Amendment No. 5
to
Contract No. NS140000001
for
Digital Inclusion
between
Austin Free-Net
and the
City of Austin

1.0 The City hereby requests a 2-month extension of the above referenced contract under the same terms and conditions. The term for the extension will be January 1, 2018 to February 28, 2018.

2.0 Delete Exhibit A.1 Program Work Statement of the original contract and replace with the attached Exhibit A.1 Program Work Statement created on December 13, 2017 and last modified on January 5, 2018.

3.0 Delete Exhibit A.2 Program Performance Measures of the original contract and replace with the attached Exhibit A.2 Program Performance Measures created on December 13, 2017 and last modified on January 5, 2018.

4.0 Delete Exhibit B.1 Program Budget and Narrative of the original contract and replace with the attached Exhibit B.1 Program Budget and Narrative created on December 13, 2017 and last modified on January 10, 2018.

5.0 Add Exhibit A.5 Program Inventory created on January 3, 2018

6.0 The total Contract amount is increased by $21,872.00. The total Contract authorization is recapped below:

Term	Additional Contract Funding Amount for the Term	Total Contract Amount
Initial Term: 10/01/2013 – 09/30/2015	$395,488.00	$395,488.00
Amendment No. 1: Administrative Increase 10/01/2013 – 09/30/2015	$150.00	$395,638.00
Amendment No. 2: Option 1 10/01/2015 - 09/30/2016	$197,744.00	$593,382.00
Amendment No. 3: Option 2 10/01/2016 - 09/30/2017	$197,744.00	$791,126.00
Amendment No. 4: Holdover (Option 3) 10/01/2017 - 12/31/2017	$49,443.00	$840,569.00
Amendment No. 5: Extension (Option 3) 1/01/2018 - 2/28/2018	$21,872.00	~~$864,569.00~~ JH $ 862,441

7.0 MBE/WBE goals were not established for this contract.

8.0 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.

6.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above-referenced contract.

Signature & Date: 1/10/2018

Printed Name: JUANITA BUDD
Authorized Representative

Austin Free Net
2209 Rosewood Ave.
Austin, TX 78702

Signature & Date: 01/11/18

John Hilbun, Contract Mgmt Specialist IV
City of Austin
Purchasing Office

Program Work Statement

Contract Start Date 10/1/2013 ***Contract End Date*** 2/28/2018

Program Goals And Objectives

This amendment serves the period of January 1, 2018 until February 28, 2018.

The objectives of this amendment are to:

a) Maintain a continuous level of service for facility/lab monitoring at the Dewitty Center for direct client assistance.

b) Assist the City in implementation of a (CTAL) facility transition plan.

CTAL Facilities
a) Austin Resource Center for the Homeless
b) Blackland Neighborhood Center
c) Conley-Guerrero Senior Activity Center
d) Rosewood-Zaragosa Neighborhood Center
e) South Austin Neighborhood Center
f) St. John's Community Center
g) The DeWitty Center

Program Clients Served

a.1) The technology training services are available to the clients of the (CTAL) facilities.

b.2) The computer and equipment resources are provided to agencies with an existing memorandum of understanding.

Program Services And Delivery

a.3) The contractor is to maintain a continuous level of service for facility/lab monitoring at the Dewitty Center. The contractor will notify the City's Digital Inclusion team when staff is unavailable for facility coverage.

b.3) The contractor is to coordinate with the City of Austin to transition the (CTAL) facilities to City computers and equipment during the term of this agreement.

b) The contractor is to render one line of internet service from an outside telecommunications provider for public access computers (Rooms 212 and HR Employment Lab) at Dewitty Center.
c) The contractor is to coordinate with the City to support facility transition planning.

1. The City intends to implement a phased approach to support a reasonable level of service and to mitigate disruption to the building tenants.
2. Phase I is intended to commence on or before January 15, 2018 and will include support the transition of the facilities, as sequenced based on number of machines.

These facilities will be notified that the public access lab will be closed as determined and agreed upon by the contractor and the City for the transition of contractor owned devices to City devices.

Zone 1
COA will assist in facility transition, the Contractor is responsible for delivery of equipment to a desired location at their determination:
-Dewitty All Rooms (contractor furniture and computers will be removed, as determined by contractor): On or before January 15, 2018
-Dewitty Rooms 201, 207 and 213 will remain available to the contractor for staff and storage
-Blackland 2 machines: Week of January 8, 2018
-Rosewood 6 machines: Week of January 16, 2018
-St. John 4 machines: Week of January 22, 2018

Created *12/13/2017 4:15:00 PM* ***Last Modified, If Applicable*** *1/5/2018 5:19:00 PM*

Program Work Statement

Contract Start Date 10/1/2013 ***Contract End Date*** 2/28/2018

Zone 2
COA will assist in facility transition with the Contractor, the City is responsible for delivery of equipment to a desired location at their determination:
-South Austin 9 machines: Week of January 29, 2018
-Conley Guerrero 11 machines: Week of February 5, 2018
-ARCH upstairs 7 machines: Week of Feb 12, 2018
-ARCH downstairs 8 machines: Week of February 20, 2018
-Data will not be generated after machines are removed from the facilities.

The City will provide:
a. COA IT Network Administrator to support facility transition planning for CTAL facilities
b. Access to Resource Information:
B.1: Online shared documentation and resources supporting facility & technical transition plan:
https://drive.google.com/drive/folders/0B8bSZ-pkMP1nMjE4ZmNva3Mwdkk
c. The COA Accountant II shall transition financial duties to contractor on January 1, 2018. The City shall make the Accountant II available to address procedural questions and provide assistance for information serving the previously assigned financial oversight tasks including the previous quarter financial close information, as agreed upon by both parties;
c.1. This previous authorization for tasks assigned to the COA Accountant II on or after January 1, 2018 includes:
-Close Out Reporting for GTOPs 2017 Award in CTK
-Close Out Reporting for COA TARA- Digital Inclusion contract term from 10/1/2016 - 12/31/2017
-A Glimmer of Hope thru 12/31/17
-Advise and assist staff assigned by contractor to Review Allocation formula for contractor's Accelerate Program
-Access QuickBooks for financial reporting to support program close out, this task is to be completed by the end of the first week of January 2018.
-Generate Monthly Financial Statements for October and November 2017 by mid January 2018
-The COA Accountant II shall assist with the transition and transfer of QuickBooks data and program information to staff/ Bookkeeper and financial consultants.

d. The City's Contract Manager, John Speirs, designates Laura Haufler as acting contract manager commencing January 22, 2018.
e. Space in CTAL facilities as reasonably required for equipment and staff, as aligned with the facility transition planning.
f. The City will diplomatically support the contractor in pursuing partnerships, grants, foundation awards through letters of support and community advocacy including continued participation in DECA and the TechHire Working Group.
g. The City and contractor agree that this will be the final amendment to Contract No. NS140000001.

System for Collecting and Reporting Program Data

a.4) The contractor will generate a spreadsheet to track the number of clients served at CTAL facilities.

The City will generate a summary of facilities with public access computers, as represented by the monthly Yusadge report.

b.4) The contractor will generate a spreadsheet to report the number of computer workstations, servers and other hardware transitioned from CTAL facilities.

The contractor will provide the City with monthly reports and historical information on clients.

The contractor will provide to the City any documentation relating to ongoing projects, including data generated by the Curriculum Standards working group.

Performance Evaluation

a.5) For the number of clients served at Dewitty Center, the contractor will use a spreadsheet.

b.5) To quantitatively measure the success of the transition, the contractor will use a spreadsheet to report on computer workstations, servers and other hardware transitioned from CTAL facilities:

Created *12/13/2017 4:15:00 PM* ***Last Modified, If Applicable*** *1/5/2018 5:19:00 PM*

a) Austin Resource Center for the Homeless
b) Blackland Neighborhood Center
c) Conley-Guerrero Senior Activity Center
d) Rosewood-Zaragosa Neighborhood Center
e) South Austin Neighborhood Center
f) St. John's Community Center
g)The DeWitty Center

Quality Improvement

a.b.6) The organization will strive to plan, monitor and review activities of the contract and report monthly to the Digital Inclusion Program Manager with progress updates using a mutually agreed upon format and metrics.

Service Coordination with Other Agencies

a.b.7) The contractor is to coordinate with the City for service cooperation with other agencies, including communications, for the services rendered by this contract.

The contractor is to provide updates and communications with the other entities that have a memorandum of understanding for public access computers and equipment.

The contractor IT support Coordinator will provide support and assistance to the City of Austin IT Network Administrator for the transition of computers and equipment at CTAL Facilities until January 12, 2018. Afterwards IT support will consist of providing City staff with information regarding contractor's implementation process.

Service Collaboration with Other Agencies

a.b.8) The contractor is to coordinate with the City for service collaboration with other agencies, including communications and notification of the services rendered by this contract.

The contractor is to collaborate with the City of Austin for facility transition planning.

Community Planning Activities

a.b.9) The contractor is to coordinate with the City for community planning activities for the services rendered by this contract; this includes notification of the expected availability of trainers to agencies served by this agreement.

Program Performance Measures

Contract Start	*Contract End*	*Period Performance Start*	*Period Performance End*
10/1/2013	2/28/2018	1/1/2018	2/28/2018

Outputs

OP #	*Output Measure Description*	*Period Goal*		
		City	*Other*	*Total*
1	Number of progress reports submitted for CTAL facility transition planning	8		8
2	Number of facilities transitioned	7		7
3	Duplicated clients served at Dewitty	450		450
4	Unduplicated clients served at Dewitty	130		130

Created: 12/13/2017 1:53:00 PM *Last Modifed, If Applicable:* 1/5/2018 4:17:00 PM

Program Budget and Narrative

Program Start *1/1/2018*
Program End *2/28/2018*

	City Share	Other	Total
Salary plus Benefits	**$13,481.00**	**$0.00**	**$13,481.00**
General Operations Expenses	$8,141.00	$0.00	$8,141.00
Consultants / Contractual	$0.00	$0.00	$0.00
Staff Travel	$0.00	$0.00	$0.00
Conferences	$0.00	$0.00	$0.00
Operations SubTotal	**$8,141.00**	**$0.00**	**$8,141.00**
Food and Beverages for Clients	$0.00	$0.00	$0.00
Financial Direct Assistance to Clients	$0.00	$0.00	$0.00
Other Assistance	Rental of Equipment	Please Specify	Please Specify
Other Assistance Amount	$250.00	$0.00	$250.00
Direct Assistance SubTotal	**$250.00**	**$0.00**	**$250.00**
Capital Outlay Amount	**$0.00**	**$0.00**	**$0.00**
Total	**$21,872.00**	**$0.00**	**$21,872.00**

Detailed Budget Narrative

Salaries plus Benefits

16% of Executive Director time ($1,025); 75% of Program Director time ($2,161); 60% of IT Support (2,250) and benefits (23% of salaries).

General Op Expenses

*Baseline Budget (using December Allocation of Supplies, Mileage and Telephone/Internet) $778*2: $1,556.00*
Pre Authorized Moving Expenses: $4,000.00
(change order for movers): $400.00
Equipment: $2,185.00

Consultants / Contracutal

Staff Travel

Conferences

Food and Beverage

Financial Assistance

Other Assistance

Rental of Equipment for Transition of Facilities

Capital Outlay

Created *12/13/2017 11:54:00 AM* ***Last Modified, If Applicable*** *1/10/2018 3:24:00 PM*

Austin Free-Net

Program Inventory

Unit Information

Description	*Inventory No.*	*Location*
$100	RENTAL: (6) Network Hubs	2209 Rosewood Ave
$300	1 uninterruptable power supp	2209 Rosewood Avenue
$400	48-port main switch for PLNI	2209 Rosewood Ave
$50	RENTAL: (10) Power Strips	2209 Rosewood Avenue
$50	RENTAL: Wifi Card	2209 Rosewood Ave
$50	RENTAL: (14) Network Cabl	2209 Rosewood Ave
$700	1 primary server for PLNI	2209 Rosewood Avenue
$700	1 redundant server for PLNI	2209 Rosewood Ave
$85	(8) Chairs at ARCH	500 E 7th

Created: 1/3/2018 4:15:00 PM ***Last Modified, If Applicable:***

Amendment No. 4
to
Contract No. NS140000001
for
Digital Inclusion
between
Austin Free-Net
and the
City of Austin

1.0 The City hereby requests a 3-month extension of the above referenced contract under the same terms and conditions. The term for the holdover will be October 1, 2017 to December 31, 2017.

2.0 The total Contract amount is increased by $49,443.00. The total Contract authorization is recapped below:

Term	Additional Contract Funding Amount for the Term	Total Contract Amount
Initial Term: 10/01/2013 – 09/30/2015	$395,488.00	$395,488.00
Amendment No. 1: Administrative Increase 10/01/2013 – 09/30/2015	$150.00	$395,638.00
Amendment No. 2: Option 1 10/01/2015 - 09/30/2016	$197,744.00	$593,382.00
Amendment No. 3: Option 2 10/01/2016 - 09/30/2017	$197,744.00	$791,126.00
Amendment No. 4: Holdover 10/01/2017 - 12/31/2017	$49,443.00	$840,569.00

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.

6.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above-referenced contract.

Signature & Date: Juanita Budd
9/22/2017

Printed Name: JUHNITA BUDD
Authorized Representative: EXECUTIVE DIRECTOR

Austin Free Net
2209 Rosewood Ave.
Austin, TX 78702

Signature & Date:

John Hilbun, Contract Mgmt Specialist IV
City of Austin
Purchasing Office

Amendment No. 3
to
Contract No. NS140000001
for
Digital Inclusion
between
Austin Free-Net
and the
City of Austin

1.0 The City hereby exercises the extension option for the above-referenced contract. Effective October 1, 2016 the term for the extension option will be October 1, 2016 to September 30, 2017 and there is one remaining option.

2.0 Delete Exhibit A.1 Program Work Statement of the original contract and replace with the attached Exhibit A. 1 Program Work Statement created on September 19, 2016 and last modified on September 25, 2016.

3.0 Delete Exhibit A.2 Program Performance Measures of the original contract and replace with the attached Exhibit A.2 Program Performance Measures created on September 19, 2016.

4.0 Delete Exhibit A.3 Program Budget and Narrative of the original contract and replace with the attached Exhibit A.3 Program Budget and Narrative created on September 19, 2016.

5.0 Delete Exhibit A.4 Mandatory Publicity Statement of the original contract and replace with the attached Exhibit A.4 Mandatory Publicity Statement.

6.0 The total contract amount is increased by $197,744.00. The total contract authorization is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Initial Term: 10/1/2013-9/30/2015	$395,488.00	$395,488.00
Amendment No. 1: Administrative Increase 10/1/2013-9/30/2015	$150.00	$395,638.00
Amendment No. 2: Option 1 10/1/2015-9/30/2016	$197,744.00	$593,382.00
Amendment No. 3: Option 2 10/1/2016-9/30/2017	$197,744.00	$791,126.00

7.0 MBE/WBE goals were not established for this contract.

8.0 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.

9.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract

Sign/Date: Juanita Budd 9-30-16
Printed Name: Juanita Budd
Authorized Representative
Austin Free Net
2209 Rosewood Ave
Austin, TX 78702

Sign/Date: Linell Goodin-Brown
Linell Goodin-Brown, Contract Compliance Supervisor
City of Austin Purchasing Office 10-3-16

Program Work Statement

Contract Start Date 10/1/2016 *Contract End Date* 9/30/2017

Program Goals And Objectives

Austin Free-Net (AFN) serves as the City's primary digital literacy and access community partner to provide clients with public access computing, technology training to improve life outcomes. Austin Free-Net implements this vision through "Train the City" Program to achieve the following objectives:

• Create viable opportunities for citizens to use computers and the Internet through the installation, management and upkeep of computer workstations, primarily within those City of Austin facilities convenient and trusted by the underserved communities that are the target of the Community Technology Initiative.

• Provide technology training and access to the Greater Austin community, focusing on building digital skills among residents of low income, underserved and all vulnerable populations.

• Explore low cost technology planning, installation, training and support to Austin area nonprofits, community based organizations, and public agencies.

• Develop high quality partnerships where technology is successfully integrated into program service delivery.

Program Clients Served

The public computer access and technology training services are available to the Greater Austin community with a focus on residents of low-income including underserved communities.

The services are provided at multiple locations based on need as shown in data from the Austin Digital Assessment (residential technology survey) in partnership with the City of Austin and other governmental and nonprofit agencies serving multiple client segments.

Program Services And Delivery

Access & Training Skills:
Provide computer, software and Internet training for the general public and staff of local community based organizations and agencies by Contractor volunteers, staff and paid trainers. Labs are available to City staff and community organizations when not in use by AFN and its program needs.
•Provide pre-digital basic and lifelong skills training to create independent computer users, appropriate to their self- defined needs and relevant to their lives.
•Develop sustainable partnerships to pool common resources with other non-profits.
•Develop methods to measure ongoing benefits and results of training programs.

Technical Services:
•Explore partnerships and revenue generating programs.
•Define the process, procedures and pay scale for the viability of proposed technical support services.
•Continue to service contract holders and special arrangements, such as discounted group rates for membership organization who have an annual contract with AFN – 30 working minutes response 95% of the time. Eight (8) working hour on site response, if required, 95% of the time.
3.Any service call to a non-profit not covered by above – 60 working minutes response 95% of the time, on site response, if required, 95% of the time.

Facilities & Equipment:
•Set up and operate labs at City-owned facilities to provide availability based on need as shown in data from the Austin Digital Assessment (residential technology survey.)
•Deployment of temporary public access internet facilities when mobile devices are available and necessary deployment threshold goals are met (staff availability, leveraged funding or programmatic support provided to AFN).
•Provide training and support to other nonprofits to develop similar labs and training programs at other community facilities not directly served by AFN.

Created 9/19/2016 6:53:00 PM *Last Modified, If Applicable 9/25/2016 10:20:00 PM*

Program Work Statement

Contract Start Date 10/1/2016 *Contract End Date* 9/30/2017

Provide reliable equipment and peripherals including trained staff (volunteer or paid) in community computer labs for program support :

•ARCH (Austin Resource Center for the Homeless-Males) (Paid trainer available through separate COA agreement through June 30, 2017);
•Trinity (Center for Homeless- Females);
•CASA (Court Appointed Special Advocates);
•DeWitty Center (Jobs lab- COA Human Resources);
•DeWitty Center (Open Access Lab: Room 209) (Paid Trainer availability);
•DeWitty Center (Jobs Training & Employment Center: Room 213) (Paid Trainer availability);
•Blackland Neighborhood Center;
•Rosewood Neighborhood Center (Paid Trainer availability);
•St.John's Neighborhood Center (Paid Trainer availability);
•South Austin (Neighborhood Center) (full-time volunteer availability);
•Conley-Guerrero Senior Activity Center (Paid Trainer availability)

•Internet capable computers with operating systems and standard software
Wiring & Surge protectors
•Parts
•Printers
•Headphones, microphones and speakers training supplies (at sites with Program Specialist or other frontline staff assisting clients)
•Facilitate high-speed Internet services with local providers as requested
•Maintain title to all equipment purchased or received through grants, gifts, or other sources
•Maintain inventory of all equipment installed at City facilities

Organizational Development:
Provide project management and strategic leadership as required through the contract as funds are available.
•Develop a strategic fundraising campaign to locate additional funding sources including grants and collaborative opportunities through leveraged partnerships.
•Serve as fiscal agent (to receive and distribute funds brokered by COA to implement survey) and implementation partner in the next City led residential technology study.
•Recruit, train and manage volunteers/interns to help provide services and to provide capacity building services.
•Explore creative opportunities, partnerships, and arrangements with private sector providers to enable quality of life pipeline development (specific goals may be variable on interest, skills and capabilities) for current AFN clients and potential clients.
•Actively develop community advocates for the community technology initiative mission through a marketing & relevancy plan targeted to area nonprofits and service providers.
•Develop a strategic engagement & marketing plan including marketing and promotion of services and programs offered.

The City will provide:
•Core Staff: The City will provide a dedicated core staff consisting of a full time IT Network Administrator and a full time Financial Consultant to work with the Contractor. The (FY 17) value of the contributed employees is $188,639.
•Space: The City will provide Contractor with spaces as reasonably required for equipment in City facilities, as mutually agreed upon in writing, and access to that space for maintenance and repairs.
•Information Sharing: The City will provide staff housed at the DeWitty Center to facilitate City and community service delivery in a collaborative and strategic environment.
•The City will diplomatically support organization in pursuing approved partnerships, grants, foundation awards through letters of support, community advocacy and by providing staff assistance to facilitate COA approved community technology initiatives.

System for Collecting and Reporting Program Data

AFN will develop an online (System for Collecting and Reporting Program Data) or embedded within the Apricot or supporting software. The software tracks the number of clients served, the number of clients that receive training, and the number of measurable outcomes.

Created 9/19/2016 6:53:00 PM *Last Modified, If Applicable 9/25/2016 10:20:00 PM*

Program Work Statement

Contract Start Date 10/1/2016 *Contract End Date* 9/30/2017

AFN will Develop Plan to:
•Understand how to identify measurable outcomes and outcome chains
•Develop a logic model
•Identify performance indicators and performance targets to support the outcome measurement process

AFN will develop Strategic Goal Setting:
•To support new program design and identify success in a new program area
•To support program redesign by determining whether the program's underlying theories and assumptions are correct
•To support funding requests and describe how you will measure a program or service's impacts
•To support staff or board planning processes and report on a program's impact
•To support a funder's request for evidence of the program's effectiveness
•To support internal reviews and determine whether to continue to allocate funding to a program
•To support organization-wide quality improvement and refine program delivery

When crafting outcomes, consider the following:
•Are the outcomes related to the "core mission" of Austin Free-Net?
•Is it within AFN's control to influence these outcomes?
•Are AFN's outcomes realistic and attainable? Are AFN's outcomes achievable within funding and reporting periods?
•Are AFN's outcomes written as change statements—will things increase, decrease, or stay the same?
•Has AFN moved beyond client satisfaction in developing outcomes?
•Is there a logical sequence among AFN's short-term, intermediate, and long-term outcomes?
•Are there any big "leaps" in AFN's outcomes, i.e., gaps in the progression of impacts?

AFN will consider and develop a logic model and outcome measurement plan to include:
•Inputs/Resources: What inputs or elements does AFN need to operate its program? How many staff? How large a budget? How many clients does AFN have/need?
•Activities: What will AFN do? What methods will AFN use to deliver the program or activities? What content areas will AFN cover? What will AFN provide?
•Outputs: What will be the tangible products or units of AFN's program or activity? How many clients will AFN serve?
•Outcomes: What impact will AFN's program or activities have on the clients? What is reasonable to expect in the way of change?

AFN will develop Performance Indicators utilizing a process to include:
•How can AFN see the change? (Through what kind of observation?)
•How can AFN hear the change? (Through interviews? Focus groups?)
•How can AFN read the change? (Through surveys? In records?)

AFN will consider throughout the Performance Indicators Process the following:
•Do AFN's indicators make sense in relation to the outcomes they are intended to measure?
•Are AFN's indicators directly related to the outcome? Do they define the outcome?
•Are AFN's indicators specific?
•Are AFN's indicators measurable or observable? Can they be seen (i.e., observed behavior), heard (i.e., participant interview), or read (i.e., client records)?
•Is it reasonable that AFN can collect data on the indicators?
•Is it within AFN's resources to collect data?

Assemble a diverse skill set of individuals (to include AFN staff and community stakeholders at the discretion of AFN and concurrence by COA):
AFN will consider who on staff possesses the following skills:
•Project coordination, including laying out tasks in a sequence, informing other staff of their roles and assignments, providing assistance to the team as they complete their parts of the evaluation process, and ensuring that the work is being done
•Service or program knowledge, including the ability to identify the relationship between the activities being provided and the intended impacts and an understanding of the types of outcomes AFN's program could achieve

Created 9/19/2016 6:53:00 PM *Last Modified, If Applicable 9/25/2016 10:20:00 PM*

•Computer skills, including expertise in formatting surveys and other data collection instruments, creating spreadsheets or databases, and entering data

Process Validation and Reporting Plan
1.AFN's quality control dedicated employee will coordinate all data collection and analysis.
2.AFN's Quality Control assigned employee task force led by the quality control lead will also review and assess data bi-monthly to ensure the data is valid, consistent and verifiable.
3.Once analyzed and approved by the task force, data reports will be submitted monthly to AFN's Executive Director, City of Austin, and Board of Directors for reporting purposes.

Performance Evaluation

To quantitatively measure the success of frontline programs and services, AFN will use the internal metrics and tracking system within Apricot and supporting reporting tools. The data will be analyzed and reported monthly to the City of Austin.

AFN will engage front-line staff (program staff and trainers) to analyze, review and subsequently report to the City and the AFN Board of Directors utilizing (but not limited to) the following methodologies to evaluate performance (this report will be due along with the Quarterly Program Performance to support AFN's reporting :

•Real-time progress reporting
•Side-by-side data comparison and graphing
•View trends, correlations, goals with visual indicators
•Client Mapping Analysis
•Performance targeting for outcome & goal monitoring
•Relevant Goal Outcomes tracking (as defined by Working Group)
•Qualitative & quantitative data analysis capabilities
•Diverse, dynamic and relevant chart types and graphs

The City will review and evaluate the performance of AFN to ensure:
•The method measures that appropriate variable.
•The results are relevant.
•The method is scientifically sound.
•There is a well-written protocol.
•The method is accurate, precise, reproducible, fast, and cost-effective

The City will provide constructive feedback of the performance of AFN during regularly scheduled AFN board meetings.

Quality Improvement

The organization will retain a Program Administrator dedicated to attaining performance Goals to: plan, monitor and review activities of programs. This person will oversee Public Access Computing Operations; including Program Monitoring, Reporting and to develop Program Improvement Plans to increase availability and to ensure content/curriculum offered is relevant to the lab clients.

The organization will retain a staff person dedicated to quality control. This person will communicate daily with volunteers and trainers (program specialists) to ensure their needs are being met and coordinating volunteer training, evaluation and reporting. This person will have a regular onsite presence at program partner agencies, ensuring communication between clients, partners and Austin Free-Net. Additionally, this person regularly attends partner agency staff meetings to update the agency on programs and answer questions staff may have.

Regarding content offered through the Austin Free-Net curriculum, program staff and in-lab program specialists and volunteers continually work together to ensure that curriculum offered through Austin Free-Net's training remain relevant to clients' needs, wants and goals. Adjustments and additions to the content are addressed on an ongoing basis. The City will receive monthly updates from AFN related to client needs, partnership recommendations and an action plan serving identified needs. AFN will provide written reports and present to the Community Technology & Telecommunications Commission as needed by the City.

Program Work Statement

Contract Start Date 10/1/2016 *Contract End Date* 9/30/2017

Service Coordination with Other Agencies

Working directly with government agencies and nonprofit organizations, Austin Free-Net will provide much need assistance to a variety of people throughout the Austin area. Austin Free-Net provides technology training and public computer access in coordination with the following agencies: Frontsteps, Trinity, Health and Human Services, Easter Seals - Central Texas, Housing Authority of the City of Austin (Austin Pathways), Southwest Key (SW Key), Support Services for Veteran Families (SSVF) and AISD.

AFN will develop new service cooperation agreement(s) to include but not limited to contribution of technological hardware, staffing, training curriculum, volunteers and space to leverage program service development, deployment and implementation. AFN shall engage, when appropriate as determined by the contractor, in new service cooperation agreements for the term of this contract.

Service Collaboration with Other Agencies

Austin Free-Net will maintain strong long-standing relationships with partner organizations and simultaneously collaborates with them on a variety of other projects and initiatives, including: Basic Computer Skills and Technology Training, VISTA, the city-funded Workforce Education Readiness Continuum, and the City's Digital Inclusion programs.

AFN to support ongoing capacity of Train the Trainer model and relevant outcomes including curriculum development (leveraging the NTEN Digital Inclusion Fellow Project Scope for FY16/17). Austin Free-Net will develop and lead a working group focused on digital inclusion program services within the community (DECA).

Austin Free-Net will strive to meet the needs of its partner agencies and address gaps in community services. At all levels of planning and program development there will be a constant dialogue between Austin Free-Net and community service providers. Austin Free-Net will assist the City to co-host regular meetings with executive and program level staff (program directors, managers, specialist, trainers and coordinators) collaborating and leading partner agencies to address challenges and adjust program implementation in response to those challenges.

Community Planning Activities

AFN will serve as a lead contributing agency for the City's Digital Empowerment Community of Austin.

Austin Free-Net will develop and lead selected working group(s) as prioritized from the City's Digital Inclusion Strategic Plan: FY 17 Business Plan. This working group will convene regularly to improve the quality of computer skills instruction happening across the portfolio of community service providers conducting this work. The City will support AFN in this initiative to: use survey data to inform this group and provide ongoing project development and based on needs prioritized by the working group.

In this role, AFN will:

-Lead a self-selected working group to identify measurable community goals for organizations to achieve for (using the Dashboard Indicators from the approved Digital Inclusion Strategic Plan adopted by the Austin City Council).
-Assist the City in deploying programs serving vulnerable populations
-Serving as a thought partner in developing new programs and services to serve vulnerable populations.
-The City is affirming a role in which Austin Free-Net will validate its role as flagship digital inclusion provider in Austin and Austin Free-Net shall engage in collaborative and coordinated grant and foundation funding opportunities by leveraging the support from community stakeholders to fulfill shared community goals.

The need for technology skills and access to internet-connected computers is greater than ever, yet many in Austin rarely have the access and often lack the skills required to navigate online resources and use technology. Collaborating with other agencies, skills training and internet access is provided over a larger geographic area and supports those served by other nonprofit and government agencies. In addition to the agencies listed above our partners include the following: Foundation Communities, Austin Community College, Goodwill Industries, Texas Civil Rights Project, Workers' Defense Project, Phoenix Arising, Austin Area Urban League, and Child, Inc.

Created 9/19/2016 6:53:00 PM *Last Modified, If Applicable* 9/25/2016 10:20:00 PM

Program Work Statement

Contract Start Date 10/1/2016 *Contract End Date* 9/30/2017

Assigned staff from AFN will represent organization interests and develop relevant outcomes serving:
Travis State Jail Roundtable
Road to Success career and resource fairs
Community/school alliance meetings
COA/African American Quality of Life Unit job fairs
Job readiness training events (Employ and Empower Resource events)
Re-entry fairs
Goodwill events
AGE events

The AFN ED will represent organization interests and develop relevant outcomes serving:
Austin Pathways Core Team meetings
One Voice Meetings & subcommittee meetings
National Digital Inclusion Alliance Working Group (NDIA)
Community Leadership Council meetings (CLC) – Center for Nonprofit Studies
Digital Inclusion for Donor Engagement working group

Created 9/19/2016 6:53:00 PM *Last Modified, If Applicable 9/25/2016 10:20:00 PM*

Program Performance Measures

Contract Start	*Contract End*	*Period Performance Start*	*Period Performance End*
10/1/2016	9/30/2017	10/1/2016	9/30/2017

Outputs

OP #	*Output Measure Description*	*Period Goal*		
		City	*Other*	*Total*
1	Total Number of Hours on AFN Computers	132576		132576
2	Total Number Lab Open Hours (Includes Classroom Hours Serving Training Programs With Criteria Equivalent To Tech Starters)	35000		35000
3	Total Number of Hours Contributed by AFN Volunteers (Includes Lab Monitoring, Training, Administrative and Technical Services).	5000		5000
4	Total Number of Unduplicated Number of Students In Programs	500		500

Created: 9/19/2016 7:25:00 PM *Last Modifed, If Applicable:*

Program Performance Measures

Contract Start	*Contract End*	*Period Performance Start*	*Period Performance End*
10/1/2016	9/30/2017	10/1/2016	9/30/2017

Outcomes

OC Item	*Outcome Measure Description*	*Total Program Goal*
1 Num	Number of participants in digital inclusion programs who demonstrate "understand" and "create" skills	400
1 Den	Total Number of Unduplicated Students In Programs	500
1 Rate	Percentage of participants in digital inclusion programs who demonstrate "understand" and "create" skills	80
2 Num	Number of participants in digital inclusion programs who obtain employment related training	325
2 Den	Total Number of Unduplicated Students In Programs	500
2 Rate	Percentage of participants in digital inclusion programs who obtain employment related training	65
3 Num	Number of participants in digital inclusion programs who have been referred to service agencies	250
3 Den	Total Number of Unduplicated Students In Programs	500
3 Rate	Percentage of participants in digital inclusion programs who have been referred to service agencies	50

Created: 9/19/2016 7:25:00 PM *Last Modifed, If Applicable:*

Program Budget and Narrative

Program Start *10/1/2016*
Program End *9/30/2017*

	City Share	*Other*	*Total*
Salary plus Benefits	$192,000.00	$184,248.00	$376,248.00
General Operations Expenses	$5,774.00	$30,226.00	$36,000.00
Consultants / Contractual	$0.00	$0.00	$0.00
Staff Travel	$0.00	$0.00	$0.00
Conferences	$0.00	$0.00	$0.00
Operations SubTotal	$5,774.00	$30,226.00	$36,000.00
Food and Beverages for Clients	$0.00	$0.00	$0.00
Financial Direct Assistance to Clients	$0.00	$0.00	$0.00
Other Assistance	Please Specify	Please Specify	Please Specify
Other Assistance Amount	$0.00	$0.00	$0.00
Direct Assistance SubTotal	$0.00	$0.00	$0.00
Capital Outlay Amount	$0.00	$0.00	$0.00
Total	$197,774.00	$214,474.00	$412,248.00

Detailed Budget Narrative

Salaries plus Benefits *Percentage of appropriate employee's salary & benefits. Key staff for the project include the Trainers and Lab Monitor, Volunteer & Outreach Manager, Communications Specialist and Executive Director.*

General Op Expenses *General operating expenses include telecommunications, supplies, computer parts and small equipment, staff mileage to multiple sites, meetings and professional development for staff members.*

Consultants / Contracutal

Staff Travel

Conferences

Food and Beverage

Financial Assistance

Other Assistance

Capital Outlay

Created 9/19/2016 7:27:00 PM *Last Modified, If Applicable*

City of Austin, Telecommunications & Regulatory Affairs
Digital Inclusion Initiative Program

Mandatory Publicity Statement

The following statement must be prominently included in / on all printed materials relating to the City of Austin Digital Inclusion Initiative Program materials disseminated by the Contractor, including promotions for events. For further information or clarification, please contact your Contract Administrator:

Digital Inclusion
City of Austin

The following line must be included in all promotional materials along with the logo above:

This program is funded and supported in part by the City of Austin through the Digital Inclusion Initiative.

Amendment No. 2
to
Contract No. NS140000001
for
Digital Inclusion
between
Austin Free-Net
and the
City of Austin

1.0 The City hereby exercises the extension option for the above-referenced contract. Effective October 1, 2015 the term for the extension option will be October 1, 2015 to September 30, 2016 and there are two remaining options.

2.0 Delete Exhibit A.1 Program Work Statement of the original contract and replace with the attached Exhibit A.1 Program Work Statement created on July 25, 2015 and last modified on September 8, 2015.

3.0 Delete Exhibit A.2 Program Performance Measures of the original contract and replace with the attached Exhibit A.2 Program Performance Measures created on September 8, 2015.

4.0 The total contract amount is increased by $197,744.00. The total contract authorization is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Initial Term: 10/1/2013-9/30/2015	$395,488.00	$395,488.00
Amendment No. 1: Administrative Increase 10/1/2013-9/30/2015	$150.00	$395,638.00
Amendment No. 2: Option 1 10/1/2015-9/30/2016	$197,744.00	$593,382.00

5.0 MBE/WBE goals were not established for this contract.

6.0 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.

7.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Sign/Date: Juanita Budd

Printed Name: JUANITA BUDD
Authorized Representative

Sign/Date: 9/21/2015

Jonathan Dalchau
Senior Buyer

Sign/Date: Danielle Lord 9/21/15

Danielle Lord
Corporate Purchasing Manager

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 330
Austin, Texas 78701

Program Work Statement

Contract Start Date 10/1/2015 ***Contract End Date*** 9/30/2016

Program Goals And Objectives

Austin Free-Net (AFN) Serve as the City's primary digital literary and access community partner to provide citizens with the access, training and information they need to participate fully in the digital age. Austin Free-Net pursues four objectives:

• Create viable opportunities for citizens to use computers and the Internet through the installation, management and upkeep of computer workstations, primarily within those City of Austin facilities convenient and trusted by the underserved communities that are the target of the Community Technology Initiative.

• Provide technology training and access to the Greater Austin community, focusing on building digital skills among residents of low income, underserved and all vulnerable populations.

• Explore low cost technology planning, installation, training and support to Austin area nonprofits, community based organizations, and public agencies.

• Develop high quality partnerships where technology is successfully integrated into program service delivery.

Program Clients Served

The public computer access and technology training services are available to the Greater Austin community with a focus on residents of low income including underserved communities.

The services are provided at multiple locations based on need as shown in data from the Austin Digital Assessment (residential technology survey) in partnership with the City of Austin and other governmental and nonprofit agencies serving a broad base of residents.

Program Services And Delivery

Access & Training Skills:
Provide computer, software and Internet training for the general public and staff of local community based organizations and agencies by Contractor volunteers, staff and paid trainers. Labs are available to City staff and community organizations when not in use by AFN and its program needs.
•Provide pre-digital basic and lifelong skills training to create independent computer users, appropriate to their self- defined needs and relevant to their lives.
•Develop sustainable partnerships to pool common resources with other non-profits.
•Develop methods to measure ongoing benefits and results of training programs.

Technical Services:
•Explore partnerships and revenue generating programs.
•Define the process, procedures and pay scale for the viability of proposed technical support services.
•Continue to service contract holders and special arrangements, such as discounted group rates for membership organization who have an annual contract with AFN – 30 working minutes response 95% of the time. Eight (8) working hour on site response, if required, 95% of the time.
3.Any service call to a non-profit not covered by above – 60 working minutes response 95% of the time, on site response, if required, 95% of the time.

Facilities & Equipment:
•Set up and operate labs at City-owned facilities to provide availability based on need as shown in data from the Austin Digital Assessment (residential technology survey.)
•Deployment of temporary public access internet facilities when mobile devices are available and necessary deployment threshold goals are met (staff availability, leveraged funding or programmatic support provided to AFN).
•Provide training and support to other nonprofits to develop similar labs and training programs at other community facilities not directly served by AFN.

Provide reliable equipment and peripherals including trained staff (volunteer or paid) in community computer labs for program

Program Work Statement

Contract Start Date 10/1/2015 ***Contract End Date*** 9/30/2016

support :

•ARCH (Austin Resource Center for the Homeless-Males);
•Trinity (Center for Homeless- Females);
•CASA (Court Appointed Special Advocates);
•DeWitty Center (Jobs lab);
•DeWitty Center (Open Access);
•DeWitty Center (Jobs Training & Employment Center);
•Blackland Neighborhood Center;
•Rosewood Neighborhood Center;
•St.John's Neighborhood Center;
•South Austin (Neighborhood Center;
•Conley-Guerrero Senior Activity Center

•Internet capable computers with operating systems and standard software
Wiring & Surge protectors
•Parts
•Printers
•Headphones, microphones and speakers training supplies (at sites with Program Specialist or other frontline staff assisting clients)
•Facilitate high-speed Internet services with local providers as requested
•Maintain title to all equipment purchased or received through grants, gifts, or other sources
•Maintain inventory of all equipment installed at City facilities

Organizational Development:
Provide project management and strategic leadership as required through the contract as funds are available.
•Develop a strategic fundraising campaign to locate additional funding sources including grants and collaborative opportunities through leveraged partnerships.
•Serve as a thought leader and implementation partner in the next City led residential technology study.
•Recruit, train and manage volunteers/interns to help provide services and to provide capacity building services.
•Explore creative opportunities, partnerships, and arrangements with private sector providers to enable quality of life pipeline development (specific goals may be variable on interest, skills and capabilities) for current AFN clients and potential clients.
•Actively develop community advocates for the community technology initiative mission through a marketing & relevancy plan targeted to area nonprofits and service providers.
•Develop a strategic engagement & marketing plan including marketing and promotion of services and programs offered.

The City will provide:
•Core Staff: The City will provide a dedicated core staff consisting of a full time senior network systems administrator and a ¾ time financial consultant to work with the Contractor. The (FY 16) value of the contributed employees is $176,061.
•Space: The City will provide Contractor with spaces as reasonably required for equipment in City facilities, as mutually agreed upon in writing, and access to that space for maintenance and repairs.
•Information Sharing: The City will provide staff housed at the DeWitty Center to facilitate City and community service delivery in a collaborative and strategic environment.
•The City will diplomatically support organization in pursuing approved partnerships, grants, foundation awards through letters of support, community advocacy and by providing staff assistance to facilitate COA approved community technology initiatives.

System for Collecting and Reporting Program Data

AFN will develop an online (System for Collecting and Reporting Program Data) or embedded within the Apricot or supporting software. The software tracks the number of clients served, the number of clients that receive training, and the number of measurable outcomes.

AFN will Develop Plan to:

Created *7/25/2015 11:44:00 AM* ***Last Modified, If Applicable*** *9/8/2015 4:51:00 PM*

Program Work Statement

Contract Start Date 10/1/2015 ***Contract End Date*** 9/30/2016

•Understand how to identify measurable outcomes and outcome chains
•Develop a logic model
•Identify performance indicators and performance targets to support the outcome measurement process

AFN will develop Strategic Goal Setting:
•To support new program design and identify success in a new program area
•To support program redesign by determining whether the program's underlying theories and assumptions are correct
•To support funding requests and describe how you will measure a program or service's impacts
•To support staff or board planning processes and report on a program's impact
•To support a funder's request for evidence of the program's effectiveness
•To support internal reviews and determine whether to continue to allocate funding to a program
•To support organization-wide quality improvement and refine program delivery

When crafting outcomes, consider the following:
•Are the outcomes related to the “core mission” of Austin Free-Net?
•Is it within AFN's control to influence these outcomes?
•Are AFN's outcomes realistic and attainable? Are yAFN's outcomes achievable within funding and reporting periods?
•Are AFN's outcomes written as change statements—will things increase, decrease, or stay the same?
•Has AFN moved beyond client satisfaction in developing outcomes?
•Is there a logical sequence among AFN's short-term, intermediate, and long-term outcomes?
•Are there any big “leaps” in AFN's outcomes, i.e., gaps in the progression of impacts?

AFN will consider and develop a logic model and outcome measurement plan to include:
•Inputs/Resources: What inputs or elements does AFN need to operate its program? How many staff? How large a budget? How many clients does AFN have/need?
•Activities: What will AFN do? What methods will AFN use to deliver the program or activities? What content areas will AFN cover? What will AFN provide?
•Outputs: What will be the tangible products or units of AFN's program or activity? How many clients will AFN serve?
•Outcomes: What impact will AFN's program or activities have on the clients? What is reasonable to expect in the way of change?

AFN will develop Performance Indicators utilizing a process to include:
•How can AFN see the change? (Through what kind of observation?)
•How can AFN hear the change? (Through interviews? Focus groups?)
•How can AFN read the change? (Through surveys? In records?)

AFN will consider throughout the Performance Indicators Process the following:
•Do AFN's indicators make sense in relation to the outcomes they are intended to measure?
•Are AFN's indicators directly related to the outcome? Do they define the outcome?
•Are AFN's indicators specific?
•Are AFN's indicators measurable or observable? Can they be seen (i.e., observed behavior), heard (i.e., participant interview), or read (i.e., client records)?
•Is it reasonable that AFN can collect data on the indicators?
•Is it within AFN's resources to collect data?

Assemble a diverse skill set of individuals (to include AFN staff and community stakeholders at the discretion of AFN and concurrence by COA):
AFN will consider who on staff possesses the following skills:
•Project coordination, including laying out tasks in a sequence, informing other staff of their roles and assignments, providing assistance to the team as they complete their parts of the evaluation process, and ensuring that the work is being done
•Service or program knowledge, including the ability to identify the relationship between the activities being provided and the intended impacts and an understanding of the types of outcomes AFN's program could achieve
•Computer skills, including expertise in formatting surveys and other data collection instruments, creating spreadsheets or databases, and entering data

Created *7/25/2015 11:44:00 AM* ***Last Modified, If Applicable*** *9/8/2015 4:51:00 PM*

Program Work Statement

Contract Start Date 10/1/2015 ***Contract End Date*** 9/30/2016

Process Validation and Reporting Plan
1.AFN's quality control dedicated employee will coordinate all data collection and analysis.
2.AFN's Quality Control assigned employee task force led by the quality control lead will also review and assess data bi-monthly to ensure the data is valid, consistent and verifiable.
3.Once analyzed and approved by the task force, data reports will be submitted monthly to AFN's Executive Director, City of Austin, and Board of Directors for reporting purposes.

Performance Evaluation

To quantitatively measure the success of frontline programs and services, AFN will use the internal metrics and tracking system within Apricot and supporting reporting tools. The data will be analyzed and reported monthly to the City of Austin.

AFN will engage front-line staff (program staff and trainers) to analyze, review and subsequently report to the City and the AFN Board of Directors utilizing (but not limited to) the following methodologies to evaluate performance (this report will be due along with the Quarterly Program Performance to support AFN's reporting :

•Real-time progress reporting
•Side-by-side data comparison and graphing
•View trends, correlations, goals with visual indicators
•Geolocation, mapping tools for service heat-mapping
•Performance targeting for outcome / goal monitoring
•Relevant Goal Outcomes tracking (as defined by Working Group)
•Qualitative & quantitative data analysis capabilities
•Diverse, dynamic and relevant chart types and graphs

The City will review and evaluate the performance of AFN to ensure:
•The method measures that appropriate variable.
•The results are relevant.
•The method is scientifically sound.
•There is a well-written protocol.
•The method is accurate, precise, reproducible, fast, and cost-effective

The City will provide constructive feedback of the performance of AFN during regularly scheduled AFN board meetings.

Quality Improvement

The organization will retain a staff person dedicated to quality control. This person will communicate daily with volunteers and trainers (program specialists) to ensure their needs are being met and coordinating volunteer training, evaluation and reporting. This person will have a regular onsite presence at program partner agencies, ensuring communication between clients, partners and Austin Free-Net. Additionally, this person regularly attends partner agency staff meetings to update the agency on programs and answer questions staff may have.

Regarding content offered through the Austin Free-Net curriculum, program staff and in-lab program specialists and volunteers continually work together to ensure that curriculum offered through Austin Free-Net's training remain relevant to clients' needs, wants and goals. Adjustments and additions to the content are addressed on an ongoing basis. The City will receive monthly updates from AFN related to client needs, partnership recommendations and an action plan serving identified needs. AFN will present to the Austin Community Technology & Telecommunications Commission no less than (4) times during the term of the contract.

Service Coordination with Other Agencies

Working directly with government agencies and nonprofit organizations, Austin Free-Net will provide much need assistance to a variety of people throughout the Austin area. Austin Free-Net provides technology training and public computer access in coordination with the following agencies: Frontsteps, Trinity, Health and Human Services, E.C.H.O., Southwest Key (SW Key), Support Services for Veteran Families (SSVF) and

Created *7/25/2015 11:44:00 AM* ***Last Modified, If Applicable*** *9/8/2015 4:51:00 PM*

Program Work Statement

Contract Start Date 10/1/2015 ***Contract End Date*** 9/30/2016

AISD- Victory Tutorial.

AFN will develop new service cooperation agreement(s) to include but not limited to contribution of technological hardware, staffing, training curriculum, volunteers and space to leverage program service development, deployment and implementation. AFN shall engage in no less than (4) new service cooperation agreements for the term of this contract.

Service Collaboration with Other Agencies

Austin Free-Net will maintain strong long-standing relationships with partner organizations and simultaneously collaborates with them on a variety of other projects and initiatives, including: Basic Computer Skills and Technology Training, VISTA, the city-funded Workforce Education Readiness Continuum, and the City's Digital Inclusion programs.

Austin Free-Net will develop and lead a working group focused on digital inclusion program services within the community.

Austin Free-Net will strive to meet the needs of its partner agencies and address gaps in community services. At all levels of planning and program development there will be a constant dialogue between Austin Free-Net and community service providers. Austin Free-Net will assist the City to co-host regular meetings with executive and program level staff (program directors, managers, specialist, trainers and coordinators) collaborating and leading partner agencies to address challenges and adjust program implementation in response to those challenges.

Community Planning Activities

AFN will serve as the lead agency for the City's Digital Empowerment Community of Austin.

Austin Free-Net will develop and lead a working group focused on digital inclusion program services within the community. This working group will convene regularly to improve the quality of computer skills instruction happening across the portfolio of community service providers conducting this work. The City will support AFN in this initiative to: use survey data to inform this group and provide ongoing project development and based on needs prioritized by the working group.

In this role, AFN will:

-Lead a working group to identify measurable community goals for organizations to achieve for (using the Dashboard Indicators from the approved Digital Inclusion Strategic Plan adopted by the Austin City Council).
-Assist the City in deploying programs serving vulnerable populations
-Serving as a thought partner in developing new programs and services to serve vulnerable populations.
-The City is affirming a role in which Austin Free-Net will validate its role as flagstaff digital inclusion provider in Austin and Austin Free-Net shall engage in collaborative and coordinated grant and foundation funding opportunities by leveraging the support from community stakeholders to fulfill shared community goals.

The need for technology skills and access to internet-connected computers is greater than ever, yet many in Austin rarely have the access and often lack the skills required to navigate online resources and use technology. Collaborating with other agencies, skills training and internet access is provided over a larger geographic area and supports those served by other nonprofit and government agencies. In addition to the agencies listed above our partners include the following: Foundation Communities, Austin Community College, Goodwill Industries, Texas Civil Rights Project, Workers' Defense Project, Victory Tutorial, Phoenix Arising, Austin Area Urban League, and Child, Inc.

Asssigned staff from AFN will represent organization interests and develop relevant outcomes serving:
Travis State Jail Roundtable
Road to Success career and resource fairs
Community/school alliance meetings (4 per month for different vertical teams)
COA/African American Quality of Life Unit job fairs
Job readiness training events

Created *7/25/2015 11:44:00 AM* ***Last Modified, If Applicable*** *9/8/2015 4:51:00 PM*

Program Work Statement

Contract Start Date 10/1/2015 ***Contract End Date*** 9/30/2016

Re-entry fairs
Goodwill events
AGE events

The AFN ED will represent organization interests and develop relevant outcomes serving:
Unlocking the Connections Core Team meetings
One Voice Meetings & subcommittee meetings
National Digital Inclusion Alliance Working Group (NDIA)
Community Leadership Council meetings (CLC) – Center for Nonprofit Studies
Digital Inclusion for Donor Engagement working group

Created *7/25/2015 11:44:00 AM* ***Last Modified, If Applicable*** *9/8/2015 4:51:00 PM*

Program Performance Measures

Contract Start	*Contract End*	*Period Performance Start*	*Period Performance End*
10/1/2015	9/30/2016	10/1/2015	9/30/2016

Outputs

OP #	*Output Measure Description*	*Period Goal*		
		City	*Other*	*Total*
1	Total Number of Logins	149976		149976
2	Total Number Lab Open Hours (Includes Classroom Hours Serving Training Programs With Criteria Equivalent To Tech Starters)	35000		35000
3	Total Number of Hours Contributed by AFN Volunteers (Includes Lab Monitoring, Training, Administrative and Technical Services).	4800		4800
4	Total Number of Unduplicated Number of Students In Programs	500		500

Created: 9/8/2015 5:53:00 PM *Last Modifed, If Applicable:*

Program Performance Measures

Contract Start	*Contract End*	*Period Performance Start*	*Period Performance End*
10/1/2015	9/30/2016	10/1/2015	9/30/2016

Outcomes

OC Item	*Outcome Measure Description*	*Total Program Goal*
	Number of clients who obtain employment related training such as: create resumes, gain employment, obtain an interview, create a cover letter, create an email address; among equivalent skills.	
	Total Number of Clients in Employment Related Training	
	Percentage of Clients Participating in Employment Related Training such as: create resumes, gain employment, obtain an interview, create a cover letter, create an email address; among equivalent skills.	
	Number of Clients Who Have Increased Digital Skills to Successfully Utilize the Internet Productively and Safely	
	Total Number of Clients Served in Training Programs	
	Percentage of Clients Who Have Increased Digital Skills to Successfully Utilize the Internet Productively and Safely	
	Number Of Clients Referred to Other Agencies	
	Total Number Of Clients	
	Percentage Of Clients Referred to Other Agencies	

Created: 9/8/2015 5:53:00 PM *Last Modifed, If Applicable:*

Amendment No. 1
to
Contract No. NS140000001
for
Digital Inclusion
between
Austin Free-Net
and the
City of Austin

1.0 The City hereby amends the referenced contract to increase the contract amount by $150.00.

2.0 The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 10/1/2013-9/30/2015	$395,488.00	$395,488.00
Amendment No. 1: Administrative Increase 10/1/2013-9/30/2015	$150.00	$395,638.00

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: 4-22-2014

Printed Name: Juanita Budd
Authorized Representative

Juanita Budd

Sign/Date: 4/23/14

Lynn Rich
Buyer II

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 330
Austin, Texas 78701

Approved
4/23/14

Financial and Administrative Service Department
Purchasing Office

PO Box 1088, Austin, Texas, 78767

October 2, 2013

AUSTIN FREE-NET
Juanita Budd
2209 Rosewood Avenue
Austin, TX 78702

Dear Ms. Budd:

The City of Austin has approved the execution of a contract with your company for digital inclusion in accordance with the referenced solicitation.

Responsible Department:	Telecommunications & Regulatory Affairs
Department Contact Person:	John Speirs
Department Contact Email:	John.Speirs@austintexas.gov
Department Contact Telephone:	512-974-3510
Project Name:	Digital Inclusion
Contractor Name:	Austin Free-Net
Contract Number:	NS140000001
Contract Period Amount:	$395,488.00
Contract Period:	10/1/2013-9/30/2015
Extension Options:	Three (3) 12-month extension options
Requisition Number:	4400-13092400602
Solicitation Number:	Sole source

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 referenced above.

Sincerely,

Lynn Rich
Buyer I
512-974-2076

cc: Terry Nicholson

CONTRACT BETWEEN

THE CITY OF AUSTIN

AND

AUSTIN FREE-NET

FOR

Telecommunications And Regulatory Affairs Office (TARA)

CONTRACT NO: NS140000001

CONTRACT AMOUNT: **$395,488.00**

This Contract is made by and between the City of Austin ("City") acting by and through its Telecommunications And Regulatory Affairs office ("TARA"), a home-rule municipality incorporated by the State of Texas, and Austin Free-Net ("Contractor"), a Texas non-profit corporation, having offices at 2209 Rosewood Ave, Austin, TX 78702.

SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

1.1. **Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in the Program Work Statement, attached hereto as Exhibit A.1.

1.2. **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Program Work Statement. The Contractor shall assure that all Contract provisions are met by the Subcontractor.

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

1.4. **Designation of Key Personnel.** City's Contract Manager for this Contract shall be responsible for oversight and monitoring of Contractor's performance under this Contract.

1.4.1. City 's Contract Manager, John Speirs or designee:

- may meet with Contractor to discuss any operational issues or the status of the services or work to be performed; and

-shall promptly review all written reports submitted by Contractor, determine whether the reports comply with the terms of this Contract, and give Contractor timely feedback on the adequacy of progress and task reports or necessary additional information.

1.4.2. Contractor 's Contract Manager, Juanita Budd, Executive Director, shall represent the Contractor with regard to performance of this Contract and shall be the designated point of contact for the City 's Contract Manager.

1.4.3. If either party replaces its Contract Manager, that party shall promptly send written notice of the change to the other party. The notice shall identify a qualified and competent replacement and provide contact information.

SECTION 2. TERM

2.1. **Term of Contract.** The Contract shall be in effect for a term of Twenty-Four (24) months beginning, Tuesday, October 01, 2013, and may be extended thereafter for up to Three (3) additional Twelve (12) month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.

SECTION 3. PROGRAM WORK STATEMENT

3.1. **Contractor's Obligations** The Contractor shall fully and timely provide all services described in Exhibit A.1, Program Work Statement in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

SECTION 4. COMPENSATION AND REPORTING

4.1. **Contract Amount.** The Contractor acknowledges and agrees that, notwithstanding any other provision of this Contract, the maximum amount payable by City under this Contract for the initial Twenty-Four (24) month term shall not exceed the amount approved by City Council, which is Three Hundred Ninety Five Thousand Four Hundred Eighty Eight Dollars ($395,488.00), and One Hundred Ninety Seven Thousand Seven Hundred Forty Four Dollars ($197,744.00) per Twelve (12) month extension option, for a total Contract amount of Nine Hundred Eighty Eight Thousand Seven Hundred Twenty Dollars ($988,720.00). Continuation of the Contract beyond the initial Twenty-Four (24) months is specifically contingent upon the availability and allocation of funding by City Council.

4.2. **Requests for Payment.** Payment to the Contractor shall be due thirty (30) calendar days following receipt by City's Contract Manager of Contractor's fully completed "Payment Request" and "Monthly Expenditure Report", using the forms shown at https://www.ctkodm.com/austin/. The payment request and expenditure report must be submitted to the City's Contract Manager no later than fifteen (15) calendar days following the end of the month covered by the request and expenditure report.

Contractor must provide the City with supporting documentation for each monthly Payment Request to include, but not limited to, a report of City contract expenditures generated from the Contractor's financial management system. Examples of appropriate supporting documentation **MAY** include, but are not limited to:

* General Ledger Detail report from the contractor's financial management system
* Profit And Loss Detail report from the contractor's financial management
* Check ledger from from the contractor's financial management system
* Payroll reports and summaries, including salary allocation reports and signed timesheets
* Receipts and invoices
* Copies of checks and bank statements showing transactions as cleared

The City retains right of final approval of any supporting documentation submitted before a Payment Request is approved for processing. Failure to provide supporting documentation acceptable to the City may result in delay or rejection of the Payment Request. The City reserves the right to modify the required supporting documentation from time to time, as needed.

4.2.1. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

4.2.2. 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.

4.3. **Payment.**

4.3.1. All proper requests for payment 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. Requests for payment received without all required information cannot be processed and will be returned to the Contractor.

4.3.2. If payment is not timely made, (per this paragraph), 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.

4.3.3. 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;

4.3.3.1. delivery of unsatisfactory services by the Contractor;

4.3.3.2. 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;

4.3.3.3. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment

4.3.3.4. 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;

4.3.3.5. 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;

4.3.3.6. failure of the Contractor to submit proper payment requests and expenditure reports with all required attachments and supporting documentation; or

4.3.3.7. failure of the Contractor to comply with any material provision of the Contract.

4.3.4. 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. Payment will be made by check unless the parties mutually agree to payment by electronic transfer of funds.

4.4. **Non-Appropriation.** 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.

4.5. **Travel Expenses.** All approved 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 Contract will be reviewed against the City's Travel Policy and the current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

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

No amounts in excess of the Travel Policy or Rates shall be paid. 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 Regulation.

4.6. **Final Payment and Close-Out.**

4.6.1. The making and acceptance of final payment will constitute:

4.6.1.1. 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

4.6.1.2. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

4.7. **Financial Terms.**

4.7.1. City agrees to pay Contractor for services rendered under this Contract and to reimburse Contractor for actual, eligible expenses incurred and billed in accordance with all terms and conditions of this Contract. City shall not be liable to Contractor for any costs incurred by Contractor which are not reimbursable as set forth in Section 4.8.

4.7.2. City's obligation to pay is subject to the timely receipt of complete and accurate reports as set forth in Section 4.9.1 and any other deliverable required under this Contract.

4.7.3. Payments to the Contractor will immediately be suspended upon the occasion of any late, incomplete, or inaccurate report, audit, or other required report or deliverable under this Contract, and payments will not be resumed until the Contractor is in full compliance.

4.7.4. City shall not be liable to Contractor for any costs which have been paid under other agreements or from other funds. In addition, City shall not be liable for any costs incurred by Contractor which were: a) incurred prior to the effective date of this Contract, or b) not billed to City within sixty (60) calendar days following termination date of this Contract.

4.7.5. Contractor agrees to refund to City any funds paid under this Contract which City determines have resulted in overpayment to Contractor or which City determines have not been spent by Contractor in accordance with the terms of this Contract. Refunds shall be made by Contractor within thirty (30) calendar days after a written refund request is submitted by City. City may, at its discretion, offset refunds due from any payment due Contractor, and City may also deduct any loss, cost, or expense caused by Contractor from funds otherwise due.

4.7.6. Contractor shall deposit and maintain all funds received under this Contract in either a separate numbered bank account or a general operating account, either of which shall be supported with the maintenance of a separate accounting with a specific chart which reflects specific revenues and expenditures for the monies received under this Contract. The Contractor's accounting system must identify the specific expenditures, or portions of expenditures, against which funds under this Contract are disbursed.

4.7.7. Contractor is required to utilize an online contract management system for billing and reporting in accordance with City guidelines, policies, and procedures. Contractor is responsible for all data entered/edited under its unique username, as well as all required but omitted data.

4.8. **Allowable and Unallowable Costs.**

The City shall make the final determination of whether a cost is allowable or unallowable under this Contract.

4.8.1. Reimbursement Only. Expenses and/or expenditures shall be considered reimbursable if incurred directly and specifically in the performance of this Contract and if in conformance with the Program Work Statement. Contractor agrees that, unless otherwise specifically provided for in this Contract, payment by the City under the terms of this Contract is made on a reimbursement basis only; Contractor must have incurred and paid costs prior to those costs being invoiced and considered allowable under this Contract and subject to payment by the City.

4.8.2. To be allowable under this Contract, a cost must meet all of the following general criteria:

1. Be reasonable for the performance of the activity under the Contract.
2. Conform to any limitations or exclusions set forth in this Contract.
3. Be consistent with policies and procedures that apply uniformly to both government-financed and other activities of the organization.
4. Be determined and accounted in accordance with generally accepted accounting principles (GAAP).
5. Be adequately documented.

4.8.3. The City's prior written authorization is required in order for the following to be considered allowable costs. Inclusion in the budget within this Contract constitutes "written authorization."

1. Alteration, construction, or relocation of facilities

2. Contingency provisions (funds). (Excludes self-insurance reserves and pension funds)

3. Depreciation.

4. Entertainment costs

5. Equipment and other capital expenditures.

6. Fundraising, development, and investment management costs

7. Idle facilities and idle capacity.

8. Interest, other than mortgage interest as part of a pre-approved budget under this Contract

9. Organization costs (costs in connection with the establishment or reorganization of an organization)

10. Public relations costs, except reasonable, pre-approved advertising costs related directly to services provided under this Contract

11. Purchases of tangible, nonexpendable property, including fax machines, stereo systems, cameras, video recorder/players, microcomputers, software, printers, microscopes, oscilloscopes, centrifuges, balances and incubator, or any other item having a useful life of more than one year and an acquisition cost, including freight, of over one thousand dollars ($1,000)

12. Selling and marketing

13. Travel/training outside Travis County

4.8.4. The following types of expenses are specifically **not allowable** with City funds under this Contract:

1. Alcoholic beverages

2. Bad debts

3. Compensation of trustees, directors, officers, or advisory board members, other than those acting in an executive capacity.

4. Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringement

5. Deferred costs

6. Donations and contributions including donated goods or space

7. Fines and penalties (including late fees)

8. Goods or services for officers' or employees' personal use

9. Housing and personal living expenses for organization's officers or employees

10. Litigation-related expenses (including personnel costs) in action(s) naming the City as a defendant

11. Lobbying or other expenses related to political activity

12. Losses on other agreements or contracts or casualty losses

13. Taxes, other than payroll and other personnel-related levies

14. City of Austin except utilities (as an administrative expense)

15. Liability insurance for the organization including any coverage needed in order to comply with City requirements (the City will pay for that portion of personnel overhead related to benefits such as an employee's health insurance)

16. Property maintenance expenses such as lawn care, maid service, security system monitoring or pest control

17. Attorney's fees

18. Auditor's fees

19. Preparation of other grant applications

20. Maintenance and repair of equipment as outlined in section 4.13 of this Contract

21. Taxes, other than payroll and other personnel-related levies

22. Technology given to individuals for use in their homes
23. Technology used by staff only
24. General operational expenses not related to your program
25. Expenses made before the program contract is signed

4.9. **Reports.**

4.9.1. Contractor must submit a fully and accurately completed "Payment Request" and "Monthly Expenditure Report" to the City's Contract Manager using the forms shown at https://www.ctkodm.com/austin/ no later than fifteen (15) calendar days following the end of the month covered by the request and expenditure report. Contractor must provide complete and accurate supporting documentation. Upon receipt and approval by the City of each complete and accurate Payment Request and Monthly Expenditure Report, the City shall process payment to the Contractor of an amount equal to City's payment obligations, subject to deduction for any unallowable costs.

4.9.2. Contractor shall submit a quarterly performance report using the format and method specified by the City no later than fifteen (15) calendar days following each calendar quarter. Contractor shall provide complete and accurate supporting documentation upon request by City. Payment Requests will not be approved if any accurate and complete performance report, including any required documentation, is past due. Performance reports on a frequency other than quarterly may be required by the City based upon business needs.

4.9.3. An annual Contract closeout report using the forms shown at https://www.ctkodm.com/austin/ shall be completed by the Contractor and submitted to the City within sixty (60) calendar days following the expiration or termination of this Contract. Any encumbrances of funds incurred prior to the date of termination of this Contract shall be subject to verification by City. Upon termination of this Contract, any unused funds, unobligated funds, rebates, credits, or interest earned on funds received under this Contract shall be returned to the City.

4.9.4. Contractor shall provide the City with a copy of the completed Administrative and Fiscal Review (AFR) using the forms shown at https://www.ctkodm.com/austin/ and required AFR Attachments, including a copy of the Contractor's completed Internal Revenue Service Form 990 or 990EZ (Return of Organization Exempt from Income Tax) if applicable, for each calendar year no later than May 31st of each year. If Contractor filed a Form 990 or Form 990EZ extension request, Contractor shall provide City with a copy of that application of extension of time to file (IRS Form 2758) within thirty (30) days of filing said form(s), and a copy of the final IRS Form 990 document(s) immediately upon completion.

4.9.5. Contractor shall provide other reports required by the City to document the effective and appropriate delivery of services as outlined under this Contract as required by the City.

4.10. **Contractor Policies and Procedures.** Contractor shall maintain written policies and procedures approved by its governing body and shall make copies of all policies and procedures available to the City upon request. At a minimum, written policies shall exist in the following areas: Financial Management; Subcontracting and/or Procurement; Equal Employment Opportunity; Personnel and Personnel Grievance; Nepotism; Non-Discrimination of Clients; Client Grievance; Drug Free Workplace; the Americans With Disabilities Act; and Criminal Background Checks.

4.11. **Monitoring and Evaluation.**

4.11.1. Contractor agrees that the City or its designee may carry out monitoring and evaluation activities to ensure adherence by the Contractor and Subcontractors to the Program Work Statement, Program Performance Measures, and Program Budget, as well as other provisions of this Contract. Contractor shall fully cooperate in any monitoring or review by the City and further agrees to designate a staff member to coordinate monitoring and evaluation activities.

4.11.2. Contractor shall provide City with copies of all evaluation or monitoring reports received from other funding sources during the Contract Term within twenty (20) working days following the receipt of the final report.

4.11.3. Contractor shall keep on file copies of all notices of Board of Directors meetings, Subcommittee or Advisory Board meetings, and copies of minutes of those meetings.

4.12. **Financial Audit of Contractor.**

4.12.1. In the event Contractor receives combined receipts of federal financial assistance and outstanding federal direct, guaranteed or insured loan balances totaling five hundred thousand dollars ($500,000) or more for any one-year period, Contractor shall submit to the City a complete set of audited financial statements and the auditor's opinion and management letters in accordance with 24 CFR, Part 44, OMB Circular A-133, the Single Audit Act of 1984, and

the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions

covering Contractor's fiscal year until the end of the term of this Contract. Requirements stated in sections 4.12.1 - 4.12.7 may be waived at the discretion of the City. Contractor may provide City with equivalent documentation at the discretion of the City to satisfy requirements of this Contract.

4.12.2. If Contractor is not subject to the Single Audit Act, and expending five hundred thousand dollars ($500,000) or more during the Contractor's fiscal year, then Contractor shall have a full financial audit performed. If less than five hundred thousand dollars ($500,000) is expended, then a financial review is acceptable, pursuant to the requirements of this Contract.

4.12.3. Contractor shall contract with an independent auditor utilizing a Letter of Engagement. The auditor must be a Certified Public Accountant recognized by the regulatory authority of the State of Texas.

4.12.4. Contractor must submit one (1) Board-approved, bound hard copy of a complete financial audit report or financial review, to include the original auditor opinion, within one hundred eighty (180) calendar days of the end of Contractor's fiscal year, unless alternative arrangements are approved in writing by the City. The financial audit report/financial review must include the Management Letter if one was issued by the auditor. Contractor may not submit electronic copies of financial audit reports/financial reviews to the City. Financial audit reports/financial reviews must be provided in hard copy, and either mailed or hand-delivered to the City.

4.12.5. City will contact the independent auditor to verify

i. That the auditor completed the financial audit report/financial review received from the Contractor;

ii. That the auditor presented the financial audit report/financial review to the Contractor's Board of Directors or a committee of the Board, and;.

iii. The date the financial audit report/financial review was presented to the Contractor's Board of Directors or a committee of the Board.

4.12.6. Contractor must submit a signed copy of the approved Board meeting minutes to the City, indicating the following:

i. The Board of Directors, or a committee of the Board, has met with the independent auditor;

ii. The Board of Directors has authorized and accepted the financial audit report/financial review.

Failure to submit the Board minutes will deem the financial audit report/financial review incomplete. Approved and signed Board minutes reflecting acceptance of the financial audit report/financial review will be due to the City within forty-five (45) days after the audit is due to the City. Board minutes regarding approval of the Contractor's financial audit report/financial review will be verified with the Contractor's Board Chair.

4.12.7. The inclusion of any Findings or a Going Concern Uncertainty in a Contractor's audit requires the creation and submission to the City of a corrective action plan formally approved by the Contractor's governing board. The plan must be submitted to the City within 60 days after the audit is due to the City. Failure to submit an adequate plan to the City may result in the immediate suspension of funding. If adequate improvement related to the audit findings is not documented within a reasonable period of time, the City may provide additional technical assistance, refer the Agreement to the City Auditor for analysis, or move to terminate the Agreement as specified in Section 5 of the Agreement.

4.12.8. The expiration or termination of this Contract shall in no way relieve the Contractor of the audit requirement set forth in this Section.

4.12.9. Right To Audit By Office of City Auditor.

4.12.9.1. 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, and copy any and all records of the Contractor related to the performance under this Agreement during normal business hours (Monday – Friday, 8 am – 5 pm). In addition to any other rights of termination or suspension set forth herein, City shall have the right to immediately suspend the Agreement, upon written notice to Contractor, if Contractor fails to cooperate with this audit provision. The Contractor shall retain all such records for a period of five (5) years after the expiration or early termination of this Agreement 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.

4.12.9.2. Contractor shall include this audit requirements in any subcontracts entered into in connection with this Agreement.

4.13. **Ownership of Property.**

4.13.1. Ownership title to all capital acquisition, supplies, materials or any other property purchased with funds received under this Contract and in accordance with the provisions of the Contract, is vested with the City and such property shall, upon termination of the Contract, be delivered to the City upon request.

4.13.2. Written notification must be given to the City as specified in Section 4 of the Agreement of delivery of nonexpendable property (defined as anything that has a life or utility of more than one (1) year and an acquisition cost, including freight, of over one thousand dollars ($1,000)) in order for the City to effect identification and recording for inventory purposes. Contractor shall maintain adequate accountability and control over such property, maintain adequate property records, and perform an annual physical inventory of all such property and report this information in the Annual Summary (close out) report due sixty (60) days after the end of the Contract Term.

4.13.3. In the event Contractor's services are retained under a subsequent agreement, and should Contractor satisfactorily perform its obligations under this Contract, Contractor shall be able to retain possession of non-expendable property purchased under this Contract for the duration of the subsequent agreement.

4.13.4. Property purchased with City funds shall convey to Contractor two (2) years after purchase, unless notified by the City in writing.

SECTION 5. TERMINATION

5.1. **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.

5.2. **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the "Right to Assurance" paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

5.3. **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.

5.4. **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.

5.5. **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

SECTION 6. OTHER DELIVERABLES

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

6.1.1. **General Requirements.**

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

6.1.1.2. The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within fourteen (14) calendar days after written request from the City.

6.1.1.3. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

6.1.1.4. The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

6.1.1.5. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

6.1.1.6. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

6.1.1.7. All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the Contractor's email address, and shall be mailed to the following address:

City of Austin, Telecommunications And Regulatory Affairs office

ATTN: Telecommunications And Regulatory Affairs Office

P. O. Box 1088

Austin, Texas 78767

6.1.1.8. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

6.1.1.9. If insurance policies are not written for amounts specified, 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.

6.1.1.10. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

6.1.1.11. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

6.1.1.12. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

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

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

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

6.1.2.1. **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are $500,000* for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

6.1.2.1.1. Blanket contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project

6.1.2.1.2. Independent Contractor's Coverage

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

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

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

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

6.1.2.1.7. If care of a child is provided outside the presence of a legal guardian or parent, Contractor shall provide coverage for sexual abuse and molestation for a minimum limit of $500,000 per occurrence.

6.1.2.1.8. The policy shall be endorsed to cover injury to a child while the child is in the care of the Contractor or Subcontractor.

* Supplemental Insurance Requirement. If eldercare, childcare, or housing for clients is provided, the required limits shall be $1,000,000 per occurence.

6.1.2.2. **Business Automobile Liability Insurance.**

Minimum limits: $500,000 combined single limit per occurrence for all owned, hired and non-owned autos

a. If any form of transportation for clients is provided, coverage for all owned, non-owned, and hired vehicles shall be maintained with a combined single limit of $1,000,000 per occurrence.

b. If no client transportation is provided but autos are used within the scope of work, and there are no agency owned vehicles, evidence of Personal Auto Policy coverage from each person using their auto may be provided. The following limits apply for personal auto insurance: $100,000/$300,000/$100,000.

All policies shall contain the following endorsements:

6.1.2.2.1. Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage

6.1.2.2.2. Thirty (30) calendar days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage

6.1.2.2.3. The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage

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

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

6.1.2.3.2. Waiver of Subrogation, Form WC 420304, or equivalent coverage

6.1.2.3.3. Thirty (30) calendar days Notice of Cancellation, Form WC 420601, or equivalent coverage

6.1.2.4. **Professional Liability Insurance.**

6.1.2.4.1. Contractor shall provide coverage at a minimum limit of $500,000 per claim to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission arising out of the performance of professional services under this Contract.

6.1.2.4.2. If coverage is written on a claims-made basis, the retroactive date shall be prior to or coincident with the date of the Contract and the certificate of insurance shall state that the coverage is claims-made and indicate the retroactive date. This coverage shall be continuous and will be provided for twenty-four (24) months following the completion of the Contract.

6.1.2.5. **Blanket Crime Policy Insurance.** A Blanket Crime Policy shall be required with limits equal to or greater than the sum of all Contract funds allocated by the City. Acceptance of alternative limits shall be approved by Risk Management.

6.1.2.6. **Directors and Officers Insurance.** Directors and Officers Insurance with a minimum of not less than $1,000,000 per claim shall be in place for protection from claims arising out of negligent acts, errors or omissions for directors and officers while acting in their capacities as such. If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of the Contract and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The coverage shall be continuous for the duration of the Contract and for not less than twenty-four (24) months following the end of the Contract. Coverage, including renewals, shall have the same retroactive date as the original policy applicable to the Contract or evidence of prior acts or an extended reporting period acceptable to the City may be provided. The Contractor shall, on at least an annual basis, provide the City with a certificate of insurance as evidence of such insurance.

6.1.2.7. **Property Insurance.** If the Contract provides funding for the purchase of property or equipment the Contractor shall provide evidence of all risk property insurance for a value equivalent to the replacement cost of the property or equipment.

6.1.2.8. **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.

6.1.2.9. **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."

6.2. **Equal Opportunity.**

6.2.1. **Equal Employment Opportunity** No Contractor or Contractor's agent shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit C. 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. Any Subcontractors used in the performance of this contract and paid with City funds must comply with the same nondiscrimination requirements as the Contractor.

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

6.3. **Inspection of Premises.** City has the right to enter Contractor's and Subcontractor's work facilities and premises during Contractor's regular work hours, and Contractor agrees to facilitate a review of the facilities upon reasonable request by the City.

6.4. **Rights to 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.

6.5. **Publications.** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

SECTION 7. WARRANTIES

7.1. **Authority.** Each party warrants and represents to the other that the person signing this Contract on its behalf is authorized to do so, that it has taken all action necessary to approve this Contract, and that this Contract is a lawful and binding obligation of the party.

7.2. **Performance Standards.** Contractor warrants and represents that all services provided under this Contract shall be fully and timely performed in a good and workmanlike manner in accordance with generally accepted community standards and, if applicable, professional standards and practices. Contractor may not limit, exclude, or disclaim this warranty or any warranty implied by law, and any attempt to do so shall be without force or effect. 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. Contractor agrees to participate with City staff to update the performance measures.

SECTION 8. MISCELLANEOUS

8.1. **Criminal Background Checks.** Contractor and Subcontractor agree to perform a criminal background check on every employee or volunteer whose duties place him or her in contact with children under eighteen (18) years of age. Contractor shall not assign or allow any employee or volunteer to be in direct contact with children if the employee or volunteer would be barred from contact with children under the rules established for child care facilities by the Texas Department of Family and Protective Services.

8.2. **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.

8.3. **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.

8.4. **Indemnity.**

8.4.1. Definitions:

8.4.1.1. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

8.4.1.1.1. damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or;

8.4.1.1.2. death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

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

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

8.5. **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 hereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

8.6. **Business Continuity** Contractor warrants that it has adopted a business continuity plan that describes how Contractor will continue to provide services in the event of an emergency or other unforeseen event, and agrees to maintain the plan on file for review by the City. Contractor shall provide a copy of the plan to the City's Contract Manager upon request at any time during the term of this Contract, and the requested information regarding the Business Continuity Plan shall appear in the annual Administrative and Fiscal Review document. Contractor also agrees to participate in the City's Emergency Preparedness and Response Plan and other disaster planning processes.

8.7. **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, email, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:	**To the Contractor:**	**With copy to:**
City of Austin,		City of Austin,
Telecommunications And Regulatory Affairs office	Austin Free-Net	Telecommunications And Regulatory Affairs office
Telecommunications And Regulatory Affairs Office		
ATTN: Rondella Hawkins TARA Officer	ATTN Juanita Budd Executive Director	ATTN: Ray Baray Director
124 West 8th Street Austin TX 78702	2209 Rosewood Ave Austin TX 78702	124 West 8th Street Austin TX 78702

8.8. **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

8.9. **Mandatory Publicity Statement.** Contractor shall prominently include described in Exhibit A.4, Mandatory Publicity Statement (in / on all printed and internet materials relating to City funded program under this agreement disseminated by the Contractor, including promotion for events.

8.10. **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.

8.11. **Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

8.12. **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.

8.13. **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.

8.14. **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.

8.15. **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.

8.16. **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.

8.17. **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.

8.18. **Dispute Resolution**

8.18.1. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

8.18.2. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

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

MBE/WBE goals do not apply to this Contract.

8.20. **Subcontractors**

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

8.20.2. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

8.20.2.1. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract. The City may require specific documentation to confirm Subcontractor compliance with all aspects of this Contract.

8.20.2.2. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

8.20.2.3. require Subcontractors to submit all requests for payment 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;

8.20.2.4. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

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

8.20.3. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

8.20.4. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten days after receipt of payment from the City.

8.21. **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.

8.22. **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.

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

HOLIDAY	DATE OBSERVED
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.

8.24. **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.

8.25. **Non-Suspension or Debarment Certification.** The City 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 Contractor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the Exclusions records at SAM.gov, the State of Texas, or the City of Austin.

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

Austin Free-Net

Signature: Juanita Budd

Name: Juanita Budd

Title: Executive Director

Date: 9-17-13

CITY OF AUSTIN

Signature:

Name: Terry Nicholson

Senior Buyer Specialist

Purchasing Office

Date: 10/1/13

EXHIBITS

Exhibit A – Program Forms
A.1. Program Work Statement
A.2. Program Performance Measures
A.3. Client Eligibility Guidelines
A.4. Mandatory Publicity Statement

Exhibit B – Program Budget Forms
B.1. Program Budget and Narrative
B.2. Program Subcontractors (If Applicable)

Exhibit C – Equal Employment/Fair Housing Office/Non-Discrimination Certification

Program Work Statement

Contract Start Date 10/1/2013 ***Contract End Date*** 9/30/2015

Program Goals And Objectives

Ausin Free-Net Serve as the City's primary digital literary and access community partner to provide citizens with the access, training and information they need to participate fully in the digital age. Austin Free-Net pursues four objectives:

- Create viable opportunities for citizens to use computers and the Internet through the installation, management and upkeep of computer workstations, primarily within those City of Austin facilities convenient and trusted by the underserved communities that are the target of the Community Technology Initiative.
- Provide technology training and access to the Greater Austin community, focusing on building digital skills among residents of low income, rural and underserved communities.
- Create low cost technology planning, installation, training and support to Austin area nonprofits, community based organizations, and public agencies.
- Develop high quality partnerships where technology is successfully integrated into program and services.

Program Clients Served

The public computer access and technology training services are available to the Greater Austin community with a focus on residents of low income, rural and underserved communities. The services are provided at multiple locations in partnership with the City of Austin and other governmental and nonprofit agencies serving a broad base of residents.

Program Services And Delivery

Access & Training Skills:
Provide computer, software and Internet training for the general public and staff of local community based organizations and agencies by Contractor volunteers, staff and paid trainers. Labs are available to City staff and community organizations when not in use by AFN and its program needs.

- Provide pre-digital basic and lifelong skills training to create independent computer users, appropriate to their self-defined needs and relevant to their lives.
- Develop sustainable partnerships to pool common resources with other non-profits.
- Develop methods to measure ongoing benefits and results of training programs.

Technical Support:

- Develop partnerships and revenue generating programs.
- Define the process, procedures and pay scale for technical support services.
- Respond to service calls in the following priorities based on time the call is received by digital pager to technician to provide quality services:

1. Existing City and community public access labs – 30 minutes response 95% of the time. Four (4) working hours on site response, if required, 95% of the time.
2. City Social Services partners, GTOP grantees, service contract holders and special arrangements, such as discounted group rates for membership organization who have an annual contract with AFN – 30 working minutes response 95% of the time. Eight (8) working hour on site response, if required, 95% of the time.
3. Any service call to a non-profit not covered by above – 60 working minutes response 95% of the time, on site response, if required, 95% of the time.

Facilities & Equipment:

- Set up and operate labs at City-owned facilities to provide availability based on need as shown in data from disparity study.
- Deployment of temporary public access internet facilities
- Provide training and support to other nonprofits to develop similar labs and training programs at non-City facilities.

Provide equipment in community computer labs for program support as contract funding is available Sites : ARCH (Austin ReSource Center for the Homeless-Males); Trinity (Center for Homeless- Females); CASA; DeWitty Center (jobs lab); DeWitty Center (Open access); DeWitty Center (Jobs training & Employment Center); Blackland, Rosewood, St.John's & South Austin (Neighborhood Centers) ; Conley-Guerrero Senior Activity Center.)

- Internet capable computers with operating systems and standard software

Created *8/29/2013 11:42:00 AM* ***Last Modified, If Applicable*** *9/4/2013 6:29:00 PM*

Program Work Statement

Contract Start Date 10/1/2013 ***Contract End Date*** 9/30/2015

- Wiring & Surge protectors
- Parts
- Printers
- Headphones, microphones and speakers training supplies (at sites with Program Specialist)
- Facilitate high-speed Internet services with local providers as requested
- Maintain title to all equipment purchased or received through grants, gifts, or other sources
- Maintain inventory of all equipment installed at City facilities

Organizational Development:
Provide project management and strategic leadership as required through the contract as funds are available.

- Make an effort to locate additional funding sources including grants, etc.
- Serve as a partner in the next residential technology study.
- Recruit and manage volunteers/interns to help provide services.
- Explore creative opportunities, partnerships, and arrangements with private sector providers.
- Actively develop evangelists for the mission through a marketing plan targeted to area nonprofits and service providers.
- Engage in promotions/marketing/outreach.

The City will provide:

- Core Staff: The City will provide a dedicated core staff consisting of a full time senior technical support person and a ¾ time financial and administrative support person to work with the Contractor.
- Space: The City will provide Contractor with spaces as reasonably required for equipment in City facilities, as mutually agreed upon in writing, and access to that space for maintenance and repairs.
- Information Sharing: The City will provide information from City staff to facilitate City service delivery in a collaborative environment.

System for Collecting and Reporting Program Data

Public computer usage data including purpose of visit, number of people served, and hours of training provided are maintained in an electronic database. An on-line survey completed by each client tracks the purpose of their visit. Data is accumulated and summarized monthly.
For individuals seeking training in how to do a job search or obtain access to government services, the client meets with the trainer at the start of the first visit. The desired training goal is identified and a pre-assessment is made by the trainer. A post assessment is done at the end of each training session and progress updated. Clients also provide outcomes information related to job search training.

Performance Evaluation

We will evaluate our performance on both subjective and objective data. The subjective data will be gathered using an evaluation form. The objective data will be gathered using learning outcome checklists to measure students' improvement in the subject areas taught. The data will be analyzed and reported quarterly to the City of Austin.

Quality Improvement

The Director of Programs and Services regularly meets with staff to assess the effectiveness of our programming. She consults with the partner agency representatives at the sites and the AFN trainers to review the program and make program adjustments needed for improvement.

Service Coordination with Other Agencies

Working directly with governrnent agencies and nonprofit organizations, Austin Free-Net will provide much need assistance to a variety of people throughout the Austin area. Austin Free-Net provides technology training and public computer access in coordination with the following agencies: Frontsteps, Trinity, Health and Human Services, E.C.H.O., A.I.S.D. and Boys and Girls Clubs of the Austin Area,

Service Collaboration with Other Agencies

Program Work Statement

Contract Start Date 10/1/2013 ***Contract End Date*** 9/30/2015

The need for technology skills and access to internet-connected computers is greater than ever, yet many in Austin rarely have the access and often lack the skills required to navigate online resources and use technology. Collaborating with other agencies, skills training and internet access is provided over a larger geographic area and supports those served by other nonprofit and government agencies. In addition to the agencies listed above our partners include the following: Foundation Communities, Austin Community College, Goodwill Industries, Texas Civil Rights Project, Workers' Defense Project, Victory Tutorial, Phoenix Arising, Austin Area Urban League, and Child, Inc.

Community Planning Activities

Austin Free-Net is affiliated with the Literacy Coalition of Central Texas, One Voice Central Texas, Texas Connects Coalition, National Network of Libraries of Medicine Nonprofit Technology Enterprise- Network and the-Homeless Management Information System, which incorporates 21 other homeless services organizations. In addition, Executive Director Juanita Budd is a member of the Task Force on Improving Relations with Nonprofits with the Texas Health and Human Services Commission . Director of Programs and Training, Lori Williams, sits on the Ending Community Homelessness Coalition(ECHO) Membership Council.

Program Performance Measures

Contract Start	*Contract End*	*Period Performance Start*	*Period Performance End*
10/1/2013	9/30/2014	10/1/2013	9/30/2014

Outputs

OP #	*Output Measure Description*	*Period Goal*		
		City	*Other*	*Total*
	Provide 60,000 open public access hours			
	Provide 15,000 hours of training or one to one coaching			
	Provide 150 volunteer hours to support digital literacy and technology support			

Created: 8/29/2013 11:40:00 AM *Last Modifed, If Applicable:* 9/18/2013 12:56:00 PM

Program Performance Measures

Contract Start	*Contract End*	*Period Performance Start*	*Period Performance End*
10/1/2013	9/30/2014	10/1/2013	9/30/2014

Outcomes

OC Item	*Outcome Measure Description*	*Total Program Goal*

Created: 8/29/2013 11:40:00 AM *Last Modifed, If Applicable:* 9/18/2013 12:56:00 PM

Client Eligibility Requirements

Adopted from: City of Austin Health and Human Services Social Service Contracts

UNLESS OTHERWISE STATED IN THE CONTRACT WORK STATEMENT, THESE REQUIREMENTS APPLY TO ALL CLIENTS SERVED WITH CITY SOCIAL SERVICES FUNDING.

GENERAL

- Eligibility requirements for clients served under grant contracts will be determined by the grantor.
- Agency must maintain a record of client eligibility (e.g. client file or electronic record) that includes documentation of:
  - Annual certification of client eligibility
  - Services provided to client
- Agency must recertify client when notified of a change in family circumstances (e.g. family income, residence, and/or family composition)
- Unless specified by Grant/Funding Source, re-certification of clients is required not less than once every 12 months (unless required earlier by a change in family circumstances)
- Homeless clients:
  - If the program eligibility requires homeless status, the residency requirements and income requirements do not apply
  - Homeless status must be documented by a signed (1) Homeless Eligibility Form or Homeless Self-Declaration Form and (2) entry into Homeless Management Information System (HMIS) database. These forms must be developed by the agency and be approved by the City contract manager.
- Other Client populations:
  - Clients in programs serving victims of violence are not subject to residency or income requirements
  - Eligibility exceptions for any other type of clients and/or documentation situations must be described in Contract Work Statement
- Date of receipt by agency must be indicated on all documentation in client file

IDENTITY

- Client must provide proof of identity in order to receive City-funded services, documented by:
  - A government –issued identification; or
  - A signed Self-Declaration of Identity supported by client residency documentation

Client Eligibility Requirements

RESIDENCY

- City-funded clients must be a resident of the City of Austin (Full Purpose Jurisdiction) and/or Travis County
  - Residence must be documented by proof of address that includes client name (e.g. City utility bill, lease, letter from landlord, etc.)
  - Residency eligibility must be verified by one or more of the following sources:
    - Austin GIS Development Web Map (http://www.austintexas.gov/GIS/DevelopmentWebMap)
    - Travis County Appraisal District website (http://www.traviscad.org)
    - U.S. Postal Service website (verification of County only) (www.usps.com)

INCOME

- Client intake form must reflect wages/income of all family members 18 years old or older living in the household
- Determination of Family Size:
  - For the purposes of determining eligibility for City-funded services, a family unit consists of:
    - A person living alone:
      - An adult living alone
      - A minor child living alone or with others who are not responsible for the child's support
    - Two or more persons living together who are wholly or partially responsible for the support of the other person/people:
      - Two persons in a domestic partnership, or legal or common-law marriage
      - One or both legal parents and minor children
      - One or both adult caretakers of minors and the caretaker(s)'s minor children. Note: a caretaker is one or both adults(s) who performs parental functions (provision of food, clothing, shelter, and supervision) for a minor.
- Family income must be 200% or less of current Federal Poverty Income Guidelines (FPIG) to be eligible for City-funded services; agency must update its FPIG categories when Federal figures change. Income inclusions and exclusions are based on Texas Administrative Code §5.19 and are as follows:

(1) Included Income:

(A) Temporary Assistance for Needy Families (TANF);
(B) Money, wages and salaries before any deductions;
(C) Net receipts from non-farm or farm self-employment (receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses);
(D) Regular payments from social security, including Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI);

Client Eligibility Requirements

(E) Railroad retirement;
(F) Unemployment compensation;
(G) Strike benefits from union funds;
(H) Worker's compensation;
(I) Training stipends;
(J) Alimony;
(K) Military family allotments;
(L) Private pensions;
(M) Government employee pensions (including military retirement pay);
(N) Regular insurance or annuity payments; and
(O) Dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts; and net gambling or lottery winnings.

(2) Excluded Income:

(A) Capital gains; any assets drawn down as withdrawals from a bank;
(B) The sale of property, a house, or a car;
(C) One-time payments from a welfare agency to a family or person who is in temporary financial difficulty;
(D) Tax refunds, gifts, loans, and lump-sum inheritances;
(E) One-time insurance payments, or compensation for injury;
(F) Non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;
(G) Food or housing received in lieu of wages;
(H) The value of food and fuel produced and consumed on farms;
(I) The imputed value of rent from owner-occupied non-farm or farm housing;
(J) Federal non-cash benefit programs as Medicare, Medicaid, Food Stamps, and school lunches;
(K) Housing assistance and combat zone pay to the military;
(L) Veterans (VA) Disability Payments;
(M) College scholarships, Pell and other grant sources, assistantships, fellowships and work study, VA Education Benefits (GI Bill); and
(N) Child support payments.

- Client income amounts must reflect Gross Income, before any deductions
- If any adult family member has no income, a Self-Declaration of No Income form is required for that individual
- Client file must include primary eligibility sources; declaration of eligibility for another program (e.g., TANF, Free/Reduced/School Lunch Program) is not adequate documentation of eligibility

Any question about eligibility criteria not addressed here or for which the contractor needs clarification must be referred to the contractor's City contract manager. The City has final authority to declare an individual eligible or not eligible for City-funded services based on the criteria in this document.

City of Austin, Telecommunications & Regulatory Affairs
Digital Inclusion Initiative Program

Mandatory Publicity Statement

The following statement must be prominently included in / on all printed materials relating to the City of Austin Digital Inclusion Initiative materials disseminated by the Contractor, including promotions for events. For further information or clarification, please contact your Contract Administrator:

The following line must be included in all promotional materials along with the logo above:

This program is funded and supported in part by the City of Austin through the Digital Inclusion Initiative.

Program Budget and Narrative

		Period		*Contract Start*	*10/1/2013*
	1	*2*	*3*	*Contract End*	*9/30/2015*
Period Start Date	**10/1/2013**	**10/1/2014**			
Period End Date	**9/30/2014**	**9/30/2015**			***Total***
Salary plus Benefits	**$190,000.00**	**$190,000.00**	**$0.00**		**$380,000.00**
General Operations Expenses	$7,744.00	$7,744.00	$0.00		$15,488.00
Consultants / Contractual	$0.00	$0.00	$0.00		$0.00
Staff Travel	$0.00	$0.00	$0.00		$0.00
Conferences	$0.00	$0.00	$0.00		$0.00
Operations SubTotal	**$7,744.00**	**$7,744.00**	**$0.00**		**$15,488.00**
Food and Beverages for Clients	$0.00	$0.00	$0.00		$0.00
Financial Direct Assistance to Clients	$0.00	$0.00	$0.00		$0.00
Other Assistance Amount	$0.00	$0.00	$0.00		$0.00
Direct Assistance SubTotal	**$0.00**	**$0.00**	**$0.00**		**$0.00**
Capital Outlay Amount	**$0.00**	**$0.00**	**$0.00**		**$0.00**
Total	**$197,744.00**	**$197,744.00**	**$0.00**		**$395,488.00**
Total Period Percentage	50	50	0		

Detailed Budget Narrative

Salaries plus Benefits *Percentage of appropriate employee's salary and benefits. Key staff for the project include the Director of Programs and Training, Trainers and Lab monitors, Volunteer Manager, Technical Services Manager, Program Administrative Assistant, Executive Director and Grant Writer.*

General Op Expenses *Supplies, computer parts and small equipment, telephone and internet service, staff mileage to multiple sites, meetings and professional development for staff members*

Consultants / Contracutal

Staff Travel

Conferences

Food and Beverage

Financial Assistance

Other Assistance

Capital Outlay

Created *8/29/2013 2:43:00 PM* ***Last Modified, If Applicable*** *9/13/2013 1:25:00 PM*

City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NON-DISCRIMINATION CERTIFICATION
SOLICITATION NO.

City of Austin, Texas
Human Rights Commission

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

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

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

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

(B) (1) Not to engage in any discriminatory employment practice defined in this chapter.

(2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.

(3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.

(4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.

(5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.

(6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.

(7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of $2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

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

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

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

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

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

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

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

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

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

Dated this 17th day of September, 2013

CONTRACTOR Austin Free-Net

Authorized Signature Juanita Sudd

Title Executive Director

MEMORANDUM

TO: Lynn Rich, Buyer I
Purchasing Office

FROM: John Speirs, Program Coordinator
Telecommunications & Regulatory Affairs

DATE: September 24, 2013

SUBJECT: Austin Free-Net (Digital Inclusion) Contract – Legal Review

---

In her review of the contract, Jacqueline Cullom, Assistant City Attorney, inquired pertaining to section 4.13, Ownership of Property. This review and approval directed TARA to "check with your contact in Purchasing and get their take on conveying any property to the contractor two years after the purchase."

2.2.2003 – 9.30.2013 Contract with Austin Free-Net

2.1.3 Equipment Ownership:

(a) Austin Free-Net will retain title to all equipment it purchases or receives through grants, gifts, or other sources

(b) Austin Free-Net will maintain an inventory of all its equipment installed at City Facilities.

10.1.2013 – 9.30.2015 Contract with Austin Free-Net

4.13 Ownership of Property.

4.13.1 Ownership title to all capital acquisition, supplies, materials or any other property purchased with funds received under this Contract and in accordance with the provisions of the Contract, is vested with the City and such property shall, upon termination of the Contract, be delivered to the City upon request.

4.13.2 Written notification must be given to the City within five (5) calendar days of delivery of nonexpendable property (defined as anything that has a life or utility of more than one (1) year and an acquisition cost, including freight, of over one thousand dollars ($1,000)) in order for the City to effect identification and recording for inventory purposes. Contractor shall maintain adequate

accountability and control over such property, maintain adequate property records, and perform an annual physical inventory of all such property and report this information in the Annual Summary (close out) report due sixty (60) days after the end of the Contract Term.

4.13.3 In the event Contractor's services are retained under a subsequent agreement, and should Contractor satisfactorily perform its obligations under this Contract, Contractor shall be able to retain possession of non-expendable property purchased under this Contract for the duration of the subsequent agreement.

4.13.4 Property purchased with City funds shall convey to Contractor two (2) years after purchase, unless notified by the City in writing.

Best Practices

Below is an excerpt from the contract boilerplate for public access television services with channelAustin Inc.

SECTION 8. OWNERSHIP OF PROPERTY.

A. Contractor shall provide the Contract Manager with an inventory of all City-owned Equipment located at the access facilities as part of the annual report. All Equipment purchased with City Operating Funds or Capital Funding is the property of the City. Upon termination of the Contract, Contractor shall deliver possession of all such Equipment to the City unless otherwise agreed to in writing by the Contract Manager. Equipment purchased by Contractor with funds other than City Operating Funds or Capital Funding is and shall remain the sole property of Contractor.

B. Contractor shall notify Contract Manager in writing within five (5) calendar days of its receipt of any durable property owned by the City to enable the City to identify and record such property as fixed assets, as appropriate. The Contractor shall:

    1. maintain custody and control over all property provided by the City;

    2. maintain detailed property records; and

    3. perform an annual physical inventory.

C. Contractor shall notify the Contract Manager in writing not later than twenty-four (24) hours following the discovery of any loss of or damage to City facilities or equipment. Contractor shall seek to recover from parties responsible for such loss or damage, and shall inform the Contract Manager in writing of status of the Contractor's efforts not later than the fifteenth (15th) calendar day following the date of initial notice of such loss or damage. Contractor shall provide progress reports on its efforts to seek remuneration for such loss or damage to the Contract Manager.

Conclusion

In conclusion, TARA supports the inquiry related to the Ownership of Property clause located in the upcoming contract with Austin Free-Net for the Digital Inclusion Program:

1. COA retains ownership of equipment to continue to provide a public benefit, minimizes risk should contractor default.

2. Strengthens COA position of authority, as it relates to Ownership of Property, following the best practice of other contracts for services by COA.

Please feel free to contact me at 974.3510 if you have questions or need further clarification.

Austin Free-Net • 2209 Rosewood Avenue • Austin, TX 78702 • (512) 236-8225

5/1013

City of Austin Purchasing Officer,

Austin Free-Net, a 501 (c)(3) nonprofit organization, is petitioning for a Sole Source Exemption for management services of technology equipment and public education provided at six City of Austin owned facilities.

Austin Free-Net is uniquely positioned to provide services on account of the following qualities:

Experience: Austin Free-Net has provided community technology solutions since 1995. In 2009 Austin Free-Net became the joint-recipient of a Broadband Technology Opportunities Program grant, successfully executing the terms of this extensive $9M operation.

Existing Infrastructure: Austin Free-Net currently maintains 73 computer workstations in the above-mentioned City of Austin owned facilities. These services have enabled these facilities to become known technology sources for their communities.

Proprietary curriculum: Austin Free-Net developed a proprietary curriculum specifically for the targets of Austin's Community Technology Initiative.

Technical Services: Austin Free-Net's nonprofit status allows us to provide technical services at a rate drastically reduced from the market average. Austin Free-Net's IT department maintains the tools and expertise to keep high-traffic computer workstations used by the public functioning smoothly.

We would be remiss not to mention the additional community benefits produced by this contractual agreement. Similar services are provided at 27 total locations in collaboration with community organizations across Austin. Austin Free-Net has been able to share our expertise through low-cost technical support services to multiple local nonprofits.

Thank you for considering this request for a Sole Source Exemption. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Juanita Budd

Juanita Budd
Executive Director,
Austin Free-Net
(512)236-8225 x21

Austin Free-Net • 2209 Rosewood Avenue • Austin, TX 78702 • (512) 236-8225

Austin Free-Net Work Statement

1. Business Justification:

To fulfill the City of Austin's Community Technology Initiative *to provide citizens with the access, training and information they need to participate fully in the digital age*, Austin Free-Net pursues two objectives:

- Create viable opportunities for citizens to use computers and the Internet through the installation, management and upkeep of computer workstations, primarily within those City of Austin facilities convenient and trusted by the underserved communities that are the target of the Community Technology Initiative.
- Create independent computer users through the provision of professional and volunteer technology education to citizens who would otherwise not have sufficient skills or knowledge of computers and the Internet to meaningfully participate in the digital age.

2. City of Austin Owned Facilities Served:

Blackland Neighborhood Center	Conley-Guerrero Senior Activity Center
Rosewood-Zargosa Neighborhood Center	South Austin Neighborhood Center
St. John's Community Center	The DeWitty Center Public Computer Lab
The DeWitty Center Resume Workshop	The DeWitty Center Bilingual Lab
The DeWitty Center Job Training and Employment Center	

The clients served by these facilities fall primarily within the categories of: Limited Digital Access; Low-income; Minority; Underserved.

3. Management Services:

Program management services provided to the above-mentioned City of Austin owned facilities:

- Performance tracking, record keeping, analysis and management of computer workstation usage.
- Development of customized computer education programs specific to individual facilities.
- Management, recruitment, training and deployment of Austin Free-Net Trainers and volunteers.

Outreach and Engagement: Traditional Advertising; Social Media Awareness; Email Marketing; Creation and Distribution of Collateral; Attending Community Events; Conference and Public Speaking Forums; Nonprofit Community Advocacy Groups; Statewide Taskforce to Approve SB 993-Duell During the 83rd Texas Legislative Session; Creation of Texas Nonprofit Council to Assist with Faith and Community Based Initiatives.

Significant financial or other benefits:

Computer Workstations (Present)	73
Computer sessions provided between 04/01/11-04/30/13	+90,000
Computer education classes provided between 08/01/09-04/30/13	2,512
Hours of volunteer computer education provided between 07/01/12-04/30/13	1,457

As well as the creation and deployment of *Tech Starters*, a technology education curriculum designed for the populations targeted by the Community Technology Initiative.

IT Management of computer workstations in the above-mentioned City of Austin owned facilities:

Professional IT Management between 10/1/12-4/30/30	Valued at $59,348
2334.5 Hours of Volunteer IT Management between 09/01/12-04/01/13	Valued at $51,148.90

IT services include: Computer Installation; Progressive Maintenance; Repairs; Upgrades; On-call Troubleshooting; and Other Technical Services

Additionally, Austin Free-Net completed a network infrastructure upgrade of the DeWitty Center (estimated $12,000 value) that upgraded cables from “Cat 3” to “Cat 6” and upgraded Router/Hub speed from 100mbs to Gigabit speed.

4. System for collecting and reporting program data:

- Austin Free-Net will record and report the number of computer workstations installed
- Software installed on every Austin Free-Net computer workstation counts unique computer sessions. These will be reported monthly.
- Austin Free-Net will record and report the number of volunteer hours expended.
- Austin Free-Net will record and report the number of computer education classes provided.
- Clients participating in computer education classes are assessed before and after receiving computer education. Average scores will be reported monthly by site.

5. Program Evaluation plan

- Analysis of the number of unique computer sessions enables longitudinal tracking of the amount of usage of computers by site, trend identification, demand identification, and where to deploy/redirect services.

- Pre and Post tests allow Austin Free-Net Trainers to observe the effects of their teaching.
- Clients are surveyed at the beginning of each computer session to determine the purpose of their visit.

6. While Austin Free-Net has provided significant financial and other benefits to City of Austin owned facilities, we would be remiss not to mention services provided to other entities as a result of this contractual agreement:

Austin Community College	AISD
Austin Area Urban League	Any Baby Can
Boys & Girls Club	Child Inc
Cedar Creek United Methodist Church-Bastrop	Communities for Recovery
Connected TX	Digital Workforce
Foundation Communities	Goodwill
TX Civil Rights project	Worker's defense Project
Southwest Key	Project Recovery
Travis County	University of Texas (LBJ) School

Additionally, investments made by Austin Free-Net to The DeWitty Center have enabled this City of Austin owned facility to host computer-based trainings and events for the following organizations:

Austin Area Urban League	City of Austin (jobs skills assessments)
Princeton University	Salesforce (database training for nonprofits)
Service Austin Rotary Club	Texas Association of Nonprofit Organizations
Texas School for the Deaf	

Austin Free-Net extends its technical expertise to other nonprofits in the form of a low cost IT support program to the nonprofits Latinitas and Knowability

7. Community Planning Activities:

Austin Free-Net is affiliated with the Literacy Coalition of Central Texas, Once voice Central Texas, Texas Connects Coalition, National Network of Libraries of Medicine , Nonprofit Technology Enterprise Network, The Texas Health and Human Services Commission, the Homeless Management Information System and Workforce Solutions of the Capital Area. In addition, Executive Director Juanita Budd is a member of the Task Force on Improving Relations with Nonprofits with the Texas Health and Human Services Commission. Director of Programs and Training, Lori Williams, sits on the Ending Community Homelessness Coalition (ECHO) membership council.

Austin Free-Net
Financial Summary
Fiscal Years 2010-2012

	2012			2011			2010		
	Other	**CoA-TARA**	**Total**	**Other**	**CoA-TARA**	**Total**	**Other**	**CoA-TARA**	**Total**
Expenses									
Salaries	666,530	28,627	695,157	298,143	40,458	338,601	17,467	38,317	55,784
Benefits & Payroll Taxes	142,901	7,538	150,439	48,902	8,208	57,110	1,680	6,569	8,249
Fund Development	750	-	750	-	-	-	-	-	-
Professional Fees	27,244	-	27,244	331	-	331	-	-	-
Subcontractors				17,268	-	17,268	1,940	-	1,940
Travel & Meetings	5,943	1,710	7,653	8,469	54	8,523	3,672	384	4,056
Insurance	832	3,472	4,304	3,306	-	3,306	2,911	215	3,126
General Operating Expenses	25,010	4,664	29,674	29,649	1,132	30,781	5,397	1,695	7,092
Telecommunications	5,881	4,551	10,432	4,240	2,721	6,961	1,439	2,818	4,257
Promotion	-	3,254	3,254	-	-	-	250	-	250
Total expenses-cash	**$ 875,091**	**$ 53,816**	**$ 928,907**	**$ 410,308**	**$ 52,573**	**$ 462,881**	**$ 34,756**	**$ 49,998**	**$ 84,754**

In-Kind Contributions	**AFN Totals**	
Equipment FY 11-12	**$ 204,883**	acquired through BTOP funding
Space provided	**$ 50,472**	FY 2012 non-City sites, $42,432 City sites
	$ 11,376	FY 2011 non-City sites, $42,432 City sites
Volunteer support	**$ 39,149**	FY 2012 - 1,818 hrs at $21.53 - All sites
	$ 15,840	FY 2011 - 792 hrs at $20.00 - All sites
SalesForce Software-license	**$ 15,000**	annually
	$ 336,720	

The amounts above are total organizational cash expenses and in-kind contributions by fiscal year (October to September).

City of Austin FSD Purchasing Office

Certificate of Exemption

DATE: 05/16/2013 DEPT: Management Services - TARA

TO: Purchasing Officer or Designee FROM: John Speirs, TARA Program Coordinator

BUYER: ~~Laura Wright~~ Lynn Rich PHONE: (512) 974-3510

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of $50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

Senate Bill 7 amended Chapter 252 of the Local Government Code to exempt from the requirements of such Chapter expenditures made by a municipally owned electric utility for any purchases made by the municipally owned electric utility in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures. The Austin City Council has adopted Resolution No. 040610-02 to establish circumstances which could give rise to a finding of critical business need for Austin Energy.

This Certification of Exemption is executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized to submit this certification.
2. The undersigned certifies that the following exemption is applicable to this purchase. (Please check which exemption you are certifying)

- ○ a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality
- ○ a procurement necessary to preserve or protect the public health or safety of municipality's residents
- ○ a procurement necessary because of unforeseen damage to public machinery, equipment, or other property
- ○ a procurement for personal, professional, or planning services
- ○ a procurement for work that is performed and paid for by the day as the work progresses
- ○ a purchase of land or right-of- way
- ⊙ a procurement of items available from only one source, including: items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; gas, water, and other utility services; captive replacement parts or components for equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits
- ○ a purchase of rare books, papers, and other library materials for a public library
- ○ paving, drainage, street widening and other public improvements, or related matters, if at least one- third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements
- ○ a public improvement project, already in progress, authorized by voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters

- O a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212
- O personal property sold: at an auction by a state licensed auctioneer; at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391
- O services performed by blind or severely disabled persons
- O goods purchased by a municipality for subsequent retail sale by the municipality
- O electricity
- O advertising, other than legal notices
- O Critical Business Need (Austin Energy Only)

3. The following facts as detailed below support an exemption according to Section 252.022 of the Local Government Code for this purchase. Please verify the steps taken to confirm these facts. If you are citing the following exemptions, please provide the additional information requested below. A more detailed explanation of these exemptions is attached.

   - **Preserve and Protect the Public Health and Safety** – Describe how this purchase will preserve and protect the public safety of residents.
   - **Sole Source** – Describe what patents, copyrights, secret processes, or natural monopolies exist. Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.
   - **Personal Services** – Describe those services to be performed personally by the individual contracted to perform them.
   - **Professional Services** – Describe what mainly mental or intellectual rather than physical or manual and/or disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence are required to perform this service.
   - **Planning Services** – Describe the services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.
   - **Critical Business Need** – Describe the procurement necessary to protect the competitive interests or position of Austin Energy.

   Please see attached documentation:
   1) Letter from Vendor
   2) Program Work Statement
   3) Financial Summary

4. Please attach any documentation that supports this exemption.

5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City (Ex (valuation of other firms, knowledge of market, etc).

Texas Local Government Code 252.022.7F -procurement of items available from only one source, including: items that are available from only one source...and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.
AFN manages the public computer labs in City facilities by providing staffing and volunteers who manage the public computer labs and provide training classes to the participants. AFN provides and manages the equipment for the public computing labs in City facilities. AFN manages the two public computer labs located at the City's DeWitty Employment Center in east Austin.
AFN has received federal and state and foundation grant funding and donations to leverage the city's contract funding and the two City employees that help support Austin Free-Net. In 2010, Austin Free-Net received $2.1 in federal stimulus funds from the Broadband Technology Opportunities Program (BTOP) grant program. The City benefitted tremendously in that AFN expanded the number of public computer labs throughout the City and replaced old, antiquated computers and equipment at existing public computer labs.

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Austin Free-Net for Public Access to the Internet & Training which will cost approximately $ 197,774.00 (Provide estimate and/or breakdown of cost).

Recommended Certification	Originator	6/5/13 Date	
Approved Certification	Rondella M. Hawkins Department Director or designee	6/5/13 Date	
	Assistant City Manager / General Manager or designee (if applicable)	6/6/13 Date	
Purchasing Review (if applicable)	Buyer	6/19/13 Date	Manager Initials
Exemption Authorized (if applicable)	Purchasing Officer or designee	6/27/2013 Date	

02/26/2013

austinfree.net

Austin Free-Net • 2209 Rosewood Avenue • Austin, TX 78702 • (512) 236-8225

5/1013

City of Austin Purchasing Officer,

Austin Free-Net, a 501 (c)(3) nonprofit organization, is petitioning for a Sole Source Exemption for management services of technology equipment and public education provided at six City of Austin owned facilities.

Austin Free-Net is uniquely positioned to provide services on account of the following qualities:

Experience: Austin Free-Net has provided community technology solutions since 1995. In 2009 Austin Free-Net became the joint-recipient of a Broadband Technology Opportunities Program grant, successfully executing the terms of this extensive $9M operation.

Existing Infrastructure: Austin Free-Net currently maintains 73 computer workstations in the above-mentioned City of Austin owned facilities. These services have enabled these facilities to become known technology sources for their communities.

Proprietary curriculum: Austin Free-Net developed a proprietary curriculum specifically for the targets of Austin's Community Technology Initiative.

Technical Services: Austin Free-Net's nonprofit status allows us to provide technical services at a rate drastically reduced from the market average. Austin Free-Net's IT department maintains the tools and expertise to keep high-traffic computer workstations used by the public functioning smoothly.

We would be remiss not to mention the additional community benefits produced by this contractual agreement. Similar services are provided at 27 total locations in collaboration with community organizations across Austin. Austin Free-Net has been able to share our expertise through low-cost technical support services to multiple local nonprofits.

Thank you for considering this request for a Sole Source Exemption. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Juanita Budd

Juanita Budd
Executive Director,
Austin Free-Net
(512)236-8225 x21

austinfree.net

Austin Free-Net • 2209 Rosewood Avenue • Austin, TX 78702 • (512) 236-8225

Austin Free-Net Work Statement

1. Business Justification:

To fulfill the City of Austin's Community Technology Initiative *to provide citizens with the access, training and information they need to participate fully in the digital age*, Austin Free-Net pursues two objectives:

- Create viable opportunities for citizens to use computers and the Internet through the installation, management and upkeep of computer workstations, primarily within those City of Austin facilities convenient and trusted by the underserved communities that are the target of the Community Technology Initiative.
- Create independent computer users through the provision of professional and volunteer technology education to citizens who would otherwise not have sufficient skills or knowledge of computers and the Internet to meaningfully participate in the digital age.

2. City of Austin Owned Facilities Served:

Blackland Neighborhood Center	Conley-Guerrero Senior Activity Center
Rosewood-Zargosa Neighborhood Center	South Austin Neighborhood Center
St. John's Community Center	The DeWitty Center Public Computer Lab
The DeWitty Center Resume Workshop	The DeWitty Center Bilingual Lab
The DeWitty Center Job Training and Employment Center	

The clients served by these facilities fall primarily within the categories of: Limited Digital Access; Low-income; Minority; Underserved.

3. Management Services:

Program management services provided to the above-mentioned City of Austin owned facilities:

- Performance tracking, record keeping, analysis and management of computer workstation usage.
- Development of customized computer education programs specific to individual facilities.
- Management, recruitment, training and deployment of Austin Free-Net Trainers and volunteers.

Outreach and Engagement: Traditional Advertising; Social Media Awareness; Email Marketing; Creation and Distribution of Collateral; Attending Community Events; Conference and Public Speaking Forums; Nonprofit Community Advocacy Groups; Statewide Taskforce to Approve SB 993-Duell During the 83rd Texas Legislative Session; Creation of Texas Nonprofit Council to Assist with Faith and Community Based Initiatives.

Significant financial or other benefits:

Computer Workstations (Present)	73
Computer sessions provided between 04/01/11-04/30/13	+90,000
Computer education classes provided between 08/01/09-04/30/13	2,512
Hours of volunteer computer education provided between 07/01/12-04/30/13	1,457

As well as the creation and deployment of *Tech Starters*, a technology education curriculum designed for the populations targeted by the Community Technology Initiative.

IT Management of computer workstations in the above-mentioned City of Austin owned facilities:

Professional IT Management between 10/1/12-4/30/30	Valued at $59,348
2334.5 Hours of Volunteer IT Management between 09/01/12-04/01/13	Valued at $51,148.90

IT services include: Computer Installation; Progressive Maintenance; Repairs; Upgrades; On-call Troubleshooting; and Other Technical Services

Additionally, Austin Free-Net completed a network infrastructure upgrade of the DeWitty Center (estimated $12,000 value) that upgraded cables from "Cat 3" to "Cat 6" and upgraded Router/Hub speed from 100mbs to Gigabit speed.

4. System for collecting and reporting program data:

- Austin Free-Net will record and report the number of computer workstations installed
- Software installed on every Austin Free-Net computer workstation counts unique computer sessions. These will be reported monthly.
- Austin Free-Net will record and report the number of volunteer hours expended.
- Austin Free-Net will record and report the number of computer education classes provided.
- Clients participating in computer education classes are assessed before and after receiving computer education. Average scores will be reported monthly by site.

5. Program Evaluation plan

- Analysis of the number of unique computer sessions enables longitudinal tracking of the amount of usage of computers by site, trend identification, demand identification, and where to deploy/redirect services.

CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS

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 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.

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:

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 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 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 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 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.

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 City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

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.

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. 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, 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.

    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 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.

    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:

Holiday	Date Observed
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:**

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.

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".