to provide an indemnity/PPO dental plan for City of Austin retirees with three 12-month extension options for a total estimated contract amount not to exceed \$11,408,000.

57. Authorize award, negotiation, and execution of a 36-month service agreement contract with: UNIMERICA INSURANCE COMPANY, Golden Valley, MN or one of the other qualified proposers to RFP JSD0105 to provide group term life insurance for City of Austin employees and retirees with three 12-month extension options for a total estimated contract amount not to exceed \$26,950,000.
58. Authorize award and execution of Amendment No. 1 to a 36-month requirements supply contract with AIRGAS SOUTHWEST, Austin, TX, for the purchase of Lumidor gas monitors and parts for the Austin Water Utility to increase the contract in an estimated amount not to exceed \$40,000 for the final 12-months of the initial contract period, with three 12-month extension options amounts estimated not to exceed \$40,000 for a total estimated contract amount not to exceed \$120,000.
59. Authorize award and execution of Amendment No. 1 to a 36-month contract with LANFORD EQUIPMENT CO., INC., Austin, TX for repairs and parts for Massey Ferguson tractors at ABIA in an amount not to exceed \$91,020 for the remaining 24 months of the initial 36-month contract period, with two additional 12-month extension options in an amount not to exceed \$45,510 per extension option, for a revised total contract amount not to exceed \$227,550.
60. Authorize award and execution of Amendment No. 1 to a contract with PURVIS INDUSTRIES LTD, Austin, TX for Van Der Graaf motorized pulleys for the baggage handling system for the Austin-Bergstrom International Airport, to increase the contract in the amount not to exceed \$36,112 per period, for the second and third 12-month periods of the initial 36-month contract, with two additional 12-month extension options in an amount not to exceed \$36,112 per extension option, for a revised total contract amount not to exceed \$180,560.
61. Authorize award and execution of a contract with LONGHORN INTERNATIONAL TRUCKS, LTD, Austin, TX for the purchase of two box vans in an amount not to exceed \$104,624.80.
62. Authorize award and execution of Amendment No. 2 to a contract with DS WATERS OF AMERICA, Austin, TX for coffee service at Austin-Bergstrom International Airport to extend the contract for three 12-month periods in the amount not to exceed \$31,100 with three additional 12-month extension options in an estimated amount not to exceed \$10,367 per option year, for a revised total estimated contract amount not to exceed \$93,301.
63. Approve Amendment No. 4 to increase a continuing contract with the AMERICAN RED CROSS., Austin, TX, for training, certification and materials in an estimated

amount not to exceed \$17,700 with automatic one-year renewals thereafter on the anniversary of the commencement date, unless either party gives written notice to the other of its desire not to renew at least 30 days prior to the commencement of any renewal period; respectively in the amount of \$17,700 per automatic one-year renewal.

64. Authorize award and execution of a twelve 12-month requirements service agreement with YPS REFRIGERATION II LLC., Austin, TX., for plumbing maintenance repairs and minor renovation services, in an estimated amount not exceed \$475,000 with five 12-month extension options in estimated amounts not to exceed, \$592,000; \$592,000; \$665,000; \$665,000; and \$715,000 respectively for a total estimated contract amount not to exceed \$3,704,000.

65. Authorize award and execution of a 36-month requirements supply contract with PROFESSIONAL TURF PRODUCTS, L.P., San Antonio, TX for repair parts for Toro turf and lawn equipment in an estimated amount not to exceed \$345,800, with three 12-month extension options in estimated amounts not to exceed \$164,160 for the first extension option, \$196,992 for the second extension option, and \$236,391 for the third extension option, for a total estimated contract amount not to exceed \$943,343.

66. Authorize award and execution of a twelve 12-month requirements service agreement with FOX SERVICE COMPANY, Austin, TX, for heating, ventilating & air conditioning maintenance services, in an estimated amount not exceed \$510,000 with five 12-month extension options in estimated amounts not to exceed, \$535,000; \$535,000; \$540,000; \$540,000; and \$550,000 respectively for a total estimated contract amount not to exceed \$3,210,000.

67. Authorize award and execution of a 36-month requirements supply contract with DOOLEY TACKABERRY INC., Deer Park, TX and METRO FIRE APPARATUS SPECIALISTS INC., Houston, TX, or one of the other qualified bidders for IFB-BV No. CEA0009, to provide fire hose and fire equipment in an estimated amount not to exceed \$1,150,663 each and combined, with three 12-month extension options in estimated amounts not to exceed \$422,533 each and combined for the first extension option, \$443,660 each and combined for the second extension option, and \$465,843 each and combined for the third extension option, for a total estimated contract amount not to exceed \$2,482,698, each and combined.

68. Authorize award and execution of a 36-month requirements service contract with AUSTIN FUEL INJECTION AND PERFORMANCE CENTER, Austin, TX to provide testing and repair services for engine fuel systems and components in an estimated amount not to exceed \$1,994,398, with three 12-month extension options in estimated amounts not to exceed \$945,605 for the first extension option,

\$1,134,726 for the second extension option, and \$1,361,671 for the third extension option, for a total estimated contract amount not to exceed \$5,436,400.

69. Authorize award and execution of a contract with MASIMO AMERICA'S INC., dba MASIMO INC., Irvine, CA for the purchase of twenty handheld oximeters for the Emergency Medical Services Department in an amount not to exceed \$65,027.
70. Authorize award and execution of a 36-month requirements service contract with MAGNA-FLOW ENVIRONMENTAL, INC., Austin, Texas, for grit trap-septic pumping, hauling and disposal services for the Solid Waste Services Department in an amount not to exceed \$198,135 with three 12-month extension options in an amount not to exceed \$66,045 per extension option, for a total contract amount not to exceed \$396,270.
71. Authorize award and execution of a 36-month requirements supply contract with SAFETY SHOE DISTRIBUTORS, Houston, TX, for safety shoes and boots for the Solid Waste Services Department in an amount not to exceed \$224,587.32 with three 12-month extension options in an amount not to exceed \$74,862.44 per extension option, for a total contract amount not to exceed \$449,174.64.
72. Authorize award and execution of Amendment No. 2 to a contract with SIMTEC INCORPORATED, Madison, WI for the purchase of maintenance and support services for RTSim Software for Austin Energy - Energy Marketing Operations (EMO) to extend the contract for one 12-month extension option in an estimated not to exceed \$46,539 with two additional 12-month extension options in an estimated amount not to exceed \$48,866, for the third 12-month extension option and \$51,309 for the fourth extension option for a revised total estimated contract amount not to exceed \$233,249.
73. Authorize award, negotiation and execution of Amendment No. 4 to a contract with SOUTH LAMAR STORAGE, Austin, TX for the rental of off-site storage facilities for Austin Energy , to extend the contract for one 12-month extension option in an estimated not to exceed \$31,170, with one additional 12-month extension option in an estimated amount not to exceed \$31,170, for a revised total estimated contract amount not to exceed \$118,045.
74. Authorize award and execution of a 36-month requirements supply contract with PRIESTER-MELL & NICHOLSON INC., Austin, TX for the purchase of 3-phase dead front switch gear for Austin Energy in an estimated amount not to exceed \$942,300, with three 12-month extension options in an estimated amount not to exceed \$314,100 per extension option, for a total estimated contract amount not to

exceed \$1,884,600.

75. Authorize award and execution of Amendment No. 2 to a contract with JASPERSOFT CORPORATION, San Francisco, CA for the purchase of maintenance and support services for Intelligence Suite Software for financial and management reporting for Austin Energy Corporate Quality Services to extend the contract for one 12-month extension option in an estimated not to exceed \$35,000, with one additional 12-month extension option in an estimated amount not to exceed \$38,000, for a revised total estimated contract amount not to exceed \$153,500.

76. Authorize award and execution of a 36-month requirements service contract with AIR CLEANING TECHNOLOGIES INC., Broken Arrow, OK to provide maintenance and repair of Plymovent exhaust systems in an estimated amount not to exceed \$135,000, with three 12-month extension options in an estimated amount not to exceed \$45,000 per extension option, for a total estimated contract amount not to exceed \$270,000.

77. Authorize award and execution of Amendment No. 5 to the contract with SIEMENS INDUSTRY, INC., Austin, TX, for technical support of Apogee Building Automation System for the Austin Convention Center to exercise the holdover provision for a period of 120 days. The total estimated contract amount is unchanged for the holdover period, the total estimated contract amount not to exceed \$229,620.

Thank You
Carolyn

A G E N D A



Recommendation for Council Action (Purchasing)

Austin City Council

Item ID:

7356

Agenda Number

66.

Meeting Date:

June 23, 2011

Department:

Purchasing

Subject

Authorize award and execution of a twelve 12-month requirements service agreement with FOX SERVICE COMPANY, Austin, TX, for heating, ventilating & air conditioning maintenance services, in an estimated amount not exceed \$510,000 with five 12-month extension options in estimated amounts not to exceed, \$535,000; \$535,000; \$540,000; \$540,000; and \$550,000 respectively for a total estimated contract amount not to exceed \$3,210,000.

Amount and Source of Funding

Funding in the amount of \$127,500 is available in the Fiscal Year 2010-2011 Operating Budget of the Parks and Recreation and other City Departments. Funding for the remaining nine months of the initial contract period and extension options is contingent upon available funding in future budgets.

Fiscal Note

There is no unanticipated fiscal impact. A fiscal note is not required.

Purchasing
Language:

Lowest of seven bids received.

Prior Council
Action:For More
Information:

Cruz Banda, Buyer II /974-2133

Boards and
Commission
Action:

MBE / WBE:

This contract will be awarded in compliance with Chapter 2-9C of the City Code (Minority-Owned and Women-Owned Business Enterprise Procurement Program). No subcontracting opportunities were identified; therefore, no goals were established for this solicitation.

Related Items:



Additional Backup Information

This contract is for Heating, Ventilating & Air Conditioning (HVAC) maintenance, repair and minor renovation services for the Parks and Recreation Department (PARC) with approximately 250 locations, and other city departments. Services shall include, but are not limited to, maintenance, repair and minor renovations to HVAC systems and equipment, also included are services that may be required to complete HVAC repairs such as carpentry, painting, sheet metal fabrication, building automation controls and mechanical.

The Contractor is responsible for securing all permits required for each service. The Contractor is also responsible for all labor and materials i.e., tools, ladders, lifts, rental of equipment and any other related equipment.

MBE/WBE solicited: 14/13

MBE/WBE bid: 0/0

BID TABULATION

IFB NO. CB30101

**HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE SERVICES
(2 Line Items)**

<u>VENDOR</u>	<u>TOTAL BID</u>
FOX SERVICE COMPANY Austin, TX	\$165,400.00
McCullough Heating & Air Conditioning, Inc. Austin, TX	\$167,472.50
Mechanical & Process Systems LLC Round Rock, TX	\$168,500.00
The Porter Service Company Manchaca, TX	\$186,350.00
Trane Company Austin, TX	\$202,000.00
Carrier Corporation Austin, TX	\$288,750.00
YPS Austin, TX	\$276,200.00

A complete bid tabulation is on file in the Purchasing Office and is on the City of Austin, FASD Purchasing Office Website.

PRICE ANALYSIS

- a. Adequate Competition.
- b. Two Hundred and forty-five notices were sent including fourteen MBE and thirteen WBE firms. No MBE/WBE firms responded.

- c. This is a new contract for these types of services; therefore no financial history is available.

APPROVAL JUSTIFICATION

- a. Lowest Bid.
- b. The Purchasing Office concurs with Parks and Recreation Departments recommended award.
- c. Advertised in the Austin American-Statesman and the Internet.

The information contained in this bid tabulation is for information only and does not constitute actual award/execution of a contract.

BID TABULATION
CITY OF AUSTIN
HEATING, VENTILATING & AIR CONDITIONING MAINTENANCE REPAIRS SERVICES

BID NO. CB30101

RX NO. 8600 110111900142

DATE: 4/26/2011

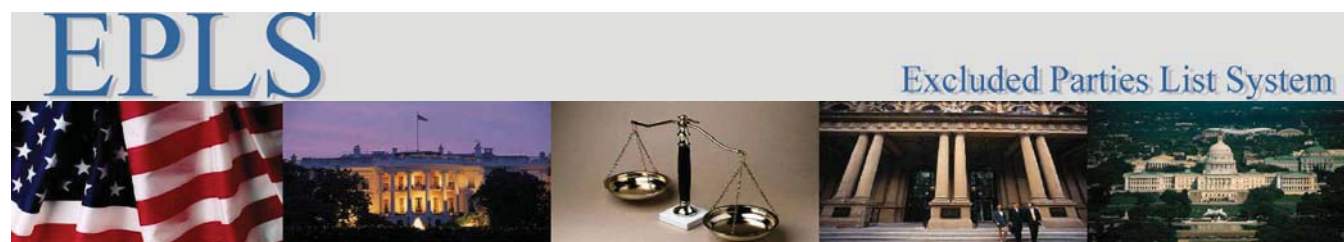
BUYER: Cruz Banda

Special Instructions: Be advised that exceptions taken to any portion of the solicitations may jeopardize acceptance of the bid.

Vendor Name				Fox Service Company		McCullough Heating		Mechanical & Process		The Porter Service	
City, State				Austin, TX		Austin, TX		Round Rock, TX		Manchaca, TX	
MBE/WBE											
ITEM NO.	ITEM DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1.1	Labor Cost - Service Manager/ Supervisor	550	HRS	\$68.00	\$37,400.00	\$71.95	\$39,572.50	\$70.00	\$38,500.00	\$77.00	\$42,350.00
1.2	Labor Cost - HVAC Technician	2,000	HRS	\$64.00	\$128,000.00	\$63.95	\$127,900.00	\$65.00	\$130,000.00	\$72.00	\$144,000.00
TOTAL BID				\$165,400.00		\$167,472.50		\$168,500.00		\$186,350.00	
Vendor Name				Trane Company		Carrier Corporation		YPS			
City, State				Austin, TX		Austin, TX		Austin, TX			
MBE/WBE											
ITEM NO.	ITEM DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1.1	Labor Cost - Service Manager/ Supervisor	550	HRS	No Charge	No Charge	\$125.00	\$68,750.00	\$124.00	\$68,200.00		
1.2	Labor Cost - HVAC Technician	2,000	HRS	\$101.00	\$202,000.00	\$110.00	\$220,000.00	\$104.00	\$208,000.00		
TOTAL BID				\$202,000.00		\$288,750.00		\$276,200.00			

Prepared By: Julia Ramirez

Approved By: Cruz Banda

**Search - Current Exclusions**

- [> Advanced Search](#)
- [> Multiple Names](#)
- [> Exact Name and SSN/TIN](#)
- [> MyEPLS](#)
- [> Recent Updates](#)
- [> Browse All Records](#)

View Cause and Treatment Code Descriptions

- [> Reciprocal Codes](#)
- [> Procurement Codes](#)
- [> Nonprocurement Codes](#)

Agency & Acronym Information

- [> Agency Contacts](#)
- [> Agency Descriptions](#)
- [> State/Country Code Descriptions](#)

OFFICIAL GOVERNMENT USE ONLY

- [> Debar Maintenance](#)
- [> Administration](#)
- [> Upload Login](#)

EPLS Search Results**Search Results for Parties Excluded by****Firm, Entity, or Vessel : Fox Service Company****As of 21-Jul-2011 4:41 PM EDT****Save to MyEPLS****Your search returned no results.**[Back](#) [New Search](#) [Printer-Friendly](#)**Resources**

- [> Search Help](#)
- [> Advanced Search Tips](#)
- [> Public User's Manual](#)
- [> FAQ](#)
- [> Acronyms](#)
- [> Privacy Act Provisions](#)
- [> News](#)
- [> System for Award Management \(SAM\)](#)

Reports

- [> Advanced Reports](#)
- [> Recent Updates](#)
- [> Dashboard](#)

Archive Search - Past Exclusions

- [> Advanced Archive Search](#)
- [> Multiple Names](#)
- [> Recent Updates](#)
- [> Browse All Records](#)

Contact Information

- [> For Help: Federal Service Desk](#)

**REQUISITION**

RQS CITY MULTI

PAGE NO: 1

REFERENCE NUMBER: RQM 8600 11011900142

P.O DATE: 03/25/11

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OSEE COMMODITY LINE FOR
SHIP TO INFORMATION**Requestor:** Michelle Walker, 974-6701
Buyer: See Solicitation, 512-974-2500

THE CITY'S STANDARD PURCHASE TERMS AND CONDITIONS (T & Cs) ARE HEREBY INCORPORATED INTO THIS PURCHASE ORDER (PO) BY REFERENCE, WITH THE SAME FORCE AND EFFECT AS IF THEY WERE INCORPORATED IN FULL TEXT. THE FULL TEXT VERSIONS OF THE T&Cs ARE AVAILABLE AT <http://www.ci.austin.tx.us/purchase/standard.htm> OR CALL THE PURCHASING OFFICE AT (512) 974-2500. PLEASE INCLUDE ABOVE REFERENCE NUMBER ON ALL PACKAGES, DELIVERIES AND INVOICES.

Line	Quantity	Unit	Commodity Information / Description (s)	Unit Price	Extended Amount
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1			Commodity: 9108250 Electrical Maintenance and Repair services	\$.00	\$.00
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94155

HVAC Maintenance and Repair Services for Austin Parks and
Recreation Department facilities. Not to exceed \$410,000.00**Ship To:** Parks & Recreation Dept
MAIN OFFICE
200 S LAMAR BLVD
Austin

TX 78704-1046

Order Total: \$.00**VENDOR INSTRUCTIONS:**

1. SEND ORIGINAL INVOICE WITH DUPLICATE COPY TO THE CITY DEPARTMENT TO WHICH THE GOOD(S) WERE DELIVERED.
2. SHIPPING INSTRUCTIONS: F.O.B. DESTINATION UNLESS OTHERWISE SPECIFIED.
3. NO FEDERAL OR STATE SALES TAX SHALL BE INCLUDED IN PRICES BILLED. LIMITED SALES TAX #74-6000085.

Authorized Agent for City Manager

By acceptance of this purchase order, you agree to comply with the terms and conditions incorporated herein by reference and made a part of this order.

Date

MEETING SIGN-IN SHEET

Bid No: CB30101

Meeting Date: 4-26-11

Buyer: CRUZ BANDA

Place/Room: Purchasing Office

Name	Title	Company/Agency/Dept.	Phone	Fax	E-Mail
Al D'ANDREA	manager	McCullough HEATING & AIR	280-0011	280-3313	info@CoolMeNow.com
Jeff Page	Acct Mgr	TRANE	485-5204	485-5220	jwpage@trane.com
Cruz Banda	Buyer	FASD. Purchasing	974-2133		
Julie Ramirez	Purchasing Tech	COA-Purchasing	42513		

Solicitation Type & Number: IFB CB30101

Solicitation Description: HEATING, VENTILATING & AC MAINT & REPAIR SVCS

Bid Opening Date & Time: 4/26/2011 @ 10:00 AM

Pre-Bid Information: 4/12/11 @ 10:00 AM - MANDATORY-919 W 28 1/2

<u>Vendor's Name</u>	<u>Rec'd By</u>	<u>Date & Time Rec'd</u>
✓ 1 <u>The Porter Service Co.</u>	<u>ABW</u>	<u>4-25-11 @ 1:49pm</u>
✓ 2 <u>YPS</u>	<u>JR</u>	<u>4-26-11 @ 7:51am Bld Room</u>
✓ 3 <u>mechanical process equipment</u>	<u>CLH</u>	<u>4-26-11 @ 9:03am</u>
✓ 4 ^{CARRIER} <u>Commercial service</u>	<u>CLH</u>	<u>4-26-11 @ 9:18am</u>
✓ 5 <u>Fox service company</u>	<u>CLH</u>	<u>4-26-11 @ 9:21am - Bid room</u>
✓ 6 <u>McCullough heating</u>	<u>CLH</u>	<u>4-26-11 @ 9:50am</u>
✓ 7 <u>Trane</u>	<u>CLH</u>	<u>4-26-11 @ 9:50am</u>
8		
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20		

Bids Distributed By:

Pam Dessett

Bids Received By:

Julia Ramirez

PURCHASING OFFICE MEETING SIGN-IN SHEET

Bid No & Description:	IFB CB330101 Heating, Ventilating & Air Conditioning Maintenance & Repair Services	Meeting Date:	4/12/2011 @ 10:00 am (MANDATORY)
Check Type of Meeting:	Pre Bid/Proposal <input checked="" type="checkbox"/> MANDATORY Bid Opening _____	Place/Room:	PARKS AND RECREATION DEPT PARD ANNEX BLDG, 919 W 28 1/2 ST AUSTIN TX 78741
	Buyer: <i>Cruz Banda</i>		

Please Print Legibly

	Name	Company/Agency/Dept.	Phone	Email
Took Bid	Sean Weaver	Fox Service	801-9363	SWeaver@FoxService.com
Took Bid	Cody King	Porter Co.	269-6004	
Took Bid	Tommy Schwartz	YPS	472-5042	tschwartz@yps.com
	Jimmy Palasch	MPS	486-9096	Jimmy@MPSLTD.US
Took Bid	Thomas Orr	CTCA	922-4622	torr@ctcair.com
	Gene Faulk	COA	656-6192	gene.faulk@ci.austin.tx.us
Took Bid	Keith Hanes	Carrier	719-6400	Edward.K.Hanes@Carrier.USC.com
Took Bid	Jeff Page	Trane	485-5204	jwpage@trane.com
Took Bid	ROB LEWIS	LINK SERVICE	542-1578	ROB.LEWIS@linkservice.com
Took Bid	Russell Smith	McCullough Heating & Air	282-0011	russell.smith@coolmenow.com
Took Bid	Al DIANDREA	McCullough Heating & Air	280-0011	al@CoolMeNow.com



TO: Veronica Lara or Stephen Elkins
Department of Small and Minority Business Resources

FROM: Cruz Banda, Buyer II

DATE: March 29, 2011

SUBJECT: Approval to use Zero Goals for Solicitation No. CB30101

Project Name: Heating, Ventilating & Air Conditioning Maintenance and Repair Services

Commodity: 91455 - HVAC Systems Maintenance and Repair
Code(s): Plumbing, Non-Residential (Office Buildings)

Estimated Value: \$410,000

The Purchasing Office has determined that the following Goals are appropriate for this Commodity solicitation:

☒ No Goals (Goal of 0%)

This determination is based on the following reasons:

This solicitation will be bid by and awarded to a prime contractor. No subcontracting opportunities have been identified.

Per paragraph 8.2.1 of the Rules Governing the Minority and Women Owned Business Enterprise Procurement Program, please approve the use of the above goals by completing and returning the below endorsement. If you have questions, please call me at 974-2003

☒ Approval is hereby granted to use the above Goals.

☐ Approval is hereby denied. Recommend the use of the following goals based on the below reasons:

a. Goals: _____% MBE _____% WBE

b. Subgoals _____% African American _____% Hispanic

_____% Native/Asian American _____% WBE

This determination is based on the following reasons:

Subcontracting will be identified per job
commitment as a result, MWBE goals could not be
determined

Raymond M. Young, Jr.
Veronica Lara or Stephen Elkins

Date: April 5, 2011

cc: Lynda Thorpe, Purchasing

B.SOLICITATION SERVICES AND SYSTEMS

1. CB30101 HEATING,
VENTILATING & AIR
CONDITIONING
MAINTENANCE AND
REPAIR SERVICES. A
Mandatory Pre-Bid
Conference is to be held
April 12, 2011 at the 10:00
am at 919 W 28 ½ St.,
Shoal Creek Conference
Room, Austin, Texas,
Offers due prior to 10:00
AM on 4/26/11

C.SOLICITATION COMMODITIES