



Amendment No. 5
to
Contract No. GA140000024
for
HVAC Replacement Filters
between
Camfil USA, Inc.
dba Advanced Filtration Systems
and the
City of Austin

- 1.0 The Contract is administratively increased to add \$19,271.00 for a revised total amount of \$96,357.50.
- 2.0 The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 12/13/2013 – 12/12/2016	\$38,543.00	\$38,543.00
Amendment No. 1: Name Change 07/25/2016	\$0.00	\$38,543.00
Amendment No. 2: Option 1 – Extension 12/13/2016 – 12/12/2017	\$12,848.00	\$51,391.00
Amendment No. 3: 25% Administrative Increase 01/16/2017	\$12,847.75	\$64,238.75
Amendment No. 4: Option 2 – Early Extension 09/28/2017 – 09/27/2018	\$12,848.00	\$77,086.50
Amendment No. 5: 25% Administrative Increase 3/29/2018	\$19,271.00	\$96,357.50

- 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: Melissa Matuke 4/03/2018

Printed Name: Melissa Matuke
Authorized Representative

Sign/Date: Kim Scannell Larsen 4/3/2018

Kimberley Scannell Larsen
Procurement Specialist II

Camfil USA, Inc. dba Advanced Filtration Systems
3101 Longhorn Boulevard, Suite 114
Austin, Texas 78758
(512) 833-0237
james.mock@camfil.com

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



Amendment No. 4
to
Contract No. GA140000024
for
HVAC Replacement Filters
between
Camfil USA, Inc.
dba Advanced Filtration Systems
and the
City of Austin

- 1.0 The City hereby exercises this early extension option for the subject contract. This extension option will be October 1, 2017 through September 30, 2018. One option will remain.
- 2.0 The total contract amount is increased by \$12,848.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 12/13/2013 – 12/12/2016	\$38,543.00	\$38,543.00
Amendment No. 1: Name Change 07/25/2016	\$0.00	\$38,543.00
Amendment No. 2: Option 1 – Extension 12/13/2016 – 12/12/2017	\$12,848.00	\$51,391.00
Amendment No. 3: 25% Administrative Increase 01/16/2017	\$12,847.75	\$64,238.75
Amendment No. 4: Option 2 – Early Extension 09/28/2017 – 09/27/2018	\$12,848.00	\$77,086.50

- 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:

Printed Name:

Authorized Representative

Camfil USA, Inc. dba Advanced Filtration Systems
3101 Longhorn Boulevard, Suite 114
Austin, Texas 78758
(512) 833-0237
james.mock@camfil.com

Sign/Date:

Mike Zambrano, Jr.

Contract Management Specialist III

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



Amendment No. 3
to
Contract No. GA140000024
for
HVAC Replacement Filters
between
Camfil USA, Inc.
dba Advanced Filtration Systems
and the
City of Austin

- 1.0 The contract is administratively increased to add \$12,847.75 to the contract for a total revised contract amount of \$64,238.75.
- 2.0 The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 12/13/2013 – 12/12/2016	\$38,543.00	\$38,543.00
Amendment No. 1: Name Change 07/25/2016	\$0.00	\$38,543.00
Amendment No. 2: Option 1 – Extension 12/13/2016 – 12/12/2017	\$12,848.00	\$51,391.00
Amendment No. 3: 25% Administrative Increase 01/16/2017	\$12,847.75	\$64,238.75

- 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: [Signature] 1/18/17

Printed Name: James Mock
Authorized Representative

Camfil USA, Inc.
dba Advanced Filtration Systems
3101 Longhorn Boulevard, Suite 114
Austin, Texas 78753
(512) 833-0237
james.mock@camfil.com

Sign/Date: [Signature] 1/18/2017

Monica McClure
Corporate Contract Administrator
City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Amendment No. 2
to
Contract No. GA140000024
for
HVAC Replacement Filters
between
Camfil USA, Inc.
dba Advanced Filtration Systems
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be December 13, 2016 through December 12, 2017. Two options will remain.
- 2.0 The total contract amount is increased by \$12,848.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 12/13/2013 – 12/12/2016	\$38,543.00	\$38,543.00
Amendment No. 1: Name Change 07/25/2016	\$0.00	\$38,543.00
Amendment No. 2: Option 1 – Extension 12/13/2016 – 12/12/2017	\$12,848.00	\$51,391.00

- 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:

James Mock 10/31/16

Printed Name: James Mock
Authorized Representative

Sign/Date:

Linell Goodin-Brown

~~Linell Goodin-Brown~~
~~Contract Compliance Supervisor~~

Mike Zambrano, Jr.
Contract Compliance Specialist

Camfil USA, Inc. dba Advanced Filtration Systems
3101 Longhorn Boulevard, Suite 114
Austin, Texas 78758
(512) 833-0237
james.mock@camfil.com

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



Amendment No. 1
to
Contract No. GA140000024
for
HVAC Replacement Filters
Between
Advanced Filtration Products, LLC
and the
City of Austin

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

	From	To
Vendor Name	Advanced Filtration Systems, LP	Camil USA, Inc. dba Advanced Filtration Systems
Vendor Code	ADV7132900	V00000938735
FEIN	[REDACTED]	[REDACTED]

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

BY THE SIGNATURE affixed below, this Amendment No. 1 is hereby incorporated into and made a part of the Contract.

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

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

Date

7-25-16



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

December 13, 2013

ADVANCED FILTRATION PRODUCTS, LLC
Attn: Andrea Mock
3101 Longhorn Blvd #116
Austin, TX 78758

Dear Ms. Mock,

The City of Austin has approved the award and execution of a contract with your company to provide air conditioning and heating (HVAC) equipment replacement filters for the Aviation Department.

Responsible Department:	Aviation Department
Department Contact Person:	Mike Robinson
Department Contact Email:	Mike.robinson@austintexas.gov
Department Contact Telephone:	512-530-7504
Project Name:	HVAC Replacement Filters
Contractor Name:	Advanced Filtration Products, LLC.
Contract Number:	GA140000024
Contract Amount:	\$38,543/\$12,848 per option
Contract Period:	12/13/2013 – 12/12/2016
Extension Options:	Three 12-month options
Requisition Number:	8100 13071800499
Solicitation Number:	PAX0048
Agenda Item Number:	46
Council Approval Date:	12/12/2013

A copy of the contract has been attached.

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 above.

Sincerely,

Sai Xoomsai,
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN (“City”)
AND
ADVANCED FILTRATION PRODUCTS, LLC
 (“Contractor”)
for
Air Conditioning and Heating (HVAC) Equipment Replacement Filters
MA 8100 GA140000024**

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

This Contract is between ADVANCED FILTRATION PRODUCTS, LLC. having offices at Austin, TX 78758 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City (“Effective Date”).

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number PAX0048.

1.1 This Contract is composed of the following documents:

- 1.1.1 This Contract
- 1.1.2 The City’s Solicitation, Select Solicitation Type, PAX0048 including all documents incorporated by reference
- 1.1.3 Advanced Filtration Products, LLC.’s Offer, dated 09/11/2013, including subsequent clarifications

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

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

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

1.4 Term of Contract. The Contract will be in effect for an initial term of thirty-six (36) months in an amount not to exceed \$38,543, with three 12-month extension options in an amount not to exceed \$12,848 per extension option, a total contract amount not to exceed \$77,088. See the Term of Contract provision in Section 0400 for additional Contract requirements.

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

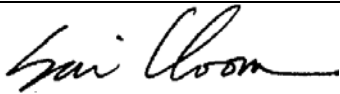
In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

CITY OF AUSTIN

Printed Name of

Authorized Person: Sai Xoomsai Purcell

Signature:



Title:

Senior Buyer Specialist

Date

12/13/2013



City of Austin

Air Conditioning and Heating Equipment Replacement Filters

IFB# PAX0048

Bid Opening: September 11, 2013 @ 2:15 p.m.

Contact Information
Andrea Mock, President
512-834-2237

CITY OF AUSTIN, TEXAS

Purchasing Office INVITATION FOR BID (IFB) Offer Sheet

SOLICITATION NO: PAX0048

COMMODITY/SERVICE DESCRIPTION: Air Conditioning and Heating Equipment Replacement Filters

DATE ISSUED: 08/26/2013

REQUISITION NO 13071800499

COMMODITY CODE 03145

FOR CONTRACTUAL AND TECHNICAL
ISSUES CONTACT:

BID DUE PRIOR TO 09/11/2013 at 2:00 pm, local time

Sai Xoomsai Purcell
Senior Buyer Specialist
Phone: 512-972-4016
sai.xoomsai@austintexas.gov

BID OPENING TIME AND DATE 09/11/2013 at 2:15 pm, local time

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

LIVE BID OPENING ONLINE:

For information on how to attend the Bid Opening online, please select this link:

https://www.ci.austin.tx.us/financeonline/vendor_connection/index.cfm#BIDOPENINGWEBINAR

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

Street Address for Hand Delivery or Courier Service
City of Austin, Purchasing Office
Municipal Building
124 W 8 th Street, Rm 310
Austin, Texas 78701
Reception Phone: (512) 974-2500


Offers (including Compliance Plans) that are not submitted in a sealed envelope or container will not be considered.

SUBMIT 1 ORIGINAL AND 1 SIGNED COPIES OF OFFER

OFFER SUBMITTED BY

By the signature below, I certify that I have submitted a binding offer.


Signature of Person Authorized to Sign Offer


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

FEDERAL TAX ID NO. 

Date: 9/3/13

Company Name: Advanced Filtration Products, LLC

Address: 3101 Longhorn Blvd #116

Email Address: andrea@advfilterproducts.com

City, State, Zip Code Austin, TX 78758

Phone No. (512) 834-2237

Fax No. (512) 834-4337

Table of Contents

SECTION NO.	TITLE	PAGES
0100, 0200, 0300	See http://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDOCUMENTS *	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	8
0500	SCOPE OF WORK	2
0600	BID SHEET	2
0605	LOCAL BUSINESS PRESENCE IDENTIFICATION FORM	2
0700	REFERENCE SHEET	2
0800	NON-DISCRIMINATION CERTIFICATION	2
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	1
0810	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT	2
0815	LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION	1
0835	NONRESIDENT BIDDER PROVISIONS	1
0900	MBE/WBE PROCUREMENT PROGRAM PACKAGE or NO GOALS UTILIZATION PLAN	2
1000	"NO OFFER" RESPONSE FORM	1

All other Sections may be viewed at: http://www.austintexas.gov/financeonline/vendor_connection/index.cfm

RETURN THE FOLLOWING DOCUMENTS WITH YOUR OFFER**

- Cover Page Offer Sheet
- Section 0600 Bid Sheet(s)
- Section 0605 Local Business Presence Identification Form
- Section 0700 Reference Sheet (if required)
- Sections 0800 - 0835 Certifications and Affidavits (return all applicable Sections)
- Section 0900 No Goals Utilization Plan

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

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

*** INCORPORATION OF DOCUMENTS.** Section 0100, Standard Purchase Definitions; Section 0200, Standard Solicitation Instructions; and Section 0300, Standard Purchase Terms and Conditions are hereby incorporated into this Solicitation by reference, with the same force and effect as if they were incorporated in full text. The full text versions of these Sections are available, on the Internet at the following online address: http://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDOCUMENTS

If you do not have access to the Internet, you may obtain a copy of these Sections from the City of Austin Purchasing Office at the address or phone number indicated on page 1 of this Offer Sheet. Please have the Solicitation number available so that the staff can select the proper documents. These documents can be mailed, expressed mailed, or faxed to you.

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

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

**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

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

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.

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

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 by check 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>

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

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.

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

- 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.

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

- 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

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

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

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

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 March 2013).

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.

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

- 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 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, facsimile, email, 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

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

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. **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.
39. **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.
40. **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.
41. **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.
42. **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

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

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.

43. **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.
44. **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.
45. **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.
46. **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.
47. **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.
48. **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

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

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.

49. **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.
50. **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.
51. **HOLIDAYS:** The following holidays are observed by the City:

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

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

52. **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.
53. **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.

**CITY OF AUSTIN
PURCHASING OFFICE
STANDARD PURCHASE TERMS AND CONDITIONS**

54. 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.

55. 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".

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

The following Supplemental Purchasing Provisions apply to this solicitation:

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

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by September 6, 2013 at 2 p.m. via email to Sai Purcell at sai.xoomsai@austintexas.gov.

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

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

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

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

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

- i. **Worker's Compensation and Employers' Liability Insurance**. Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
 - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
 - (a) Waiver of Subrogation, Form WC 420304, or equivalent coverage
 - (b) Thirty (30) days Notice of Cancellation, Form WC 420601, or equivalent coverage
- ii. **Commercial General Liability Insurance**. The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).

- (1) The policy shall contain the following provisions:

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

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

Note: If delivery is made by common carrier, then the requirements for Workers Compensation and Business Automobile insurance listed in Sections 3.B.i and 3.B.iii do not apply. The selected vendor must submit a statement on the planned method of shipment.

3. TERM OF CONTRACT

- A. The Contract shall be in effect for an initial term of 36 months and may be extended thereafter for up to three additional 12-month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.
- B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
- C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above. A price increase, subject to the provisions of this Contract, may be requested by the Contractor (for each period of extension) for approval by the City's Purchasing Officer or his designee.

THIS IS A 36 MONTH CONTRACT.

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

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

4. QUANTITIES

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

5. DELIVERY REQUIREMENTS

Location:	Days:
City of Austin – Department of Aviation	Monday – Friday
Austin Bergstrom International Airport	8:00 a.m. – 4:00 p.m.
9400A Freight Lane	
Austin, TX 78719	

- A. Delivery is to be made within 14 calendar days after the order is placed (either verbally or in writing). All orders must be shipped complete unless arrangements for partial shipments are made in advance.
- B. The Contractor shall provide, with each delivery, a Shipping or Delivery Ticket showing the description of each item, quantity, and unit price.
- C. The Contractor shall confirm the quantity to be shipped on all orders within two (2) hours of notification by phone from the City.
- D. Unless requested by the City, deliveries shall not be made on City-recognized legal holidays (see paragraph 52 in Section 0300).

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

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

Invoices shall be mailed to the below address:

	City of Austin
Department	Aviation
Attn:	Accounts Payable
Address	3600 Presidential Blvd., Suite 411
City, State Zip Code	Austin, TX 78719

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

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

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

- A. On November 10, 2011, the Austin City Council adopted Ordinance No. 20111110-052 amending Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the Authorized Contact Person in the Solicitation as the contact for questions and comments regarding the Solicitation.
- B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. If a Respondent has been disqualified under this article more than two times in a sixty (60) month period, the Purchasing Officer shall debar the Offeror from doing business with the City for a period not to exceed three (3) years, provided the Respondent is given written notice and a hearing in advance of the debarment.
- D. The City requires Offerors submitting Offers on this Solicitation to provide a signed Section 0810, Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit, certifying that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at:
<http://www.ci.austin.tx.us/edims/document.cfm?id=161145>

8. ECONOMIC PRICE ADJUSTMENT

- A. Prices shown in this contract shall remain firm for the first (# of calendar days/months) period of the contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor subject to the following considerations:
- B. Price Increases
 - i. Requests for price increases must be made in writing and submitted to the appropriate Buyer in the City's Purchasing Office. The letter must be signed by a person with the authority to bind the Contractor contractually, shall reference the contract number, and include the following documentation:
 - (1) an itemized, revised price list with the effective date of the proposed increase;
 - (2) copies of the documentation provided by the manufacturer regarding the proposed price increase if the contractor is not the manufacturer of the products. If the Contractor is the manufacturer of the products, a letter so stating must be provided;
 - (3) Contractor shall submit, as a part of the request for increase, the version of the Producer Price Index (s) (Table 6 - Producer price indexes and percent changes for commodity groupings and individual items, not seasonally adjusted) - 1149-08052 Industry/Product name/code (the "Index") current as of the date of the Contractor's Offer; and a copy of the index for the most current period.
 - (4) Proposed price increases must be solely for the purpose of accommodating increases in the Contractor's costs for the products or services provided. Prices for products or services unaffected by verifiable cost trends shall not be subject to change.
 - ii. Requests for price increases must be made in writing and submitted to the appropriate Contract Manager prior to each yearly anniversary date of contract. Prices will only be considered for an

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

increase at that time. Once received, the City will have 30 calendar days to review and approve/disapprove the requested increase. Should the City not agree with the requested increase, Contractor may either maintain the prices currently in effect, negotiate an acceptable increase with the City or terminate the contract.

- iii. The proposed percentage change between the current contract price and the requested price shall not exceed the percentage change between the Index in effect at the beginning of the current review period and the one in effect at the time the price increase is requested. Except in the case of emergency situations, the requested index related or non-index related price increase shall not exceed twenty-five percent (25%) for any single line item, and in no event shall the total amount of the contract be automatically increased as a result of the increase in any one or more line items made pursuant to this provision.
- iv. Since the perceived need for price increases may be due in whole or in part to factors other than index changes, the City may consider approving fully-documented increase requests which, in the Contractor's opinion, justify price increases for one or more line items in the contract. If index changes are responsible in part for the requested change, those changes shall be documented as previously described above.

C. Price Decreases

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

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

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

10. CONTRACT MANAGER

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

Mike Robinson

CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS

Mike.robinson

512-530-7504

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

**City of Austin
Purchase Specifications
for
HVAC Air Filter
IFB PAX0048**

1.0 PURPOSE

This specification establishes minimum requirement for replaceable air filter frames and pad, bulk roll filter media, and panel filter media.

The Austin Department of Aviation (DOA) will utilize the Contract. The City of Austin (City) reserves the right to allow other City Departments to utilize the Contract.

The bid shall be awarded to the lowest responsive, responsible bidder.

2.0 SPECIFICATIONS

DEFINITIONS: Terminology used in this specification is intended to be generic in nature and consistent with meanings that have been defined through general use and/or accepted trade practices. Where variant meanings may exist, the Contract Manager shall determine the applicable interpretation

- 2.1 Air Filter:** The air-cleaning device used for the removal of dust and other airborne particles from air circulated mechanically in equipment.
- 2.2 Synthetic Dust Weight Arrestance:** The measure of the ability of a device to remove injected ASHRAE synthetic dust from the test air.
- 2.3 Atmospheric Dust Spot Efficiency:** A measure of the ability of the device to remove atmospheric dust from the test air.
- 2.4 Class 1 Filter:** Those which, when clean, do not contribute fuel when attacked by flame, and which emit only negligible amounts of smoke.
- 2.5 Class 2 Filter:** Those which, when clean, burn moderately when attacked by flame or emit moderate amounts of smoke or both.
- 2.6 Media (Medium):** That part of the device that is the actual dust-removing agent.

3.0 REQUIREMENTS:

Products furnished under this specification shall meet or exceed the following requirements:

General Requirements:

- 3.1** All filters shall be new, unused, and a currently standard product of an established manufacture except for such deviations as may be required by this specification.
- 3.2** Filters shall be free of all imperfections and/or defects that might affect appearance, normal life, or serviceability.
- 3.3** The filters shall be designed and fabricated for disposal when the dust load limit is reached.
- 3.4** The filter media shall be adhesive coated in accordance with the manufacturer's standard

**City of Austin
Purchase Specifications
for
HVAC Air Filter
IFB PAX0048**

practice.

- 3.5** The filter media shall be non-allergenic and non-toxic.
- 3.6** Details not specified herein shall be in accordance with standard commercial practices for products of this type.
- 3.7** All filter sizes shall consist of 1 (one) filter frame, 2 (two) filter frames taped together to make up larger sizes will not be accepted.

4.0 DESIGN

- 4.1 Filter Media:** The filter media shall be graduated density, continuous filament polyester as specified in the Invitation for Bids.

- 4.1.1** Polyester media shall not contain voids or thin spots and shall provide strength in all directions. Fibers shall be interlocked. The media shall be manufactured of 100% non-woven polyester synthetic fibers.

Filter media shall be bonded together with a flame retardant thermosetting agent.

- 4.2 Filter Pleating** - The one inch (1") filters shall have a minimum of 14 pleats per lineal foot
- 4.3 Filter Pleating** - The two inch (2") filters shall have a minimum of 15 pleats per lineal foot
- 4.4 Filter Pleating** - The four inch (4") filters shall have a minimum of 8 pleats per lineal foot
- 4.5 Adhesive:** The media shall be coated with a non-toxic, non-migrating, non-flammable, odor-free adhesive, sufficient to cover all fibers uniformly.
- 4.6 Frame:** The frames for the filter units shall be heavy-duty Kraft fiberboard or chipboard, of sufficient rigidity and securely bonded to the media.
- 4.7 Grille:** Front and back metal grilles shall be provided for air filter units, minimum 28 gauge, with minimum 80% open area. The grilles shall be securely bonded to the frame, and be non-corrosive.
- 4.8 Backing:** In lieu of a metal grille, commercial grade fiberboard or scrim backing may be used, whichever is the manufacturer's standard practice, provided that it is equivalent in strength and adhesion to the metal grille.
- 4.9 Filters:** With areas up to 500 square inches, a grille/backing may be provided on the downstream side only, if this is the manufacturer's standard practice. The backing shall meet the requirements of Paragraphs 4.7. and 4.8.
- 4.10 Dimensions:** Nominal sizes shall be subject to industry wide tolerances and sizing, as determined by the Air Conditioning and Refrigeration Institute (ARI). Actual sizes shall be listed on the manufacturer's specification sheets.

5.0 PERFORMANCE:

**City of Austin
Purchase Specifications
for
HVAC Air Filter
IFB PAX0048**

Air filters shall meet or exceed the following requirements when tested according to ASHRAE (American Society of Heating, Refrigeration and Air Conditioning Engineers) 52.1, at 300 fpm face velocity.

<https://www.ashrae.org/news/2013/ashrae-publishes-revised-filtration-standard-combines-standard-52-1-and-52-2>

5.1 Arrestance: Minimum values for the Polyester fiber media shall be 80% for one inch; 85% for two inch.

5.2 Dust Holding Capacity: Grams per 24" x 24" face area, minimum values for the Polyester fiber media shall be 140 grams for a one-inch filter; for two-inch filter shall be 175 grams.

6.0 FABRICATION:

6.1 Edges: Air filters units and pads shall be constructed with 90 ° corners. Edges shall be parallel to within 1/16 of an inch.

6.2 Grille/Scrim: The media pad backing shall be of adequate rigidity not to cause displacement or distortion of the media when in heavy use.

6.3 Frames: Frames shall be of adequate rigidity to provide support during heavy usage, and shall be closed at all corners.

6.4 Separation: The media, frame, and/or retention materials shall be structurally sufficient to prevent any separation while installed or when in operation.

6.5 Sizing: Wood pulp products used for frame construction shall be sized to reduce moisture absorptivity.

7.0 Commodity Regulatory Requirements:

7.1 Shall meet all requirements of the Underwriters Laboratory Inc. (UL900)
<http://www.ul.com/global/eng/pages/solutions/standards/>

7.2 On-Line Catalog Requirement

An on-line catalog for viewing items to be purchased and for placing orders is optional. Bidder can supply internet address for on-line catalog with bid or within two working days of request by City of Austin Purchasing Office.

7.3 Out of Stock Items and Items on Manufacturer Backorder

The Contractor shall advise the Contract Manager by telephone of back-ordered or out-of-stock parts. Back-ordered or out-of-stock parts shall be delivered within ten (10) working days after receipt of order. If the Contractor cannot provide the parts within ten (10) business days, the City reserves the right to purchase the parts on the open market and charge the Contractor the difference between the Contract price and the purchase price in accordance with the Performance paragraph in Section 0400.

7.4 Returned Goods/Credit

**City of Austin
Purchase Specifications
for
HVAC Air Filter
IFB PAX0048**

- 7.4.1 When staff notifies Contractor that goods need to be returned, Contractor shall issue return authorization within five (5) working days. There shall be no additional charge to City for shipping returned goods.
- 7.4.2 Full credit shall be issued on all returned items. Credit will be provided to DOA through the issuance of a Credit Memo Invoice. The original purchase invoice reflecting goods returned will not be paid until DOA Accounts Payable receives the corresponding Credit Memo Invoice.

7.5 Delivery Requirements:

- 7.5.1 The Contractor shall deliver air filters, viscous, disposable, non-renewable within five (5) calendar days from receipt of order. Unit price listed under Section 0600, Bid Sheet shall be F.O.B. Destination City of Austin and/or City of Austin Department(s), as applicable. All Charges (e.g., freight, packaging, and handling) must be included in the bid response. No other charges will be allowed.
- 7.5.2 All orders must be shipped complete unless arrangements for partial shipments are made in advance. The Contractor shall provide, with each delivery, an invoice showing the description of each item, quantity, and unit price.

8.0 OTHER REQUIREMENTS

- 8.1 Samples** - The City may request (1) one sample of each size for bid evaluation. The Vendor shall provide samples within 5 working days of request. The Vendor shall prepay shipping charges for samples sent to the City, or returned to Vendor.
- 8.2 Substitutions** – The Substitution of order items is not allowed without prior authorization from the Contract Manger. Substitution, if allowed, must be billed at the contract price.
- 8.3 Warranties** - All filters shall carry the manufacturer's standard warranty and shall be guaranteed against defects in materials, workmanship, and performance for a minimum of one year. The warranty shall begin on the date of acceptance of the unit by the ordering agency. During this warranty period, the vendor shall repair or replace defective components/units at no cost to the City.
- 8.4 Packing/Packaging** - Packaging for shipment shall be in accordance with the manufacturer's standard practice and in a manner readily accepted by common carriers engaged in interstate commerce. Within the shipping carton, units shall be packed in a manner designed to minimize damage during shipment due to rough or improper handling.

**BID SHEET
CITY OF AUSTIN
IFB
HVAC AIR FILTER**

BUYER Sai Xoomsai Purcell

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

Special Instructions:

A bid of '0' (zero) will be interpreted by the City as a no-charge (free) item and the City will not expect to pay for that item. A bid of 'no bid' will be interpreted by the City that the responder does not wish to bid on that item. Failure to respond to each section of this bid sheet may result in disqualification of your bid.

The City may award the contract for any item or group of items on the solicitation, or any combination deemed most advantageous to the City. The quantities noted below are annual estimates and not a guarantee of actual volume.

FOB Destination, freight prepaid and allowed and to be included on the bid price.

ITEM NO.	ITEM DESCRIPTION (SIZE)	ESTIMATED ANNUAL QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
1	24" X 24" X 2"	1,000	EA	\$ 3.76	\$ 3,760.00
2	12" X 24" X 2"	400	EA	\$ 2.79	\$ 1,116.00
3	16" X 20" X 2"	75	EA	\$ 2.79	\$ 209.25
4	20" X 20" X 2"	75	EA	\$ 3.04	\$ 228.00
5	20" X 25" X 2"	75	EA	\$ 3.38	\$ 253.50
6	16" X 24" X 2"	50	EA	\$ 3.04	\$ 152.00
7	16" X 25" X 2"	75	EA	\$ 3.04	\$ 228.00
8	20" X 24" X 2"	30	EA	\$ 3.38	\$ 101.40
9	12" X 16" X 2"	20	EA	\$ 5.34	\$ 106.80
10	24" X 24" X 1"	30	EA	\$ 3.30	\$ 99.00
11	16" X 20" X 1"	30	EA	\$ 2.60	\$ 78.00
12	16" X 30" X 1"	30	EA	\$ 5.88	\$ 176.40
13	16" X 25" X 1"	100	EA	\$ 2.86	\$ 286.00
14	19" X 30" X 1"	500	EA	\$ 3.74	\$ 1,870.00
15	14" X 31" X 1"	50	EA	\$ 7.37	\$ 368.50
16	12" X 13" X 1"	460	EA	\$ 5.19	\$ 2,387.40
17	7" X 15" X 1"	200	EA	\$ 5.19	\$ 1,038.00
18	11" X 15" X 1"	75	EA	\$ 5.19	\$ 389.25
TOTAL BID PRICE					\$ 12,847.50

FOR INFORMATIONAL PURPOSES ONLY

THE CITY MAY WISH TO PURCHASE ADDITIONAL TYPE OF AIR FILTER FROM THE SUCCESSFUL BIDDER.

Indicate below the Mark-up from Dealer Cost the City will be charged, the Contractor must be prepared to furnish proof of Dealer Cost with a copy of invoice from supplier.

Date of Price List	Manufacturer's Price List	% Mark-up from Dealer Cost or % Discount from MSRP
Jan 2013	Filtration Group - NOVA pleat	30% off list

**BID SHEET
CITY OF AUSTIN
IFB
HVAC AIR FILTER**

The following documents are required to be completed and submitted with the Offer. Please check the boxes below as confirmation.

<input checked="" type="checkbox"/>	Offer Sheet
<input checked="" type="checkbox"/>	Bid Sheet (Section 0600)
<input checked="" type="checkbox"/>	Local Business Presence Identification Form (Section 0605) <i>*For an Offeror's Local Business Presence to be considered, this form must be completed and returned with the Offer.*</i>
<input checked="" type="checkbox"/>	Reference Sheet (Section 0700)
<input checked="" type="checkbox"/>	Non-Discrimination Certification (Section 0800)
<input checked="" type="checkbox"/>	Non-Suspension or Debarment Certification (Section 0805)
<input type="checkbox"/>	Non-Collusion, Non-Conflict of Interest, Anti-Lobbying Affidavit (Section 0810)
<input checked="" type="checkbox"/>	Nonresident Bidder Provisions (Section 0835)
<input checked="" type="checkbox"/>	No Goals Form (Section 0900)

COMPANY NAME:

Advanced Filtration Products, LLC

SIGNATURE OF
AUTHORIZED

Andrea Mock

PRINTED NAME:

Andrea Mock

EMAIL ADDRESS:

andrea@advfilterproducts.com

TELEPHONE

(512) 834-2237

City of Austin
Purchasing Office
Local Business Presence Identification Form

A firm (Offeror or Subcontractor) is considered to have a Local Business Presence if the firm is headquartered in the Austin Corporate City Limits, or has a branch office located in the Austin Corporate City Limits in operation for the last five (5) years. The City defines headquarters as the administrative center where most of the important functions and full responsibility for managing and coordinating the business activities of the firm are located. The City defines branch office as a smaller, remotely located office that is separate from a firm's headquarters that offers the services requested and required under this solicitation.

OFFEROR MUST SUBMIT THE FOLLOWING INFORMATION FOR EACH LOCAL BUSINESS (INCLUDING THE OFFEROR, IF APPLICABLE).

NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN, SECTION 0900 OF THE SOLICITATION.

USE ADDITIONAL PAGES AS NECESSARY

OFFEROR:

Name of Local Firm	Advanced Filtration Products, LLC					
Physical Address	3101 Longhorn Blvd #116 Austin TX 78758					
Is Firm located in the Corporate City Limits? (circle one)	Yes			No		
In business at this location for past 5 yrs?	Yes			No		
Location Type:	Headquarters	Yes	No	Branch	Yes	No

SUBCONTRACTOR(S):

Name of Local Firm						
Physical Address						
Is Firm located in the Corporate City Limits? (circle one)	Yes			No		
In business at this location for past 5 yrs?	Yes			No		
Location Type:	Headquarters	Yes	No	Branch	Yes	No

SUBCONTRACTOR(S):

Name of Local Firm						
Physical Address						
Is Firm located in the Corporate City Limits? (circle one)	Yes			No		
In business at this location for past 5 yrs?	Yes			No		
Location Type:	Headquarters	Yes	No	Branch	Yes	No

**City of Austin
Purchasing Office
Local Business Presence Identification Form**

ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF TRAVIS

I certify that my responses and the information provided on **Form 0605** are true and correct to the best of my personal knowledge and belief and that I have made no willful misrepresentations in this Section, nor have I withheld any relevant information in my statements and answers to questions. I am aware that any information given by me in this Section may be investigated and I hereby give my full permission for any such investigation and I fully acknowledge that any misrepresentations or omissions in my responses and information may cause my offer to be rejected.

OFFEROR'S FULL NAME AND ENTITY STATUS:

Andrea Mock, President

Andrea Mock

Signature, Authorized Representative of Offeror

President

Title

9/3/13

Date

END

**CITY OF AUSTIN
PURCHASING OFFICE
REFERENCE SHEET**

Please Complete and Return This Form with the Offer

Solicitation Number:

Offeror's Name Date

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

To add additional references to this form, click the Add Reference Button. =====>

Company's Name	<input type="text" value="Samsung Austin Semiconductor"/>		
Name of Contact	<input type="text" value="Brook Watson"/>	Contact Title	<input type="text"/>
Present Address	<input type="text" value="12100 Samsung Blvd."/>		
City	<input type="text" value="Austin"/>	State	<input type="text" value="Texas"/> Zip Code <input type="text" value="78754"/>
Telephone Number	<input type="text" value="(512) 672-3219"/>	FAX Number	<input type="text" value="(512) 672-3270"/>
Email Address	<input type="text" value="b.watson@samsung.com"/>		

Company's Name	<input type="text" value="spansion"/>		
Name of Contact	<input type="text" value="Hector Herrera"/>	Contact Title	<input type="text" value="Facilities Operations"/>
Present Address	<input type="text" value="5204 East Ben White Blvd."/>		
City	<input type="text" value="Austin"/>	State	<input type="text" value="Texas"/> Zip Code <input type="text" value="78741"/>
Telephone Number	<input type="text" value="(512) 691-8500"/>	FAX Number	<input type="text"/>
Email Address	<input type="text" value="Hector.Herrera@spansion.com"/>		

Company's Name	<input type="text" value="CBRE - bell Computer"/>		
Name of Contact	<input type="text" value="Ricardo Rodriguez"/>	Contact Title	<input type="text" value="Sr. Facility Manager"/>
Present Address	<input type="text" value="One Dell way"/>		
City	<input type="text" value="Round Rock"/>	State	<input type="text" value="Texas"/> Zip Code <input type="text" value="78664"/>
Telephone Number	<input type="text" value="(512) 846-4046"/>	FAX Number	<input type="text" value="(512) 283-8646"/>
Email Address	<input type="text" value="Ricardo_Rodriguez@DellTeam.com"/>		

Company's Name	Round Rock ISD		
Name of Contact	Steve Klestinec	Contact Title	Director of Maintenance
Present Address	1311 Round Rock Ave		
City	Round Rock	State	Texas Zip Code 78681
Telephone Number	(512) 464-6950	FAX Number	(512) 464-6975
Email Address	steve-klestinec@roundrockisd.org		

Company's Name	Leander ISD		
Name of Contact	Ray Warren	Contact Title	HVAC maint. supervisor
Present Address	1900 Cougar Country Drive		
City	Cedar Park	State	Texas Zip Code 78613
Telephone Number	(512) 570-0645	FAX Number	(512) 570-0669
Email Address	ray.warren@leanderisd.org		

City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NON-DISCRIMINATION CERTIFICATION

SOLICITATION NO **PAX0047**

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 3 day of September, 2013.

CONTRACTOR

Authorized Signature

Title

Advanced Filtration Products, LLC
Andrea Mock
President

City of Austin, Texas
NON-SUSPENSION OR DEBARMENT CERTIFICATION

SOLICITATION NO. PAX0047

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

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

Contractor's Name:	<div style="border: 1px solid black; padding: 2px;">Advanced Filtration Products, LLC</div>		
Signature of Officer or Authorized Representative:	<div style="border: 1px solid black; padding: 2px;">Andrea Mock</div>	Date:	<div style="border: 1px solid black; padding: 2px;">9/3/13</div>
Printed Name:	<div style="border: 1px solid black; padding: 2px;">Andrea Mock</div>		
Title:	<div style="border: 1px solid black; padding: 2px;">President</div>		

CITY OF AUSTIN
NON-COLLUSION,
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT
SOLICITATION NO. PAX0047
FOR

ON-SITE AUTOMATIC GATES MAINTENANCE AND REPAIR SERVICES

State of Texas

County of Travis

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

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

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

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

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

<http://www.austintexas.gov/departments/conflict-interest-questionnaire>

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

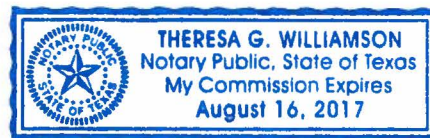
If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation in the space provided below or, as necessary, on separate pages to be annexed hereto.

Offeror's
Explanation:

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

Contractor's Name:	<div style="border: 1px solid black; padding: 2px;">Advanced Filtration Products, LLC</div>
Printed Name:	<div style="border: 1px solid black; padding: 2px;">Andrea Mock</div>
Title:	<div style="border: 1px solid black; padding: 2px;">President</div>

Andrea Mock
Signature of Officer or Authorized Representative:



Subscribed and sworn to before me this 3 day of September, 2013.

Theresa Williamson
Notary Public

My Commission Expires 08-16-2017

City of Austin, Texas
NONRESIDENT BIDDER PROVISIONS
SOLICITATION NO. PAX0047

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

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

- ☒ Texas Resident Bidder - A Bidder whose principal place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.
- ☐ Non-resident Bidder

Bidder's Name:	Advanced Filtration Products, LLC		
Signature of Officer or Authorized Representative:	Andrea Mock	Date:	9/3/13
Printed Name:	Andrea Mock		
Title:	President		

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

SOLICITATION NUMBER: PAX0048
PROJECT NAME: Air Conditioning and Heating Equipment Replacement

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

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

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

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

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

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

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

Advanced Filtration Products, LLC
Company Name

Andrea Mock, President
Name and Title of Authorized Representative (Print or Type)

Andrea Mock
Signature

9/3/13
Date

Texas Historically Underutilized Business (HUB) Certificate



Certificate/VID Number:	1204013818700
File/Vendor Number:	063990
Approval Date:	29-OCT-2012
Scheduled Expiration Date:	29-OCT-2016

The Texas Comptroller of Public Accounts (CPA), hereby certifies that

ADVANCED FILTRATION PRODUCTS, LLC

has successfully met the established requirements of the State of Texas Historically Underutilized Business (HUB) Program to be recognized as a HUB. This certificate printed 02-NOV-2012, supersedes any registration and certificate previously issued by the HUB Program. If there are any changes regarding the information (i.e., business structure, ownership, day-to-day management, operational control, business location) provided in the submission of the business' application for registration/certification as a HUB, you must immediately (within 30 days of such changes) notify the HUB Program in writing. The CPA reserves the right to conduct a compliance review at any time to confirm HUB eligibility. HUB certification may be suspended or revoked upon findings of ineligibility.



*Paul Gibson, Statewide HUB Program Manager
Texas Procurement and Support Services*

Note: In order for State agencies and institutions of higher education (universities) to be credited for utilizing this business as a HUB, they must award payment under the Certificate/VID Number identified above. Agencies and universities are encouraged to validate HUB certification prior to issuing a notice of award by accessing the Internet (<http://www.window.state.tx.us/procurement/cmb1/cmb1hub.html>) or by contacting the HUB Program at 1-888-863-5881 or 512- 463-5872.



TO: Veronica Lara, Director
Department of Small and Minority Business Resources

FROM: Sai Purcell
DATE: 08/13/2013

SUBJECT: Request for Determination of Goals for Solicitation No.PAX0048

Project Name: HVAC Filter

Commodity

Code(s): 03145

Estimated Value: \$ 24,000.00 annually

☐ **The Purchasing Office has determined that Goals may be appropriate for this solicitation.**

This determination is based on the following reasons:

Commodity purchase. No subcontracting opportunities have been identified

The Departmental Point of Contact is: Marsha Wells at Phone: 512-530-6655

☒ **The Purchasing Office has determined that Goals are not appropriate for this solicitation.**

This determination is based on the following reasons: No subcontracting opportunities have been identified

Per paragraph 8.2.1 of the Rules Governing the Minority and Women Owned Business Enterprise Procurement Program, please approve the use of the above goals by completing and returning the below endorsement. If you have questions, please call me at 512-972-4016

☒ **Approved.**

☐ **Not Approved**

Recommend the use of the following goals based on the below reasons:

a. Goals: N/A % MBE N/A % WBE

b. Subgoals N/A % African American N/A % Hispanic

N/A % Native/Asian American N/A % WBE

This determination is based on the following reasons: There are no subcontracting opportunities



Veronica Lara, Director

Date: 8/15/13

cc: Lorena Resendiz